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Attorneys for Plaintiff VY TRINH

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

VY TRINH, an individual, on behalf of himself
and on behalf of all persons similarly situated,

Plaintiff,

v.

PRECISION METAL PRODUCTS, INC., a
Delaware Corporation; HBD INDUSTRIES,
INC., a Delaware Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No. 37-2022-00000965-CU-OE-CTL

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

Date: June 9, 2023

Time: 9:30 a.m.

Judge: Hon. Matthew C. Braner

Department: C-60

Trial Date: N/A

Action Filed: January 10, 2022

1
2 I, JEAN CLAUDE LAPUYADE, declare as follows:

3 1. I am over eighteen years of age and if called as a witness, I could and would competently
4 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
5 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
6 Plaintiff VY TRINH, (hereafter "Plaintiff") in this wage and hour class action filed against PRECISION
7 METAL PRODUCTS, INC. and HBD INDUSTRIES, INC. (hereinafter "Defendants").

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

10 **I. EXHIBITS**

11 3. Attached hereto as **Exhibit "1"** is a true and correct copy of the fully executed Stipulation
12 of Settlement of Class and PAGA Action and Release of Claims ("Agreement" or "Settlement
13 Agreement"). Attached as **Exhibit "A"** to the Agreement is a true and correct copy of the proposed
14 Notice Packet.

15 4. Attached hereto as **Exhibit "2"** is a true and correct copy of the proof of filing with the
16 Labor and Workforce Development Agency notice of this settlement with the Settlement Agreement
17 and Motion for Preliminary Approval of Class Action and PAGA Settlement evidencing Class
18 Counsel's compliance with California Labor Code Section 2699(1)(2).

19 5. Attached hereto as "**Exhibit 3**" is a true and correct copy of the JCL Law Firm "Firm
20 Resume" detailing some of the major cases the JCL Law Firm has undertaken.

21 **II. INTRODUCTION**

22 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
23 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
24 The Settlement confers substantial benefits to the Class. The relief offered by the Settlement is
25 particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
26 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
27 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
28 denied or of Defendants prevailing at trial. Given that there are approximately 202 Class Members, the

1 average gross recovery is approximately **\$1,221.28** (Net Settlement Amount divided by Class
2 Members).

3 7. As discussed below, the proposed Settlement satisfies all criteria for preliminary
4 settlement approval and falls within the range of reasonableness. The average Individual Settlement
5 Payments to the Class meets or exceeds awards in similar wage and hour class actions. Moreover, the
6 proposed Class is appropriate for provisional certification. Accordingly, Plaintiff respectfully requests
7 the Court grant preliminary approval of the Settlement.

8 **III. FACTS AND PROCEDURE**

9 **A. Overview of the Litigation**

10 8. Defendants are Delaware corporations that own, operate, and/or manage manufacturing
11 facilities for metal tools. Plaintiff worked for Defendants as a non-exempt employee in San Diego,
12 California from approximately September 2018 to July 2021. Throughout his employment, Plaintiff was
13 subject to Defendants' written policies and procedures contained in, among other documents, the
14 Precision Metal Products, Inc. Employee Handbook.

15 9. Defendants forcefully deny liability for each of Plaintiff's claims. Further, Defendants
16 assert that they fully complied with all applicable employment laws and raised several other significant
17 defenses to Plaintiff's claims, including but not limited to, compliant compensation policies and plans,
18 compliant meal and rest practices, compliant wage statements, and timely payment of all wages due
19 upon separation of employment.

20 10. On November 5, 2021, Plaintiff served Defendants and the Labor and Workforce
21 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff's PAGA
22 Notice set forth the facts and theories supporting Defendants' alleged violations of various provisions
23 of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage Order and
24 of his intent to pursue claims under California Labor Code Private Attorneys General Act, Cal. Lab.
25 Code Sections 2698 *et seq.* ("PAGA").

26 11. On January 10, 2022, Plaintiff filed this class action complaint in the San Diego Superior
27 Court ("the Action"). The Action alleged ten causes of action against Defendants for: (1) Wrongful
28 Termination in violation of public policy; (2) Violation of Government Code section 12940 – disability

1 discrimination; (3) Unfair competition in violation of Business and Professions Code sections 17200 *et*
2 *seq*; (4) Failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 &
3 1197.1; (5) Failure to pay overtime wages in violation of California Labor Code sections 510 *et seq*; (6)
4 Failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512
5 and the applicable IWC wage order; (7) Failure to provide required rest periods in violation of California
6 Labor Code sections 226.7 and 512 and the applicable IWC wage order; (8) Failure to provide accurate
7 itemized wage statements in violation of California Labor Code section 226; (9) Failure to provide wages
8 when due in violation of Cal. Lab. Code sections 201, 202 and 203; and (10) Violation of the Private
9 Attorneys General Act [Labor Code section 2698, *et seq.*]. On February 11, 2022, Defendants' removed
10 the Action to the United States District Court for the Southern District of California. Prior to
11 commencing written discovery, the Parties agreed to mediation.

12 **B. Class Counsels' Investigation**

13 12. To prepare for mediation, Class Counsel requested pertinent documents and data points
14 to evaluate Plaintiff's claims and measure Defendants' liability exposure to the Class. In response,
15 Defendants produced, among other things, time, and payroll records for a sample of Class Members,
16 aggregate workweek and pay period data, and copies of applicable handbooks, policies, and procedures.
17 In total, Defendants produced hundreds of pages of documents and thousands of unique cells of time
18 and payroll data for Class Counsel to analyze.

19 13. Class Counsel then retained the statisticians and economists at Berger Consulting Group
20 ("BCG") to evaluate the Class Members' payroll and time data and to calculate Defendants' liability
21 exposure to the Class. BCG provides data analysis and damage modeling consulting services,
22 specializing in wage and hour class actions. BCG analyzed Defendants' time and payroll data and
23 developed various damage models that assisted Class Counsel at the time of mediation.

24 14. Overall, Class Counsel thoroughly investigated the claims at issue. Class Counsel (1)
25 reviewed Plaintiff's suitability as a putative class representative through interviews, background
26 investigations, and analysis of his employment files; (2) evaluated Plaintiff's potential claims; (3)
27 researched similar wage and hour class actions; (4) analyzed the Class Members' time and payroll
28 records; (5) analyzed Defendants' labor policies and practices; (6); developed comprehensive damage

1 models which estimated Defendants' liability for purposes of settlement; (7) drafted the mediation brief;
2 and (8) participated in the mediation. This investigation allowed Class Counsel to fully assess the nature
3 and magnitude of the claims being settled, and to make an independent assessment of the reasonableness
4 of the terms to which the Parties have agreed. Based on its investigation of the facts, applicable law,
5 and marketplace for similar settlements, and considering the risk of significant delay and uncertainty
6 associated with litigation, and the various defenses asserted by Defendants, Class Counsel firmly believe
7 this Agreement to be in the best interests of the Class Members. Because the Settlement's terms are
8 fair, reasonable, and adequate.

9 **C. The Parties Settled at Mediation**

10 15. On June 8, 2022, the Parties participated in a full day mediation with Hon. Judge Steven
11 Denton (Ret.) a respected Jurist and mediator. The mediation concluded without a settlement. However,
12 following the mediation the Parties continued settlement negotiations with Judge Denton's assistance,
13 ultimately reaching an agreement, which was subsequently memorialized in the form of a Memorandum
14 of Understanding ("MOU").

15 16. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable
16 compromise of the claims at issue.

17 **IV. ARGUMENT**

18 **A. The Court Should Preliminarily Approve the Settlement**

19 17. The Gross Settlement Amount of \$450,000.00 is fair and reasonable considering the
20 nature and magnitude of the claims being settled and the various potential impediments to recovery.
21 Prior to mediation, Class Counsel retained Berger Consulting Group ("BCG") to develop economic
22 damage models measuring Defendants' liability exposure while accounting for the uncertainties of
23 continued litigation. The various models were informed by Class Counsel's investigation, including the
24 analysis of a significant sample of time and payroll data. Class Counsel projected Defendants' liability
25 exposure for *class claims* (excluding PAGA Penalties) at \$1,864,694 dollars. Thus, the Gross Settlement
26 Amount of \$450,000.00 represents approximately 24.13% of Defendant's *class-wide* liability exposure.
27 The following summarizes Defendants' estimated exposure.
28

1 18. Plaintiff's primary claim in the Action alleged Defendant failed to pay its employees for
2 all hours worked. Specifically, Plaintiff asserts that Defendants failed to pay employees for time spent
3 donning and doffing and for time spent responding to COVID-19 questionnaires. Further, Plaintiff
4 asserted Defendant employed an unlawful rounding policy pursuant to which Defendant rounded
5 Plaintiffs' and Class Members' time sheets to exact, quarter-rounded total hours worked. As a result,
6 Defendant's rounding policy systematically undercompensated Plaintiff and Class Members for
7 minimum and overtime wages owed.

8 19. Defendants vigorously denied liability for this claim. Defendant argued that all Class
9 Members were properly paid minimum and overtime compensation for all hours worked and that Class
10 Members were instructed not to work off-the-clock. Further, Defendants argued that its rounding policy
11 is facially neutral and in practice, favors neither overpayment nor underpayment. Plaintiff estimated
12 Defendant's exposure for this claim at \$72,598.

13 20. Plaintiff also alleged that because of his rigorous work schedule, Plaintiff and Class
14 Members were not able to take timely and duty-free meal and rest periods. Defendant's time and payroll
15 data evidenced a **12.6%** violation rate for meal periods. Plaintiff utilized an assumed a similar violation
16 rate for purposes of quantifying damages for rest period violations. In total, Class Counsel estimated
17 Defendant's exposure for the meal and rest claims at \$577,388.

18 21. Defendant argued, *inter alia*, that it provided the Class Members with compliant meal and
19 rest periods as evidenced by the extremely low violation rate. Defendant also argued that they
20 maintained facially compliant meal and rest period policies. Thus, Defendant argued that there was no
21 potential liability for Plaintiff's alleged meal and rest period violations and any claimed violations
22 required a highly individualized inquiry not suitable to class treatment.

23 22. Plaintiff also alleged that the Defendants' labor code violations resulted in derivative
24 liability for wage statement violations and waiting time penalties. Class Counsel considered the arguable
25 presence of various penalties and weighed the potential recoveries against probable defenses.
26 Specifically, Defendants argued that Plaintiff could not prove the "willful" prong needed to obtain
27 waiting time penalties under Labor Code section 203. Additionally, Defendants argued that Plaintiff
28 could not show that Class Members suffered an "injury" because of wage statement violations, as

1 required by Labor Code section 226. (*Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th
2 927.) Notwithstanding the uncertain nature of the claims, Plaintiff estimated Defendants' exposure for
3 waiting time penalties to be approximately \$1,214,708 (\$718,718 for Labor Code section 203 penalties
4 and \$496,000 for Labor Code section 226 penalties).

5 23. Class Counsel's damage models also estimated Defendants' exposure for PAGA
6 penalties. At the time of mediation, Plaintiff estimated Defendants' PAGA exposure to be
7 approximately \$1,812,500.

8 24. To recover any PAGA penalties, Plaintiff would be required at trial to prove each of the
9 underlying Labor Code violations. (*See Cardenas v. McLane Foodservice, Inc.*, 2011 U.S. Dist. LEXIS
10 13126, *10 (C.D. Cal. 2011) ("Given the statutory language [of PAGA], a plaintiff cannot recover on
11 behalf of individuals whom the plaintiff has not proven suffered a violation of the Labor Code by the
12 defendant.")) Here, Plaintiff would need to prove that each Aggrieved Employee suffered a violation
13 for each pay period the employee worked. Again, Defendant raised several defenses that presented
14 serious threats to the claims of the Plaintiff and the Aggrieved Employees.

15 25. The proposed Settlement allocates \$20,000 to satisfy the PAGA claims. This amount
16 represents approximately 4.4% of the Gross Settlement Amount. This achieves a fair, reasonable, and
17 adequate resolution of Plaintiff's PAGA claim. Further, the amount allocated to the satisfaction of
18 Plaintiff's PAGA claim, is well within the range of reasonableness.

19 **B. Litigation Risks**

20 26. Although Plaintiff is confident about the strength of his claims, it would be foolish to
21 ignore the most immediate risk to continued litigation, i.e., class certification. With respect to the most
22 immediate challenge, i.e., class certification, the risks attendant to the certification of similar wage and
23 hour claims are demonstrated by *Magadia v. Wal-Mart Associates, Inc.* (9th Cir. 2021) 999 F.3d 668.
24 There, the Ninth Circuit, vacated reversed and remanded a \$110 million judgement against an employer
25 for, *inter alia*, inaccurately paying overtime, and directed the trial court to enter judgement in favor of
26 the employer. *See also O'Conner v. Uber Technologies, Inc.* (9th Cir. 2018) 904 F.3d 1087
27 (decertification of wage and hour misclassification action); *see also Duran v. U.S. Bank National*
28 *Association* (2014) 59 Cal.4th 1, 31 (reversing a trial verdict in favor plaintiffs in a wage and hour class

1 action)); *Tien v. Tenet Healthcare Corp.* (2012) 209 Cal.App.4th 1077, 1088 (“[T]he reason, if any, that
2 employees might not take their breaks were predominantly individualized questions of fact not
3 susceptible to class treatment.”); *Ali v. U.S.A. Cab Ltd.* (2009) 176 Cal.App.4th 1333, 1341 (affirming
4 denial of certification because employees’ declarations attesting to having taken meal and rest breaks
5 demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores,*
6 *L.P.*, (C.D. Cal. 2013) 2013 WL 5302217 at *11-13 (following *Brinker* and denying certification of
7 proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *Brown v. Fed*
8 *Express Corp.* (C.D. Cal. 2008) 249 F.R.D. 580, 587-88 (denying certification of driver meal and rest
9 period claims based on the predominance of individual issues). Collectively, the examples cited above
10 illustrate the uncertain nature of class litigation. Consequently, the uncertainty of obtaining certification
11 through a contested motion is a significant risk factor favoring settlement.

12 27. Plaintiff recognizes that Defendants have factual and legal defenses that, if successful,
13 would potentially defeat or substantially impair the value of Plaintiff’s lawsuit. Consequently, the
14 uncertainty of obtaining certification through a contested motion is a significant risk factor favoring
15 settlement.

16 28. Finally, continuing to litigate this action would require continued and extensive resources
17 coupled with significant Court time to proceed through trial and post-trial motions; which can often take
18 years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates extensive
19 expert testimony, particularly with regards to damages. But even if Plaintiff is successful at trial,
20 Plaintiff is acutely aware that a judgment does not end the litigation. Plaintiff fully expects that
21 Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d 668,
22 the risk of an appeal and subsequent reversal is real.

23 29. Given the amount of the settlement here, as compared to potential value of the claims,
24 offset by the various inherent risks to continued litigation, the settlement is fair and reasonable.

25 **B. Proposed Notice Informs the Class About the Case and Settlement**

26 30. The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class
27 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
28 mail the proposed Notice Packet to all Class Members. The Notice Packet will include information

1 regarding the nature of the lawsuit, a summary of the substance of the Settlement's terms, the procedure,
2 and time within which to requests for exclusions or objections to the Settlement, the date for the final
3 approval hearing, the formula used to calculate settlement payments, and the terms and scope of the
4 Released Class Claims. Agreement at § III(N). The Parties negotiated this method to ensure delivering
5 the most reasonable method of notice to the Class Members while ensuring cost effective administration
6 of the Settlement.

7 31. As detailed in the Agreement, the method of disseminating the proposed Class Notice and
8 contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

9 **C. The Court Should Preliminarily Approve the Incentive Award**

10 32. The Settlement provides for a Service Award of \$10,000 for Plaintiff. The Service Award
11 is fair and reasonable compensation for the Plaintiff's efforts bringing the action, assisting Class Counsel
12 with the litigation and settlement, regularly conferring with Class Counsel on the status of his case and
13 the strategies for prosecuting the claims, reviewing the proposed Settlement to ensure that its terms are
14 fair and provide adequate relief for the Class.

15 33. The amount of the requested enhancement payment-\$10,000-is reasonable by reference
16 to the amounts that California courts (both federal and state) have repeatedly found to be reasonable for
17 wage and hour class action settlements: *See Baker v. LA. Fitness Int'l, LLC*, No. BC438654 (L.A. County
18 Super. Ct. Dec. 12, 2012) (awarding \$10,000 enhancement payments to three of the named plaintiffs);
19 *Blue v. Codwell Banker Residential Brokerage Co.*, No. BC417335 (L.A. County Super. Ct Mar. 21,
20 2011) (awarding \$10,000 enhancement payment); *Buckmire v. Jo-Ann Stores, Inc.*, No. BC394795 (L.A.
21 County Super. Ct. June 11, 2010) (awarding \$10,000 enhancement payments to the named plaintiff);
22 *Coleman v. Estes Express Lines, Inc.*, No. BC429042 (LA. County Super. Ct. Oct. 3, 2013) (awarding
23 \$10,000 enhancement payment); *Ethridge v. Universal Health Services, Inc.*, No. BC391958 (L.A.
24 County Super. Ct. May 27, 2011) (awarding \$10,000 enhancement payment); *Hickson v. South Coast*
25 *Auto Insurance Marketing, Inc.*, No. BC390395 (L.A. County Super. Ct. Mar. 27, 2012) (awarding
26 \$10,000 enhancement payment); *Hill v. Sunglass Hut Int'l, Inc*, No. BC422934 (LA. County Super. Ct.
27 July 2, 2012) (awarding \$10,000 enhancement payments to the named plaintiffs); *Kabamba v. Victoria's*
28 *Secret Stores. LLC*, No. BC368528 (L.A. County Super. Ct. Aug. 19, 2011) (awarding enhancement

1 payments of \$ 10,000 to the named plaintiffs along with additional compensation for their general
2 release of claims); *Magee v. American Residential Services, LLC*, No. BC423798 (L.A. County Super.
3 Ct Apr. 21, 2011) (awarding \$15,000 enhancement payment); *Mares v. BFS Retail & Commercial*
4 *Operations, LLC*, No. BC375967 (L.A. County Super. Ct. June 24, 2010) (awarding \$15,000
5 enhancement payments to the named plaintiffs); *Nevarez v. Trader Joe's Co.*, No. BC373910 (L.A.
6 County Super. Ct. Jan. 29, 2010) (awarding \$10,000 enhancement payment); *Ordaz v. Rose Hills*
7 *Mortuary, LP.*, No. BC386500 (L.A. County Super. Ct. Mar. 19, 2010) (awarding 10,000 enhancement
8 payments to the named plaintiffs); *Sheldon v. AHMC Monterey Park Hospital LP*, No. BC440282 (L.A.
9 County Super. Ct. Feb. 22, 2013) (awarding \$10,000 enhancement payment); *Silva v. Catholic Moray*
10 *Services, Inc.*, No. BC408054 (L.A. County Super. Ct. Feb. 8, 2011) (awarding \$10,000 enhancement
11 payments to the named plaintiffs); *Weisbarth v. Banc West Investment Services, Inc*, No. BC422202
12 (L.A. County Super. Ct. May 24, 2013) (awarding \$10,000 enhancement payment); *Zamora v. Balboa*
13 *Life & Casualty LLC*, No. BC360026 (L.A. County Super. Ct. Mar. 7, 2013) (awarding \$25,000
14 enhancement payments to the named plaintiffs); *Acheson v. Express, LLC*, No. 109CV135335 (Santa
15 Clara County Super. Ct. Sep. 13, 2011) (awarding \$10,000 enhancement payment); *Aguiar v. Cingular*
16 *Wireless. LLC*, No. CV 06-8197 DDP (AJWx) (C.D. Cal. Mar. 17, 2011) (awarding \$14,767
17 enhancement payment); *Bejarano v. Amerisave Mortgage Corp.*, No. EDCV 08-00599 SGL (Opx) (C.D.
18 Cal. June 22, 2010) (awarding \$10,000 enhancement payment); *Carbajal v. Sally Beauty Supply LLC*,
19 No. CIVVS 1004307 (San Bernardino Super. Ct. Aug. 6, 2012) (awarding \$10,000 enhancement
20 payments to the named Plaintiffs); *Contreras v. Serco Inc.*, No. 10-cv-04526-CAS-JEMx (CD. Cal. Sep.
21 10, 2012) (awarding \$10,000 enhancement payment); *Guerrero v. R.R. Donnelley & Sons Co.*, No. RIC
22 10005196 (Riverside Super. Ct July 16, 2013) (awarding \$10,000 enhancement payment); *Kisliuk v.*
23 *ADT Security Services, Inc.*, No. CV08-0324 DSF (RZx) (C.D. Cal. Jan. 10, 2011) (awarding \$10,000
24 enhancement payment); *Morales v. BCBG Maxaria Int'l Holdings, Inc.*, No. JCCP 4582 (Orange County
25 Super. Ct Jan. 24, 2013) (awarding \$10,000 enhancement payment); and *Barrett v. Doyon Security*
26 *Services, LLC*, Nos. BS900199, BS900517 (San Bernardino County Super. Ct. Apr. 23, 2010) (awarding
27 \$10,000 enhancement payment).

1 34. Class Counsel on behalf of Plaintiff will file a formal motion for the negotiated Service
2 Award once preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the
3 above showing is sufficient for preliminary approval of the negotiated Service Award.

4 **D. The Requested Attorneys' Fees and Attorneys' Expenses Should be Preliminarily**
5 **Approved**

6 35. Class Counsel took this matter on a contingency fee basis and invested significant time
7 and expense successfully prosecuting Plaintiff's claims. As discussed *supra*, the estimated average
8 Individual Settlement Payment illustrates the demonstrably positive outcome for the Class Members.
9 Considering the positive outcome, and considering the supporting authority, the proposed Attorneys'
10 Fees and reimbursement of Attorneys' Expenses are fair and reasonable.

11 36. Plaintiff will file a formal motion for the Attorneys' Fees and Attorneys' Expenses once
12 preliminary approval of the Settlement is granted. Plaintiff respectfully submits that the above showing
13 is sufficient for preliminary approval of the negotiated attorneys' fees.

14 **E. The Court Should Provisionally Certify the Settlement Class**

15 37. For Settlement, Plaintiff contends, and Defendants do not dispute, that provisional
16 certification of the Class is appropriate.

17 38. Because all Class Members are Defendants' current and former non-exempt employees,
18 the class is readily ascertainable from Defendants' regular business records, i.e., payroll records.

19 39. The statutes relating to each of Plaintiff's claims apply with equal force and effect to the
20 entire Class. Factually, Defendants' policies and practices apply class-wide and Defendants' liability
21 can be determined by facts common to all members of the class. The wage and hour issues are both
22 numerous and substantial, and a class action is the most advantageous method of dealing with the claims
23 of the Class.

24 40. Plaintiff's wage and hour claims are typical of the proposed Class because they arise from
25 the same factual basis and are based on the same legal theories applicable to the other Class Members.
26 Likewise, Plaintiff's interests are entirely coextensive with the interests of the Class. Plaintiff alleges
27 that he was injured by the same company-wide practices to which the proposed Class Members were
28 subject to and seeks the same relief. Plaintiff has already demonstrated his ability to advocate for the

1 interests of the Class Member by initiating this litigation, undertaking extensive class discovery, and
2 evaluating the proposed settlement to assure that it is fair.

3 41. A class action is superior to a multitude of individual lawsuits. Given the size and amount
4 of each individual claim, the Class Members likely have little incentive to litigate their claims on an
5 individual basis because the out-of-pocket expense and personal commitment necessary to litigate each
6 claim outweighs any potential recovery. In sum, class treatment is superior to individual, case-by-case
7 adjudication.

8 **F. Class Counsel's Experience**

9 42. Plaintiff, the Settlement Class Members and the Aggrieved Employees are represented by
10 competent and experienced counsel to pursue their claims. I established the JCL Law Firm, APC
11 ("Firm"), in 2010. The Firm is a boutique plaintiff firm representing aggrieved employees and
12 consumers throughout California in wage and hour class actions, PAGA Actions and complex multi-
13 party product liability matters. The Firm currently consists of myself, Jean-Claude Lapuyade, Esq.
14 (Partner/Owner), Sydney Castillo-Johnson (Associate Attorney), Monnett De La Torre (Associate
15 Attorney), Tesla Stone (Paralegal), Maria Watters (Paralegal), Jennifer Heming (Legal Secretary), and
16 Madelyn Uchiyama (Legal Assistant).

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

23 44. I have represented consumers and employees in California class actions, and complex
24 multi-party product liability actions exclusively for more than 15 years. I have been in practice as a
25 plaintiffs' civil litigation attorney since April 2007.

26 45. I have significant class counsel and collective action counsel experience. My credentials
27 are reflected in the JCL Law Firm, APC, Firm Resume, which is attached hereto as Exhibit 3.

46. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered in excess of \$125 million on behalf of the Firm's clients.

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

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

49. Consequently, I was 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.)

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 16th day of May, at San Diego, California.

JCL LAW FIRM, APC

By: Jean-Claude Lapuyade
Jean-Claude Lapuyade
Attorneys for Plaintiff

EXHIBIT 1

JCL LAW FIRM, APC

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Attorneys for Plaintiff VY TRINH

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

VY TRINH, an individual, on behalf of himself
and on behalf of all persons similarly situated,

Plaintiff,

v.

PRECISION METAL PRODUCTS, INC., a
Delaware Corporation; HBD INDUSTRIES,
INC., a Delaware Corporation; and DOES 1-50,
Inclusive,

Defendants.

Case No.: 37-2022-00000965-CU-OE-CTL

[Action Filed January 10, 2022]

**STIPULATION OF SETTLEMENT OF
CLASS AND PAGA ACTION CLAIMS
AND RELEASE OF CLAIMS**

Judge: Honorable Matthew C. Braner
Dept.: C-60

This Stipulation of Settlement of Class and PAGA Action Claims and Release of Claims is entered into by and between Plaintiff VY TRINH (hereinafter “Plaintiff”), an individual, on behalf of the Settlement Class, and in his representative capacity on behalf of the State of California and the Aggrieved Employees, and Defendants PRECISION METAL PRODUCTS, INC. and HBD INDUSTRIES, INC. (hereinafter “Defendants”):

I. DEFINITIONS

- A. “Action” shall mean the putative class action lawsuit designated *Trinh v. Precision Metal Products, Inc., et al.*, San Diego County Superior Court, Case No. 37-2022-00000965-CU-OE-CTL, filed January 10, 2022.
- B. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class and PAGA Action and Release of Claims.
- C. “Attorneys’ Expenses” means the award of expenses that the Court authorizes to be paid to Class Counsel for the expenses they have incurred of up to \$15,000.00.
- D. “Attorneys’ Fees” means the award of fees that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Settlement Class in the Action, currently not to exceed one-third of the Gross Settlement Amount currently estimated to be \$150,000.00 out of \$450,000.00. Attorneys’ fees will be divided between Class Counsel as follows (50% to JCL Law Firm, APC, and 50% to Zakay Law Group, APLC).
- E. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC, and Shani Zakay of Zakay Law Group, APLC.
- F. “Class Data” means information regarding Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Class Member’s full name; last known address; Social Security Number; start dates and end dates of employment.
- G. “Class Members” means all non-exempt employees who are or previously were employed by Defendants and performed work in California during the Class Period.

- 1 H. "Class Period" means the period from January 10, 2018 to June 8, 2022.
- 2 I. "Class Representative" shall mean plaintiff VY TRINH.
- 3 J. "Court" means the Superior Court for the State of California, County of San Diego
4 currently presiding over the Action.
- 5 K. "Defendants" shall mean PRECISION METAL PRODUCTS, INC. and HBD
6 INDUSTRIES, INC.
- 7 L. "Effective Date" means the date by when both of the following have occurred: (a) the
8 Court enters a Judgment on its Order Granting Final Approval of the Settlement; and
9 (b) the Judgment is final. The Judgment is final as of the latest of the following
10 occurrences: (a) if no Participating Class Member objects to the Settlement, the day
11 the Court enters Judgment; (b) if one or more Participating Class Members objects to
12 the Settlement, the day after the deadline for filing a notice of appeal from the
13 Judgment if no timely appeal from the Judgment is filed; or if a timely appeal from
14 the Judgment is filed, the day after the appellate court affirms the Judgment such
15 Judgment is no longer subject to further appeal or review.
- 16 M. "Final Approval" means the Court's order granting final approval of the Settlement.
- 17 N. "Final Approval Hearing" means the Court's hearing on the Motion for Final
18 Approval of the Settlement.
- 19 O. "Funding Date" shall mean the later of (a) sixty-five (65) calendar days after the
20 Court's entry of its Judgment or (b) thirty (30) calendar days following the exhaustion
21 of all objections and/or appeals and is the date Defendants transfer the Gross
22 Settlement Amount into the QSF in accord with the terms of this Agreement.
- 23 P. "Gross Settlement Amount" means Four Hundred Fifty Thousand Dollars
24 (\$450,000.00) that Defendants must pay into the QSF in connection with this
25 Settlement, inclusive of the sum of Claims Administration Expenses, Attorneys' Fees,
26 Attorney's Expenses, Service Award, and the PAGA Payment and *exclusive* of the
27 employer's share of payroll tax, if any, triggered by any payment under this
28 Settlement.

- 1 Q. "Individual Settlement Payment" means the amount payable from the Net Settlement
2 Amount to each Settlement Class Member and excludes any amounts distributed to
3 PAGA Class Members pursuant to PAGA.
- 4 R. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 5 S. "LWDA" means the California Labor and Workforce Development Agency, the
6 agency entitled, under Labor Code section 2699, subd. (i).
- 7 T. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
8 under Labor Code section 2699, subd. (i).
- 9 U. "Net Settlement Amount" means the Gross Settlement Amount, less Attorneys' Fees,
10 Attorneys' Expenses, Service Award, PAGA Payment, and Claims Administration
11 Expenses.
- 12 V. "Non-Participating Class Member" means any Class Member who opts out of the
13 Settlement by sending the Settlement Administrator a valid and timely Request for
14 Exclusion.
- 15 W. "Notice Packet" means the Class Notice to be provided to the Class Members by the
16 Settlement Administrator in the form set forth as **Exhibit A** to this Agreement (other
17 than formatting changes to facilitate printing by the Settlement Administrator).
- 18 X. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
19 Labor Code § 2698 *et seq.*
- 20 Y. "PAGA Class Members" or "PAGA Class" means all non-exempt employees who
21 are or previously were employed by Defendants and performed work in California
22 during the PAGA Period.
- 23 Z. "PAGA Payment Ratio" means the respective Pay Periods during the PAGA Period
24 for each PAGA Class Member divided by the sum total of the Pay Periods for all
25 PAGA Class Members during the PAGA Period.
- 26 AA. "PAGA Pay Periods," for purposes of calculating the distribution of the PAGA Class
27 Member Payment, as defined herein, means the number of pay periods of employment
28 during the PAGA Period that each PAGA Class Member worked in California.

- 1 BB. "PAGA Period" means from November 5, 2020 to June 8, 2022.
- 2 CC. "PAGA Payment" shall mean Twenty Thousand Dollars (\$20,000) to be allocated
- 3 from the Gross Settlement Amount, with 25% of the payment going to the Aggrieved
- 4 Employees and 75% of the payment going to the Labor and Workforce Development
- 5 Agency ("LWDA"). The amount of the PAGA Settlement Payment is subject to Court
- 6 approval pursuant to California Labor Code section 2699(l). Any reallocation of the
- 7 Gross Settlement Amount to increase the PAGA Settlement Payment will not
- 8 constitute grounds by either party to void this Agreement, so long as the Gross
- 9 Settlement Amount remains the same.
- 10 DD. "Participating Class Member" means any Class Member who is not a Non-
- 11 Participating Class Member.
- 12 EE. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
- 13 Plaintiff or Defendant, individually.
- 14 FF. "Payment Ratio" means the respective Workweeks for each Class Member divided
- 15 by the sum total Workweeks for all Class Members.
- 16 GG. "Plaintiff" shall mean VY TRINH.
- 17 HH. "QSF" means the Qualified Settlement Fund established, designated and maintained
- 18 by the Settlement Administrator to fund the Gross Settlement Amount.
- 19 II. "Released Class Claims" means all class claims that were alleged, or could have been
- 20 alleged in the operative complaint, which occurred during the Class Period, and
- 21 expressly excluding all other claims, including claims for vested benefits, wrongful
- 22 termination, unemployment insurance, disability, social security, workers'
- 23 compensation, and class claims outside of the Class Period.
- 24 JJ. "Released PAGA Claims" means all PAGA claims alleged or which could have been
- 25 alleged based on the facts alleged in the operative complaint and Plaintiff's PAGA
- 26 notice to the LWDA, or arising from the operative complaint and/or Plaintiff's PAGA
- 27 notice to the LWDA, which occurred during the PAGA Period, and expressly
- 28 excluding all other claims, including claims for vested benefits, wrongful termination,

unemployment insurance, disability, social security, workers' compensation, and
PAGA claims outside of the PAGA Period.

KK. "Released Parties" shall mean Defendants and all past, present and future agent,
employees, servants, officers, directors, partners, trustees, representatives,
shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related
corporations, divisions, joint venturers, assigns, predecessors, successors, service
providers, insurers, consultants, subcontractors, joint employers, insurers, employee
benefit plans and fiduciaries therefore, affiliated organizations, and all persons acting
under, and all other representatives of Defendants by, through or in concert with any
of them, and each of them.

LL. "Response Deadline" means the date forty-five (45) calendar days after the Settlement
Administrator mails Notice Packets to Class Members and the last date on which
Class Members may submit requests for exclusion or objections to the Settlement.

MM. "Service Award" means an award in the amount of \$10,000 or in an amount that the
Court authorizes to be paid to the Class Representative, in addition to his Individual
Settlement Payment and his individual PAGA Class Member Payment, in recognition
of his efforts and risks in assisting with the prosecution of the Action and in exchange
for executing a General Release of claims including a Civil Code 1542 waiver from
the named Plaintiff.

NN. "Settlement" means the disposition of the Action pursuant to this Agreement.

OO. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L,
Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement
Administrator establishes, designates and maintains, as a QSF under Internal Revenue
Code section 468B and Treasury Regulation section 1.468B-1, into which the amount
of the Gross Settlement Amount is deposited for the purpose of resolving the claims
of Settlement Class Members. The Settlement Administrator shall maintain the funds
until distribution in an account(s) segregated from the assets of Defendants and any
person related to Defendant. *All accrued interest shall be paid and distributed to the*

1 ***Settlement Class Members as part of their respective Individual Settlement***
2 ***Payment.***

3 PP. “Settlement Class Members” or “Settlement Class” means all Class Members who
4 have not submitted a timely and valid request for exclusion as provided in this
5 Agreement.

6 QQ. “Workweeks,” for purposes of calculating the distribution of the Net Settlement
7 Amount, means the number of weeks of employment during the Class Period that
8 each Class Member was employed by Defendants in California.

9 **II. RECITALS**

10 A. On November 5, 2021, Plaintiff filed a Notice of Violations with the Labor and
11 Workforce Development Agency (LWDA) and served the same on Defendants.

12 B. On January 10, 2022, Plaintiff filed the class action lawsuit for:

- 13 1. Wrongful termination;
- 14 2. Disability Discrimination (Government Code § 12940;
- 15 3. Unfair competition (Bus. & Prof. Code § 17200 *et seq.*;
- 16 4. Minimum wage violations (Labor Code §§ 1182.12, 1194, 1194.2, 1197);
- 17 5. Failure to pay all overtime wages (Labor Code §§ 204, 510, 558, 1194, 1198);
- 18 6. Meal period violations (Labor Code §§ 26.7, 512, 558);
- 19 7. Rest period violations (Labor Code §§ 226.7, 516, 558);
- 20 8. Wage statement violations (Labor Code § 226, *et seq.*);
- 21 9. Failure to provide wages when due (Labor Code §§ 201, 202, 203; and
- 22 10. Violation of the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*

23 C. The Court has not granted class certification.

24 D. The Class Representative believes he has claims based on alleged violations of the
25 California Labor Code, and the Industrial Wage Commission Orders, and that class
26 certification is appropriate because the prerequisites for class certification can be
27 satisfied in the Action, and this action is manageable as a PAGA representative
28 action.

1 E. Defendants deny any liability or wrongdoing of any kind associated with the claims
2 alleged in the Action, disputes any wages, damages and penalties claimed by the
3 Class Representative are owed, and further contend that, for any purpose other than
4 settlement, the Action is not appropriate for class or representative action treatment.
5 Defendants contend, among other things, that at all times they complied with the
6 California Labor Code and the Industrial Wage Commission Orders.

7 F. Prior to mediation Plaintiff's investigation was sufficient to satisfy the criteria for
8 court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th
9 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-
10 130 ("Dunk/Kullar"). The Class Representative is represented by Class Counsel.
11 Class Counsel conducted an investigation into the facts relevant to the Action,
12 including conducting an independent investigation as to the allegations, reviewing
13 documents and information exchanged through informal discovery, and reviewing
14 documents and information provided by Defendants pursuant to informal requests
15 for information to prepare for mediation. Defendants produced for the purpose of
16 settlement negotiations certain employment data concerning the Settlement Class,
17 which Class Counsel reviewed and analyzed with the assistance of an expert. Based
18 on their own independent investigation and evaluation, Class Counsel are of the
19 opinion that the Settlement with Defendants is fair, reasonable and adequate, and is
20 in the best interest of the Settlement Class in light of all known facts and
21 circumstances, including the risks of significant delay, defenses asserted by
22 Defendants, uncertainties regarding class certification, and numerous potential
23 appellate issues. Although they deny any liability, Defendants are agreeing to this
24 Settlement solely to avoid the inconveniences and cost of further litigation. The
25 Parties and their counsel have agreed to settle the claims on the terms set forth in
26 this Agreement.

27 G. Beginning on June 8, 2022, the Parties participated in mediation presided over by
28 Hon. Judge Steven Denton (Ret.), an experienced mediator of wage and hour class

and PAGA actions. The mediation concluded with a settlement, which was subsequently memorialized in the form of a Memorandum of Understanding.

H. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiff or the Class Members have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Action have merit.

I. The Parties believe that the Settlement is fair, reasonable and adequate. The Settlement was arrived at through arm's-length negotiations, taking into account all relevant factors. The Parties recognize the uncertainty, risk, expense and delay attendant to continuing the Action through trial and any appeal. Accordingly, the Parties desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Action.

J. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action, and to remove the matter back to Federal Court.

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

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

III. TERMS OF AGREEMENT

A. Settlement Consideration and Settlement Payments by Defendants.

1. Settlement Consideration. In full and complete settlement of the Action, and in exchange for the releases set forth below, Defendants and the Released

Parties will pay the sum of the Individual Settlement Payments, the Service Award, the Attorneys' Fees, the Attorneys' Expenses, PAGA Payment, and the Claims Administration Expenses, as specified in this Agreement, equal to the Gross Settlement Amount of Four Hundred Fifty Thousand Dollars (\$450,000.00). The Parties agree that this is a non-reversionary Settlement and that no portion of the Gross Settlement Amount shall revert to Defendants, other than the Defendants' share of employer payroll taxes, or as otherwise specified in the Agreement at ¶III.A.2. Defendants shall not be required to pay more than the Gross Settlement Amount. Upon payment of the Gross Settlement Amount to the Settlement Administrator, Defendants' obligation to pay the Gross Settlement Amount shall be fully discharged and satisfied.

2. Class Size. At the time of mediation, Defendants estimated that the Settlement Class was comprised of 202 individuals who collectively worked approximately 18,129 workweeks ("Projected Workweeks") during the Class Period. If the workweek number increases by more than 15% of the estimate stated herein, the Gross Settlement Amount will increase proportionally for the number of workweeks over 15% of 18,129 (20,849).

3. Defendants' Right to Withdraw. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 15% of the total of all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Settlement Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

1 4. Settlement Payment. Defendants shall pay, via wire transfer, the Gross
2 Settlement Amount to the Settlement Administrator on the Funding Date.

3 5. Defendant's Share of Payroll Taxes. Defendants' share of employer side
4 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
5 together with the Gross Settlement Amount.

6 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
7 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
8 release the Released Parties from the Released Class Claims for the Class Period.

9 C. Release by the PAGA Class Members. As of the Funding Date, in exchange for the
10 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
11 California release the Released Parties from the Released PAGA Claims for the PAGA
12 Period. As a result of this release, the PAGA Class Members shall be precluded from
13 bringing claims against Defendants for the Released PAGA Claims.

14 D. Release by Non-Participating Class Members Who Are PAGA Class Members. All
15 Non-Participating Class Members who are PAGA Class Members are deemed to
16 release, on behalf of themselves and their respective former and present
17 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the
18 Released Parties from all claims for PAGA penalties that were alleged, or reasonably
19 could have been alleged, based on the PAGA Period facts stated in the Operative
20 Complaint, and the PAGA Notice and ascertained in the course of the Action including,
21 but not limited to any and all claims involving any alleged failure to pay minimum
22 wage; overtime, rest and meal break violation, waiting time penalties, wage statement
23 violations, etc.

24 E. General Release by Plaintiff. Upon the date of Final Approval, for the consideration
25 set forth in this Agreement, Plaintiff and his or her respective former and present
26 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
27 assigns waives, releases, acquits and forever discharges the Released Parties from any
28 and all claims, whether known or unknown, which exist or may exist on his behalf as

1 of the date of this Agreement, including but not limited to any and all tort claims,
2 contract claims, wage claims, wrongful termination claims, disability claims, benefit
3 claims, public policy claims, retaliation claims, statutory claims, personal injury
4 claims, emotional distress claims, invasion of privacy claims, defamation claims, fraud
5 claims, quantum meruit claims, and any and all claims arising under any federal, state
6 or other governmental statute, law, regulation or ordinance, including, but not limited
7 to claims for violation of the Fair Labor Standards Act, the California Labor Code, the
8 Wage Orders of California's Industrial Welfare Commission, other state wage and
9 hour laws, the Americans with Disabilities Act, the Age Discrimination in
10 Employment Act (ADEA), the Employee Retirement Income Security Act, Title VII
11 of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, the
12 California Family Rights Act, the Family Medical Leave Act, California's
13 Whistleblower Protection Act, California Business & Professions Code Section 17200
14 et seq., and any and all claims arising under any federal, state or other governmental
15 statute, law, regulation or ordinance. Plaintiff also waives and relinquishes any and all
16 claims, rights or benefits that she may have under California Civil Code § 1542, which
17 provides as follows:

18
19 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS***
20 ***THAT THE CREDITOR OR RELEASING PARTY DOES NOT***
21 ***KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT***
22 ***THE TIME OF EXECUTING THE RELEASE AND THAT, IF***
KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR
OR RELEASED PARTY.

23 Thus, notwithstanding the provisions of section 1542, and to implement a full and
24 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges
25 this Settlement Agreement is intended to include in its effect, without limitation, all
26 claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of
27 signing this Settlement Agreement, and that this Settlement Agreement contemplates the
28 extinguishment of any such claims. Plaintiff warrants that Plaintiff has read this

1 Settlement Agreement, including this waiver of California Civil Code section 1542, and
2 that Plaintiff has consulted with or had the opportunity to consult with counsel of
3 Plaintiff's choosing about this Settlement Agreement and specifically about the waiver
4 of section 1542, and that Plaintiff understands this Settlement Agreement and the section
5 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement
6 Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts
7 different from or in addition to those Plaintiff now knows or believes to be true regarding
8 the matters released or described in this Settlement Agreement, and even so Plaintiff
9 agrees that the releases and agreements contained in this Settlement Agreement shall
10 remain effective in all respects notwithstanding any later discovery of any different or
11 additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection
12 with the true facts involved in the matters, disputes, or controversies released or
13 described in this Settlement Agreement or with regard to any facts now unknown to
14 Plaintiff relating thereto.

15 F. Remand for Settlement. The Parties shall file a joint motion and stipulation to remand
16 the Action back to the San Diego Superior court for purposes of approval of the
17 Settlement only.

18 G. Conditions Precedent: This Settlement will become final and effective only upon the
19 occurrence of all of the following events:

- 20 1. The Court enters an order granting preliminary approval of the Settlement;
- 21 2. The Court enters an order granting final approval of the Settlement and a Final
22 Judgment;
- 23 3. If an objector appears at the final approval hearing, the time for appeal of the
24 Final Judgment and Order Granting Final Approval of Class Action
25 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
26 any appeal from the Judgment and Order Granting Final Approval of Class
27 Action Settlement; and
28

1 H. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
2 not preliminarily or finally approved by the Court, fails to become effective, or is
3 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
4 Defendants from obtaining a complete resolution of the Released Claims, or if
5 Defendants fails to fully fund the Gross Settlement Amount:

6 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
7 and shall not be admissible in any judicial, administrative or arbitral
8 proceeding for any purpose or with respect to any issue, substantive or
9 procedural;

10 2. The conditional class certification (obtained for any purpose) shall be void *ab*
11 *initio* and of no force or effect, and shall not be admissible in any judicial,
12 administrative or arbitral proceeding for any purpose or with respect to any
13 issue, substantive or procedural; and

14 3. None of the Parties to this Settlement will be deemed to have waived any
15 claims, objections, defenses or arguments in the Action, including with respect
16 to the issue of class certification.

17 4. Defendants shall bear the sole responsibility for any cost to issue or reissue
18 any curative notice to the Settlement Class Members and all Settlement
19 Administration Costs incurred to the date of nullification.

20 I. Certification of the Settlement Class. The Parties stipulate to conditional class
21 certification of the Class for the Class Period for purposes of settlement only. In the
22 event that this Settlement is not approved by the Court, fails to become effective, or is
23 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
24 Defendants from obtaining a complete resolution of the Released Claims, the
25 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
26 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
27 proceeding for any purpose or with respect to any issue, substantive or procedural.
28

- 1 J. Tax Liability. The Parties make no representations as to the tax treatment or legal
2 effect of the payments called for, and Class Members and/or PAGA Class Members
3 are not relying on any statement or representation by the Parties in this regard. Class
4 Members and/or PAGA Class Members understand and agree that they will be
5 responsible for the payment of any taxes and penalties assessed on the Individual
6 Settlement Payments and/or PAGA Class Members' individual shares of the PAGA
7 Settlement described and will be solely responsible for any penalties or other
8 obligations resulting from their personal tax reporting of Individual Settlement
9 Payments and/or PAGA Class Members' individual shares of the PAGA Settlement.
- 10 K. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
11 the "acknowledging party" and each Party to this Agreement other than the
12 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
13 of this Agreement, and no written communication or disclosure between or among the
14 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
15 such communication or disclosure constitute or be construed or be relied upon as, tax
16 advice within the meaning of United States Treasury Department circular 230 (31 CFR
17 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
18 her or its own, independent legal and tax counsel for advice (including tax advice) in
19 connection with this Agreement, (b) has not entered into this Agreement based upon
20 the recommendation of any other Party or any attorney or advisor to any other Party,
21 and (c) is not entitled to rely upon any communication or disclosure by any attorney
22 or adviser to any other party to avoid any tax penalty that may be imposed on the
23 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
24 any limitation that protects the confidentiality of any such attorney's or adviser's tax
25 strategies (regardless of whether such limitation is legally binding) upon disclosure by
26 the acknowledging party of the tax treatment or tax structure of any transaction,
27 including any transaction contemplated by this Agreement.
- 28

1 L. Preliminary Approval Motion. Within sixty (60) calendar days of execution of this
2 Agreement, Plaintiff shall file with the Court a Motion for Order Granting Preliminary
3 Approval and supporting papers, which shall include this Settlement Agreement.
4 Plaintiff will provide Defendants with a draft of the Motion at least 5 business days
5 prior to the filing of the Motion to give Defendants an opportunity to propose changes
6 or additions to the Motion.

7 1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to
8 Defense Counsel all documents necessary for obtaining Preliminary
9 Approval, including: (i) a draft of the notice, and memorandum in support, of
10 the Motion for Preliminary Approval that includes an analysis of the
11 Settlement under *Dunk/Kullar* and a request for approval of the PAGA
12 Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed
13 Order Granting Preliminary Approval and Approval of PAGA Settlement;
14 (iii) a draft proposed Class Notice; (iv) a signed declaration from the
15 Settlement Administrator attaching its "not to exceed" bid for
16 administering the Settlement and attesting to its willingness to serve;
17 competency; operative procedures for protecting the security of Class Data;
18 amounts of insurance coverage for any data breach, defalcation of funds or
19 other misfeasance; all facts relevant to any actual or potential conflicts of
20 interest with Class Members; and the nature and extent of any financial
21 relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed
22 declaration from each Class Counsel firm attesting to its competency to
23 represent the Class Members; its timely transmission to the LWDA of all
24 necessary PAGA documents (initial notice of violations (Labor Code section
25 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd.
26 (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vi) all
27 facts relevant to any actual or potential conflict of interest with Class
28 Members, the Settlement Administrator and/or the Cy Pres Recipient. In their

1 Declarations, Plaintiff and Class Counsel Declaration shall aver that they are
2 not aware of any other pending matter or action asserting claims that will be
3 extinguished or adversely affected by the Settlement. Class Counsel is
4 responsible for delivering the Court's Preliminary Approval to the Settlement
5 Administrator.

6 M. Settlement Administrator. The Parties have jointly selected ILYM Group Inc. to serve
7 as the Settlement Administrator and verified that, as a condition of appointment, ILYM
8 Group Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all
9 duties specified in this Agreement in exchange for payment of Administration
10 Expenses. The Parties and their Counsel represent that they have no interest or
11 relationship, financial or otherwise, with the Settlement Administrator other than a
12 professional relationship arising out of prior experiences administering settlements
13 The Settlement Administrator shall be responsible for: establishing and administering
14 the QSF; calculating, processing and mailing payments to the Class Representative,
15 Class Counsel, LWDA and Class Members; printing and mailing the Notice Packets
16 to the Class Members as directed by the Court; receiving and reporting the objections
17 and requests for exclusion; calculating, deducting and remitting all legally required
18 taxes from Individual Settlement Payments and distributing tax forms for the Wage
19 Portion and Non-Wage Portion of the Individual Settlement Payments and/or PAGA
20 Class Members' individual shares of the PAGA Settlement; processing and mailing
21 tax payments to the appropriate state and federal taxing authorities; providing
22 declaration(s) as necessary in support of preliminary and/or final approval of this
23 Settlement; and other tasks as the Parties mutually agree or the Court orders the
24 Settlement Administrator to perform. The Settlement Administrator shall keep the
25 Parties timely apprised of the performance of all Settlement Administrator
26 responsibilities by among other things, sending a weekly status report to the Parties'
27 counsel stating the date of the mailing, the of number of Elections Not to Participate
28

1 in Settlement it receives (including the numbers of valid and deficient), and number of
2 objections received.

3 1. Employer Identification Number. The Settlement Administrator shall have
4 and use its own Employer Identification Number for purposes of calculating
5 payroll tax withholdings and providing reports state and federal tax
6 authorities.

7 2. Qualified Settlement Fund. The Settlement Administrator shall establish a
8 settlement fund that meets the requirements of a Qualified Settlement
9 Fund (“QSF”) under US Treasury Regulation section 468B-1.

10 N. Notice Procedure.

11 1. Class Data. No later than ten (10) business days after the Preliminary
12 Approval Date, Defendants shall provide the Settlement Administrator with
13 the Class Data for purposes of preparing and mailing Notice Packets to the
14 Class Members.

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

19 3. Notice Packets.

20 a) The Notice Packet shall contain the Notice of Class Action Settlement
21 in a form substantially similar to the form attached as **Exhibit A**. The
22 Notice of Class Action Settlement shall inform Class Members and
23 PAGA Class Members that they need not do anything in order to
24 receive an Individual Settlement Payment and/or PAGA Class
25 Members’ individual shares of the PAGA Settlement and to keep the
26 Settlement Administrator apprised of their current mailing address, to
27 which the Individual Settlement Payments and/or PAGA Class
28 Members’ individual shares of the PAGA Settlement will be mailed

1 following the Funding Date. The Notice of Class Action Settlement
2 shall set forth the release to be given by all members of the Class who
3 do not request to be excluded from the Settlement Class and/or PAGA
4 Class Members' in exchange for an Individual Settlement Payment
5 and/or PAGA Class Members' individual shares of the PAGA
6 Settlement, the number of Workweeks worked by each Class Member
7 during the Class Period and PAGA Period, if any, and the estimated
8 amount of their Individual Settlement Payment if they do not request
9 to be excluded from the Settlement and each PAGA Class Members'
10 share of the PAGA Settlement, if any. The Settlement Administrator
11 shall use the Class Data to determine Class Members' Workweeks and
12 PAGA Workweeks. The Notice will also advise the PAGA Class
13 Members that they will release the Released PAGA Claims and will
14 receive their share of the PAGA Settlement regardless of whether they
15 request to be excluded from the Settlement.

16 b) The Notice Packet's mailing envelope shall include the following
17 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
18 ENTITLED TO PARTICIPATE IN A CLASS ACTION
19 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
20 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
21 NOTICE."

22 4. Notice by First Class U.S. Mail. Upon receipt of the Class Data, the
23 Settlement Administrator will perform a search based on the National Change
24 of Address Database to update and correct any known or identifiable address
25 changes. No later than fourteen (14) calendar days after receiving the Class
26 Data from Defendants, the Settlement Administrator shall mail copies of the
27 Notice Packet to all Class Members via regular First-Class U.S. Mail and
28 electronic mail. The Settlement Administrator shall exercise its best judgment

1 to determine the current mailing address for each Class Member. The address
2 identified by the Settlement Administrator as the current mailing address shall
3 be presumed to be the best mailing address for each Class Member.

4 5. Undeliverable Notices. Any Notice Packets returned to the Settlement
5 Administrator as non-delivered on or before the Response Deadline shall be
6 re-mailed to any forwarding address provided. If no forwarding address is
7 provided, the Settlement Administrator shall promptly attempt to determine a
8 correct address by lawful use of skip-tracing, or other search using the name,
9 address and/or Social Security number of the Class Member involved, and
10 shall then perform a re-mailing, if another mailing address is identified by the
11 Settlement Administrator. In addition, if any Notice Packets, which are
12 addressed to Class Members who are currently employed by Defendant, are
13 returned to the Settlement Administrator as non-delivered and no forwarding
14 address is provided, the Settlement Administrator shall notify Defendants.
15 Defendants will request that the currently employed Class Member provide a
16 corrected address, and transmit to the Administrator any corrected address
17 provided by the Class Member. Class Members who received a re-mailed
18 Notice Packet shall have their Response Deadline extended fifteen (15) days
19 from the original Response Deadline.

20 6. Disputes Regarding Individual Settlement Payments. Class Members will
21 have the opportunity, should they disagree with Defendants' records regarding
22 the start and end dates of employment to provide documentation and/or an
23 explanation to show contrary dates. If there is a dispute, the Settlement
24 Administrator will consult with the Parties to determine whether an
25 adjustment is warranted. The Settlement Administrator shall determine the
26 eligibility for, and the amounts of, any Individual Settlement Payments under
27 the terms of this Agreement; provided, however, the Net Settlement Amount
28 shall not be increased except as specified in this Agreement at ¶III.A.2. The

1 Settlement Administrator's determination of the eligibility for and amount of
2 any Individual Settlement Payment shall be binding upon the Class Member
3 and the Parties.

4 7. Disputes Regarding Administration of Settlement. Any disputes not resolved
5 by the Settlement Administrator concerning the administration of the
6 Settlement will be resolved by the Court under the laws of the State of
7 California. Before any such involvement of the Court, counsel for the Parties
8 will confer in good faith to resolve the disputes without the necessity of
9 involving the Court.

10 8. Exclusions. The Notice of Class Action Settlement contained in the Notice
11 Packet shall state that Class Members who wish to exclude themselves from
12 the Settlement must submit a signed copy of the Request for Exclusion form
13 to the Settlement Administrator by the Response Deadline. A Request for
14 Exclusion form will be mailed together with the Notice Packet to all Class
15 Members. The Request for Exclusion will not be valid if it is not timely
16 submitted, if it is not signed by the Class Member, or if it does not contain the
17 name and address and last four digits of the Social Security number of the
18 Class Member. The date of the postmark on the mailing envelope or fax stamp
19 on the Request for Exclusion shall be the exclusive means used to determine
20 whether the request for exclusion was timely submitted. Any Class Member
21 who submits a timely Request for Exclusion shall be excluded from the
22 Settlement Class will not be entitled to an Individual Settlement Payment and
23 will not be otherwise bound by the terms of the Settlement or have any right
24 to object, appeal or comment thereon. However, any Class Member that
25 submits a timely Request for Exclusion that is also a member of the PAGA
26 Class will still receive his/her pro rata share of the PAGA Settlement, as
27 specified below, and in consideration, will be bound by the Release by the
28 PAGA Class as set forth herein. Settlement Class Members who fail to submit

1 a valid and timely Request for Exclusion on or before the Response Deadline
2 shall be bound by all terms of the Settlement and any final judgment entered
3 in this Action if the Settlement is approved by the Court. No later than
4 fourteen (14) calendar days after the Response Deadline, the Settlement
5 Administrator shall provide counsel for the Parties with a final list of the Class
6 Members who have timely submitted timely Requests for Exclusion. At no
7 time shall any of the Parties or their counsel seek to solicit or otherwise
8 encourage members of the Class to submit Requests for Exclusion from the
9 Settlement.

10 9. Requests for Exclusion (Opt-outs) and Exclusion List. The Settlement
11 Administrator will promptly review on a rolling basis Requests for Exclusion
12 to ascertain their validity. Not later than [5] days after the expiration of the
13 deadline for submitting Requests for Exclusion, the Settlement Administrator
14 shall email a list to Class Counsel and Defense Counsel containing (a) the
15 names and other identifying information of Class Members who have timely
16 submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
17 other identifying information of Class Members who have submitted invalid
18 Requests for Exclusion; and (c) copies of all Requests for Exclusion from
19 Settlement submitted (whether valid or invalid).

20 10. Objections. The Notice of Class Action Settlement contained in the Notice
21 Packet shall state that Class Members who wish to object to the Settlement
22 may submit to the Settlement Administrator a written statement of objection
23 (“Notice of Objection”) by the Response Deadline. The postmark date of
24 mailing shall be deemed the exclusive means for determining that a Notice of
25 Objection was served timely. The Notice of Objection, if in writing, must be
26 signed by the Settlement Class Member and state: (1) the case name and
27 number; (2) the name of the Settlement Class Member; (3) the address of the
28 Settlement Class Member; (4) the last four digits of the Settlement Class

1 Member's Social Security number; (5) the basis for the objection; and (6) if
2 the Settlement Class Member intends to appear at the Final
3 Approval/Settlement Fairness Hearing. Class Members who fail to make
4 objections in writing in the manner specified above may still make their
5 objections orally at the Final Approval/Settlement Fairness Hearing with the
6 Court's permission. Settlement Class Members will have a right to appear at
7 the Final Approval/Settlement Fairness Hearing to have their objections heard
8 by the Court regardless of whether they submitted a written objection. At no
9 time shall any of the Parties or their counsel seek to solicit or otherwise
10 encourage Class Members to file or serve written objections to the Settlement
11 or appeal from the Order and Final Judgment. Class Members who submit a
12 written request for exclusion may not object to the Settlement. Class Members
13 may not object to the PAGA Settlement.

14 O. Funding and Allocation of the Gross Settlement Amount. Defendants are required to
15 pay the Gross Settlement Amount on or before the Funding Date, plus any employer's
16 share of payroll taxes as mandated by law within the time specified herein.

17 1. Calculation of Individual Settlement Payments. Individual Settlement
18 Payments shall be paid from the Net Settlement Amount and shall be paid
19 pursuant to the formula set forth herein. Using the Class Data, the Settlement
20 Administrator shall add up the total number of Workweeks for all Class
21 Members. The respective Workweeks for each Class Member will be divided
22 by the total Workweeks for all Class Members, resulting in the Payment Ratio
23 for each Class Member. Each Class Member's Payment Ratio will then be
24 multiplied by the Net Settlement Amount to calculate each Class Member's
25 estimated Individual Settlement Payments. Each Individual Settlement
26 Payment will be reduced by any legally mandated employee tax withholdings
27 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
28 Members who submit valid and timely requests for exclusion will be

redistributed to Settlement Class Members who do not submit valid and timely requests for exclusion on a pro rata basis based on their respective Payment Ratios.

2. Calculation of Individual Payments to the PAGA Class Members. Using the Class Data, the Settlement Administrator shall add up the total number of PAGA Pay Periods for all PAGA Class Members during the PAGA Period. The respective PAGA Pay Periods for each PAGA Class Member will be divided by the total PAGA Pay Periods for all PAGA Class Members, resulting in the “PAGA Payment Ratio” for each PAGA Class Member. Each PAGA Class Member’s PAGA Payment Ratio will then be multiplied by the PAGA Class Member Payment to calculate each PAGA Class Member’s estimated share of the PAGA Settlement.

3. Allocation of Individual Settlement Payments. For tax purposes, Individual Settlement Payments shall be allocated and treated as 25% wages (“Wage Portion”) and 75% interest and penalties (“Non-Wage Portion”). The Wage Portion of the Individual Settlement Payments shall be reported on IRS Form W-2 and the Non-wage Portion of the Individual Settlement Payments shall be reported on IRS Form 1099 issued by the Settlement Agreement.

4. Allocation of PAGA Class Member Payments. For tax purposes, PAGA Class Member Settlement Payments shall be allocated and treated as 100% penalties and shall be reported on IRS Form 1099.

5. No Credit Towards Benefit Plans. The Individual Settlement Payments and individual shares of the PAGA Settlement made to Settlement Class Members and/or PAGA Class Members under this Settlement Agreement, as well as any other payments made pursuant to this Settlement Agreement, will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,

1 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
2 Parties' intention that this Settlement Agreement will not affect any rights,
3 contributions, or amounts to which any Class Members may be entitled under
4 any benefit plans.

5 6. All monies received by Settlement Class Members under the Settlement which
6 are attributable to wages shall constitute income to such Settlement Class
7 Members solely in the year in which such monies actually are received by the
8 Settlement Class Members. It is the intent of the Parties that Individual
9 Settlement Payments and individual shares of the PAGA Settlement provided
10 for in this Settlement agreement are the sole payments to be made by Defendants
11 to Settlement Class Members and/or PAGA Class Members in connection with
12 this Settlement Agreement, with the exception of Plaintiff, and that the
13 Settlement Class Members and/or PAGA Class Members are not entitled to any
14 new or additional compensation or benefits as a result of having received the
15 Individual Settlement Payments and/or their shares of the PAGA Settlement.

16 7. Mailing. Individual Settlement Payments and PAGA Class Member
17 Payments shall be mailed by regular First-Class U.S. Mail to Settlement Class
18 Members' and/or PAGA Class Members' last known mailing address no later
19 than fifteen (15) calendar days after the Funding Date.

20 8. Expiration. Any checks issued to Settlement Class Members and PAGA Class
21 Members shall remain valid and negotiable for one hundred and eighty (180)
22 days from the date of their issuance. If a Settlement Class Member and/or
23 PAGA Class Member does not cash his or her settlement check within 90
24 days, the Settlement Administrator will send a letter to such persons, advising
25 that the check will expire after the 180th day, and invite that Settlement Class
26 Member and/or PAGA Class Member to request reissuance in the event the
27 check was destroyed, lost or misplaced. In the event an Individual Settlement
28 Payment and/or PAGA Class Members' individual share of the PAGA

1 Settlement check has not been cashed within one hundred and eighty (180)
2 days, all funds represented by such uncashed checks, plus any interest accrued
3 thereon, shall be transmitted to the Controller of the State of California to be
4 held pursuant to the Unclaimed Property Law, California Civil Code § 1500
5 *et seq.*, in the names and corresponding amounts associated with each Class
6 Member and/or Aggrieved Employee whose check(s) are cancelled.

- 7 9. Service Award. In addition to the Individual Settlement Payment and his
8 individual share of the PAGA Settlement to be paid to Plaintiff, Plaintiff will
9 apply to the Court for an award of not more than \$10,000.00, as the Service
10 Award. Defendants do not presently intend to oppose a Service Award of not
11 more than \$10,000.00 for Plaintiff. The Settlement Administrator shall pay
12 the Service Award, either in the amount stated herein if approved by the Court
13 or some other amount as approved by the Court, to Plaintiff from the Gross
14 Settlement Amount no later than fifteen (15) calendar days after the Funding
15 Date. Any portion of the requested Service Award that is not awarded to the
16 Class Representative shall be part of the Net Settlement Amount and shall be
17 distributed to Settlement Class Members as provided in this Agreement. The
18 Settlement Administrator shall issue an IRS Form 1099 — MISC to Plaintiff
19 for his Service Award. Plaintiff shall be solely and legally responsible to pay
20 any and all applicable taxes on his Service Award and shall hold harmless the
21 Released Parties from any claim or liability for taxes, penalties, or interest
22 arising as a result of the Service Award. The Service Award shall be in
23 addition to Plaintiff's Individual Settlement Payment as a Settlement Class
24 Member. Approval of this Settlement shall not be conditioned on Court
25 approval of the requested amount of the Service Award. If the Court reduces
26 or does not approve the requested Service Award, Plaintiff shall not have the
27 right to revoke the Settlement, and it will remain binding.

10. Attorneys' Fees. Defendants understand a motion by Class Counsel for attorneys' fees not to exceed one-third of the Gross Settlement Amount currently estimated to be \$150,000.00 plus costs and expenses supported by declaration not to exceed Fifteen Thousand Dollars (\$15,000.00), from the Gross Settlement Amount will be filed. Any portion of the requested Attorneys' Fees that is not awarded to Class Counsel shall be part of the Net Settlement Amount and shall be distributed to Settlement Class Members as provided in this Agreement. The Settlement Administrator shall allocate and pay the Attorneys' Fees to Class Counsel from the Gross Settlement Amount no later than fifteen (15) calendar days after the Funding Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099 — MISC to Class Counsel for the payments made pursuant to this paragraph. In the event that the Court reduces or does not approve the requested Attorneys' Fees, Plaintiff and Class Counsel shall not have the right to revoke the Settlement, or to appeal such order, and the Settlement will remain binding.

11. PAGA Payment. Twenty Thousand Dollars (\$20,000) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the Private Attorneys General Act of 2004 ("PAGA Settlement"). The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Settlement (\$15,000) to the California Labor and Workforce Development Agency no later than twenty-five (25) calendar days after the Funding Date (hereinafter "LWDA Payment"). Twenty-five percent (25%) of the PAGA Settlement (\$5,000) will be distributed to the PAGA Class Members as described in this Agreement (hereinafter "PAGA Class Member Payment"). For purposes of distributing the PAGA Settlement to the PAGA Class Members, each PAGA Class Member shall receive their pro-rata share of the

PAGA Class Member Payment using the PAGA Payment Ratio as defined above.

12. Claims Administration Expenses. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is \$8,300.00. The Settlement Administrator shall be paid the Class Administration Expenses no later than fifteen (15) calendar days after the Funding Date.

P. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Service Award, the Attorneys' Fees, the Attorneys' Expenses, the PAGA Settlement, and the Settlement Administration Costs. Plaintiff will provide Defendants with a draft of the Motion at least 5 business days prior to the filing of the Motion to give Defendants an opportunity to propose changes or additions to the Motion.

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiff's motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Claims Administration Expenses, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its

1 approval, and Judgment thereon, at the time Class Counsel files the Motion
2 for Final Approval.

3 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
4 an opportunity for Counsel for Defendants to review the Motions for Preliminary and
5 Final Approval, including the Order Granting Final Approval of Class Action
6 Settlement, and Judgment before filing with the Court. The Parties and their counsel
7 will cooperate with each other and use their best efforts to affect the Court's approval
8 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
9 Judgment.

10 O. Cooperation. The Parties and their counsel will cooperate with each other and use
11 their best efforts to implement the Settlement.

12 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
13 except such proceedings necessary to implement and complete the Settlement, pending
14 the Final Approval/Settlement Fairness Hearing to be conducted by the Court

15 Q. Amendment or Modification. This Agreement may be amended or modified only by
16 a written instrument signed by counsel for all Parties or their successors-in-interest.

17 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
18 Agreement among these Parties, and no oral or written representations, warranties or
19 inducements have been made to any Party concerning this Agreement or its Exhibit
20 other than the representations, warranties and covenants contained and memorialized
21 in this Agreement and its Exhibit.

22 S. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants
23 and Defense Counsel separately agree that, until the Motion for Preliminary Approval
24 of Settlement is filed, they and each of them will not disclose, disseminate and/or
25 publicize, or cause or permit another person to disclose, disseminate or publicize, any
26 of the terms of the Agreement directly or indirectly, specifically or generally, to any
27 person, corporation, association, government agency, or other entity except: (1) to the
28 Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this

1 Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to
2 report income to appropriate taxing authorities; (4) in response to a court order or
3 subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
4 government agency. Each Party agrees to immediately notify each other Party of any
5 judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff,
6 Class Counsel, Defendants and Defense Counsel separately agree not to, directly or
7 indirectly, initiate any conversation or other communication, before the filing of the
8 Motion for Preliminary Approval, any with third party regarding this Agreement or
9 the matters giving rise to this Agreement except to respond only that “the matter was
10 resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s
11 communications with Class Members in accordance with Class Counsel’s ethical
12 obligations owed to Class Members.

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

18 U. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
19 represent they are expressly authorized by the Parties whom they represent to negotiate
20 this Agreement and to take all appropriate Action required or permitted to be taken by
21 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
22 documents required to effectuate the terms of this Agreement. The persons signing
23 this Agreement on behalf of Defendants represents and warrants that he/she is
24 authorized to sign this Agreement on behalf of Defendants. Plaintiff represents and
25 warrants that he is authorized to sign this Agreement and that he has not assigned any
26 claim, or part of a claim, covered by this Settlement to a third-party.

27 V. No Public Comment: The Parties and their counsel agree that they will not issue any
28 press releases, initiate any contact with the press, respond to any press inquiry, or have

1 any communication with the press about the fact, amount or terms of the Settlement
2 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
3 of its terms for any marketing or promotional purposes. Nothing herein will restrict
4 Class Counsel from including publicly available information regarding this settlement
5 in future judicial submissions regarding Class Counsel's qualifications and experience.
6 Further, Class Counsel will not include, reference or use the Settlement Agreement for
7 any marketing or promotional purposes, either before or after the Motion for
8 Preliminary Approval is filed.

9 W. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
10 to the benefit of, the successors or assigns of the Parties, as previously defined.

11 X. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
12 shall be governed by and interpreted according to the laws of the State of California.

13 Y. Counterparts. This Agreement may be executed in one or more counterparts. All
14 executed counterparts and each of them shall be deemed to be one and the same
15 instrument provided that counsel for the Parties to this Agreement shall exchange
16 among themselves copies or originals of the signed counterparts.

17 Z. Confidentiality. To the extent permitted by law, all agreements made, and orders
18 entered during Action and in this Agreement relating to the confidentiality of
19 information shall survive the execution of this Agreement.

20 AA. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
21 is a fair, adequate and reasonable settlement of this Action and have arrived at this
22 Settlement after extensive arms-length negotiations, taking into account all relevant
23 factors, present and potential.

24 BB. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
25 respect to the interpretation, implementation and enforcement of the terms of this
26 Agreement and all orders and judgments entered in connection therewith, and the
27 Parties and their counsel submit to the jurisdiction of the Court for purposes of
28

1 interpreting, implementing and enforcing the settlement and all orders and judgments
2 entered in connection with this Agreement.

3 CC. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
4 the Court shall first attempt to construe the provisions valid to the fullest extent
5 possible consistent with applicable precedents so as to define all provisions of this
6 Agreement valid and enforceable.

7 DD. No Unalleged Claims. Plaintiff and Class Counsel represent that they do not currently
8 intend to pursue any claims against the Released Parties, including, but not limited to,
9 any and all claims relating to or arising from Plaintiff's employment with Defendant,
10 regardless of whether Class Counsel is currently aware of any facts or legal theories
11 upon which any claims or causes of action could be brought against Released Parties,
12 including those facts or legal theories alleged in the operative complaint in this Action.
13 The Parties further acknowledge, understand and agree that this representation is
14 essential to the Agreement and that this Agreement would not have been entered into
15 were it not for this representation.

16 EE. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
17 certification for purposes of this settlement only.

18 FF. No Admissions by the Parties. This Agreement represents a compromise and
19 settlement of highly disputed claims. Nothing in this Agreement is intended or should
20 be construed as an admission by Defendants that any of the allegations in the Operative
21 Complaint have merit or that Defendants has any liability for any claims asserted; nor
22 should it be intended or construed as an admission by Plaintiff that Defendants'
23 defenses in the Action have merit. Plaintiff has claimed and continues to claim that the
24 Released Claims have merit and give rise to liability on the part of Defendants.
25 Defendants claim that the Released Claims have no merit and do not give rise to
26 liability. This Agreement is a compromise of disputed claims. Nothing contained in
27 this Agreement and no documents referred to and no action taken to carry out this
28 Agreement may be construed or used as an admission by or against the Defendants or

1 Plaintiff or Class Counsel as to the merits or lack thereof of the claims asserted. Other
2 than as may be specifically set forth herein, each Party shall be responsible for and
3 shall bear its/his own attorney's fees and costs.

4 GG. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
5 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
6 Counsel by Defendants in connection with the mediation, other settlement
7 negotiations, or in connection with the Settlement, may be used only with respect to
8 this Settlement, and no other purpose, and may not be used in any way that violates
9 any existing contractual agreement, statute, or rule of court. Not later than 90 days
10 after the date when the Court discharges the Settlement Administrator's obligation to
11 provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff
12 shall destroy, all paper and electronic versions of Class Data received from Defendants
13 unless, prior to the Court's discharge of the Settlement Administrator's obligation,
14 Defendants make a written request to Class Counsel for the return, rather than the
15 destructions, of Class Data.

16 HH. Headings. The descriptive heading of any section or paragraph of this Agreement is
17 inserted for convenience of reference only and does not constitute a part of this
18 Agreement.

19 II. Notice. All notices, demands or other communications between the Parties in
20 connection with this Agreement will be in writing and deemed to have been duly given
21 as of the third business day after mailing by United States mail, or the day sent by
22 email or messenger.

23 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

24
25 DATED: Feb 15, 2023

26 
Vy Trinh (Feb 15, 2023 08:21 PST)

27 VY TRINH

1
2
3 IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

4 DATED: _____

5 _____
6 PRECISION METAL PRODUCTS, INC.

7 _____
8 Printed Name

9 _____
10 Title

11 DATED: _____

12 _____
13 HBD INDUSTRIES, INC.

14 _____
15 Printed Name

16 _____
17 Title

18 IT IS SO AGREED AS TO FORM BY COUNSEL:

19 DATED: February 15, 2023

20 JCL LAW FIRM, A.P.C.

21 By: _____

22 Attorneys for Plaintiff and the Settlement Class
23 Members

24 DATED: February 15, 2023

25 ZAKAY LAW GROUP, APLC

26 By: _____

27 Attorneys for Plaintiff and the Settlement Class
28 Members

IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: January 11, 2023 | 12:08 PM PST

DocuSigned by:

Thomas J. Pozda

60C3AAE08BE144D...

Thomas J. Pozda
President and CEO of PRECISION METAL
PRODUCTS, INC.

DATED: January 11, 2023 | 12:08 PM PST

DocuSigned by:

Thomas J. Pozda

60G3AAE08BE144D...

Thomas J. Pozda
President and CEO of HBD INDUSTRIES, INC.

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: _____

JCL LAW FIRM, A.P.C.

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

DATED: _____

ZAKAY LAW GROUP, APLC

By: _____

Attorneys for Plaintiff and the Settlement Class
Members

1 DATED: January 11, 2023

GORDON REES SCULLY MANSUKHANI, LLP

2 By: 

3 Mark S. Posard, Esq.

4 Tatiana Dupuy, Esq.

5 Annette L. Rose, Esq.

6 Attorneys for Defendant

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EXHIBIT A

**NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT
AND FINAL HEARING DATE**

(Trinh v. Precision Metal Products, Inc., San Diego County Superior Court Case No. 37-2022-00000965-CU-OE-CTL)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE
READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<[REDACTED]>>. See the explanation below. Your estimated PAGA Settlement Share is: \$<<[REDACTED]>>. See the explanation below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of San Diego (the “Court”) has been reached between Plaintiff Vy Trinh (“Plaintiff”) and Defendants Precision Metal Products, Inc. and HBD Industries, Inc. (collectively “Defendants”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All non-exempt employees who are or previously were employed by Defendants and performed work in California during the Class Period.

The “Class Period” is the period of time running from January 10, 2018 to June 8, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On January 10, 2022, Plaintiff filed a Complaint against Defendants in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendants: (a) Wrongfully terminated Plaintiff in violation of public policy; (b) Violated Government Code § 12940 – disability discrimination; (c) Violated California Business and Professions Code § 17200 *et seq.*; (d) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (e) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (f) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (g) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (h) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (i) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (j) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.*

Defendants deny and dispute all claims asserted in the Action. Specifically, Defendants contended (and continue to contend) that the Action could not properly be maintained as a class action; that Defendants properly paid members of the class all wages and overtime that was due; that Defendants provided members of the class with all legally required meal breaks and rest breaks; that Defendants paid any members of the class all wages due them at the time of their terminations; that Defendants provided accurate, itemized wage statements to members of the class; that Defendants did not violate California Business and Professions Code section 17200 *et seq.*; and that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action.

Beginning on June 8, 2022, the Parties participated in mediation with Hon. Judge Steven Denton (Ret.), an experienced mediator of wage and hour class and PAGA actions. The mediation concluded with a settlement. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firms of JCL Law Firm, APC and Zakay Law Group, APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of Four Hundred Fifty Thousand Dollars (\$450,000) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Settlement Payments to Settlement Class Members, Class Counsel’s attorneys’ fees and costs, Claims Administration Expenses, the PAGA Payment, and the Service Award to the Plaintiff.

After the Judgment becomes Final, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

- Claims Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$8,300.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

- Attorneys' Fees and Costs. Payment to Class Counsel of an award for attorneys' fees of no more than 1/3 of the Gross Settlement Amount (currently \$150,000.00) and expenses of not more than \$15,000.00 for all costs incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Actions on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Service Award. Class Representative Service Payment of up to Ten Thousand Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$20,000.00 relating to Plaintiff's claim under the Private Attorneys General Act ("PAGA"), \$15,000.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$5,000.00 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Individual Settlement Payments to Class Members. After all the above payments of the court-approved Class Counsel's attorneys' fees and costs, the Service Award, the PAGA Payment, and the Claims Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Payment for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records, a member of the class worked at least one-day during any such workweek.
- Calculation of Individual Payments to PAGA Class Members. The Net PAGA Amount shall be distributed to PAGA Class Members irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all PAGA Class Members during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective PAGA Class Member during the PAGA Period. "PAGA Class Members" means all non-exempt employees who are or previously were employed by Defendants and performed work in California during the PAGA Period. The PAGA Period means the period between November 5, 2020 to June 8, 2022.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 25% of each Individual Settlement Payment is allocated to wages. Taxes are withheld from this amount, and each Settlement Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 75% of each Individual Settlement Payment is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Settlement Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the Individual Payments paid to PAGA Class Members, and each PAGA Class Member will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Release by Settlement Class Members. Upon entry of final judgment and funding in full of the Gross Settlement Amount by Defendants, Plaintiff and the Settlement Class Members shall release all class claims that were alleged, or could have been alleged in the operative complaint, which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period.

Release by the PAGA Class Members. The Released PAGA Claims shall be released as follows: Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendants, all PAGA Class Members shall release all PAGA claims alleged or which could have been alleged based on the facts alleged in the operative complaint and Plaintiff's PAGA notice to the LWDA, or arising from the operative complaint and/or Plaintiff's PAGA notice to the LWDA, which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you. PAGA Class Members cannot exclude themselves from the PAGA Settlement. If you are a PAGA Class Member, you will release the Released PAGA Claims and will receive your share of the PAGA Settlement regardless of whether you request to be excluded from the Settlement.

5. How much will my payment be?

Defendants' records reflect that you have << _____ >> Workweeks worked during the Class Period, which runs from January 10, 2018 to June 8, 2022.

Based on this information, your estimated Individual Settlement Payment is << _____ >>.

Defendants' records reflect that you have << _____ >> pay periods worked during the PAGA Period, which runs from November 5, 2020 through June 8, 2022.

Based on this information, your estimated PAGA Payment Share is << _____ >>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _____ [forty-five (45) days after the Notice or re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: _____. (800) _____.

The Court will hold a hearing on _____ to decide whether to finally approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www._____.com

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows.** Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive a share of the Net PAGA Amount.

To opt out, you must submit a written request to exclude yourself to the Settlement Administrator, by First Class Mail, signed, dated and postmarked no later than _____. The address for the Settlement Administrator is _____. The address for the Settlement Administrator is _____. The request for exclusion must contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you and must indicate, in substance, that you wish to exclude yourself from the settlement. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I would like to challenge the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Trinh v. Precision Metal Products, Inc., San Diego County Superior Court, Case No. 37-2022-00000965-CU-OE-CTL*. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

To object to the Settlement, you cannot opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than _____. The address for the Settlement Administrator is ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780.

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade, Esq.
JCL Law Firm, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel.: (619) 599-8292
Fax: (619) 599-2891
E-Mail: jlapuyade@jcl-lawfirm.com

Class Counsel:

Shani O. Zakay, Esq.
Zakay Law Group, APLC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Tel: (619) 599-8292
Fax: (619) 599-8291
Email: shani@zakaylaw.com
[Website: www.zakaylaw.com](http://www.zakaylaw.com)

Counsel for Defendants:

Mark S. Posard, Esq.
Tatiana Dupuy, Esq.
Gordon Rees Scully Mansukhani, LLP
101 W. Broadway, Suite 2000
San Diego, CA 92101
Tel.: (619) 696-6700
Fax: (619) 696-7124
E-Mail: mposard@grsm.com
tdupuy@grsm.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on _____, at the San Diego County Superior Court, Department C-60, located at 330 West Broadway, San Diego, CA 92101, before Judge Matthew C. Braner. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at 1-888-250-6810 or write to *Trinh v. Precision Metal Products, Inc., San Diego County Superior Court, Case No. 37-2022-00000965-CU-OE-CTL*, Settlement Administrator, c/o _____.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to JCL Law firm, APC, 5440 Morehouse Drive, Suite 3600, San Diego, CA 92121.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In the event an Individual Settlement Payment and/or Individual Payment to PAGA Class Member has not been cashed within one hundred and eighty (180) days, the Settlement Administrator shall pay all funds from such uncashed checks to State Controller's Office. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT 2

EXHIBIT 3

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 \$100 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. She now sits on the Advisory Council with the Community Law Project.

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

CLASS ACTION & REPRESENTATIVE CASES

- *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. Stetak 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 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);