

JCL LAW FIRM, APC

Jean-Claude Lapuyade (State Bar #248676)
Sydney Castillo-Johnson (State Bar #343881)
Monnett De La Torre (State Bar #272884)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619) 599-8292
Facsimile: (619) 599-8291
jlapuyade@jcl-lawfirm.com
scastillo@jcl-lawfirm.com
mdelatorre@jcl-lawfirm.com

ZAKAY LAW GROUP, APLC

Shani O. Zakay (State Bar #277924)
Jackland K. Hom (State Bar #327243)
Julieann Alvarado (State Bar #334727)
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
Telephone: (619)255-9047
Facsimile: (858) 404-9203
shani@zakaylaw.com
jackland@zakaylaw.com
julieann@zakaylaw.com

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

LATISHA SHACONNA ANDERSON, an
individual, on behalf of herself, and on behalf
of all persons similarly situated,

Plaintiff,

v.

BARTON MYERS ASSOCIATES, INC., a
California Corporation; BARTON
ASSOCIATES, INC., a California Corporation;
BARTON & ASSOCIATES, INC., which will
do business in California as BARTON
MEDICAL, INC., a Delaware Corporation; and
DOES 1 through 50, Inclusive,

Defendants.

Case No. 21STCV43314

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

Date: December 14, 2022

Time: 9:00 a.m.

Judge: Elihu M. Berle

Dept.: 6

1 This matter having come before the Honorable Judge Elihu M. Berle of the Superior Court of
2 the State of California, in and for the County of Los Angeles, at 9:00 a.m. on December 14, 2022, with
3 Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC and Shani O. Zakay, Esq. of the Zakay Law
4 Group, APLC as counsel for plaintiffs LATISHA SHACONNA ANDERSON, SARAH BAXLEY,
5 JASON ANDERSON, and MELODY JAMES (“Plaintiffs”); and Kelly Ding., Esq., Michael Holecek,
6 Esq., David Rubin, Esq., and Eugene Scalia, Esq. of GIBSON, DUNN & CRUTCHER LLP appearing
7 for defendant BARTON & ASSOCIATES, INC.(“Defendant Barton”); and Betsy Johnson, Esq. of
8 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C., appearing for defendant SAFETY
9 MANAGEMENT SYSTEMS, LLC (“Defendant SMS”) (hereinafter collectively “Defendants”). The
10 Court, having carefully considered the briefs, argument of counsel and all the matters presented to the
11 Court, and good cause appearing, hereby GRANTS Plaintiffs’ Motion for Preliminary Approval of
12 Class Action and PAGA Settlement.

13 **IT IS HEREBY ORDERED:**

14 1. The Court preliminarily approves the Class Action and PAGA Settlement Agreement
15 (“Settlement Agreement” or “Agreement”), a true and correct copy of which is attached hereto as
16 **Exhibit “1”**. This is based on the Court’s determination that the Settlement Agreement is within the
17 range of possible final approval, pursuant to the provisions of Section 382 of the California Code of
18 Civil Procedure and California Rules of Court, rule 3.769.

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

21 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
22 Defendant Barton shall pay is Nine Hundred Thousand Dollars and Zero Cents (\$900,000.00). It
23 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and
24 reasonable as to all Class Members when balanced against the probable outcome of further litigation
25 relating to certification, liability, and damages issues. It further appears that investigation and research
26 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective
27 positions. It further appears to the Court that settlement at this time will avoid substantial additional
28

costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and non-collusive arms-length negotiations.

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

5. Plaintiffs seek an award of Class Counsel Fees Payment not to exceed one-third of the Gross Settlement Amount, currently estimated to be Three Hundred Thousand Dollars (\$300,000.00) plus Class Counsel Litigation Expenses Payment of not more than Thirty Thousand Dollars and Zero Cents (\$30,000.00), and proposed Class Representative Service Payment to the Class Representatives, Latisha Shaconna Anderson, Sarah Baxley, Jason Anderson, and Melody James, in an amount not to exceed Forty Thousand Dollars (\$40,000.00), with Ten Thousand Dollars (\$10,000.00) allocated to each named Plaintiff. While these awards appear to be within the range of reasonableness, the Court will not approve the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, or the Class Representative Service Payment until the Final Approval Hearing.

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

“All nurse practitioners and physician assistants who were classified as independent contractors by Defendant Barton and placed by Defendant Barton to perform services at the Pomona, California Border Crisis Covid-19 emergency response site during the Class Period [April 15, 2021, to November 30, 2021].”

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

8. The Court provisionally appoints plaintiffs LATISHA SHACONNA ANDERSON, SARAH BAXLEY, JASON ANDERSON, and MELODY JAMES, as the representatives of the Class.

9. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC, Shani Zakay, Esq., of Zakay Law Group, APLC; Alex Hartounian, Esq. of the Hartounian Law Firm, P.C., and Corbett H. Williams, Esq. of Law Offices of Corbett H. Williams as Class Counsel for the Class Members.

10. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of Class Action Settlement (“Class Notice”) attached to the Agreement as **Exhibit “A”**. The Court finds that the notice appears to fully and accurately inform the Class Members and PAGA Settlement Class Members of all material elements of the proposed Settlement, including right of any Class Member to be excluded from the Class by submitting a timely and valid written request for exclusion, and of each Class Member’s right and opportunity to object to the Settlement. The Court further finds that the distribution of the notice substantially in the manner and form set forth in the Agreement and this Order meets the requirements of due process, is the most reasonable notice under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by first class mail, pursuant to the terms set forth in the Agreement.

11. The Court hereby appoints ILYM Group, Inc., as the Administrator of the Settlement.

1 Within ten (10) business days of this order, Defendant Barton shall provide to the Administrator the
2 Class Data, including information regarding Class Members that Defendant Barton will in good faith
3 compile from its records, including each Class Member's full name, last-known mailing address,
4 telephone number, Social Security number, and number of Class Period Workweeks and PAGA Pay
5 Periods. Within fourteen (14) days after receiving the Class Data, the Administrator shall mail the Class
6 Notice to all identified, potential Class Members via first class U.S. Mail using the most current mailing
7 address information available.

8 12. The Court hereby preliminarily approves the proposed procedure for exclusion from the
9 Settlement. Any Class Member may individually choose to opt out of and be excluded from the class
10 action portion of the Settlement as provided in the Notice by following the instructions for requesting
11 exclusion from the Settlement of the Released Class Claims that are set forth in the Notice. All requests
12 for exclusion must be postmarked or received by the Response Deadline which is forty-five (45)
13 calendar days after the date the Class Notice is mailed to the Class Members or, in the case of a re-
14 mailed Notice, not more than fourteen (14) calendar days after the original Response Deadline. Any
15 such person who chooses to opt out of and be excluded from the Settlement will not be entitled to an
16 Individual Class Payment under the Settlement and will not be bound by the Settlement, or have any
17 right to object, appeal or comment thereon. Class Members who have not requested exclusion shall be
18 bound by all determinations of the Court, the Agreement and Judgment. A request for exclusion may
19 only opt out that particular individual, and any attempt to affect an opt-out of a group, class, or subclass
20 of individuals is not permitted and will be deemed invalid.

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

26 14. A final approval hearing shall be held before this Court on _____ at
27 _____ AM in Department 6 of the Los Angeles County Superior Court to determine all necessary

matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether an Order Granting Final Approval should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class; and to finally approve the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, and the Administration Expenses Payment. All papers in support of the Motion for Final Approval and the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing.

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

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

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

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

11
12 Dated: _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Latisha Anderson, Sarah Baxley, Jason Anderson, and Melody James (“Plaintiffs”), on the one hand, and defendants Barton & Associates, Inc. (“Barton”) and Safety Management Systems, LLC (“SMS”), on the other hand. The Agreement refers to Barton and SMS collectively as “Defendants,” and to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against Defendants captioned *Latisha Anderson v. Barton & Associates, Inc.*, filed on November 24, 2021, and pending in Superior Court of the State of California, County of Los Angeles, Case No. 21STCV43314.
- 1.2. “Administrator” or “Settlement Administrator” means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810, the neutral third-party entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Class” or “Class Members” means all nurse practitioners and physician assistants who were classified as independent contractors by Defendant Barton and placed by Defendant Barton to perform services at the Pomona, California Border Crisis Covid-19 emergency response site during the Class Period.
- 1.5. “Class Counsel” means the JCL Law Firm, APC, Hartounian Law Firm, P.C., Law Offices of Corbett H. Williams, and Zakay Law Group, APLC.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, all in an amount not to exceed one-third (1/3) of the Gross Settlement Amount. The Class Counsel Fees Payment shall be divided among Class Counsel as follows: 27.5% to JCL Law Firm, APC, 22.5% to Hartounian Law Firm, P.C., 22.5% to Law Offices of Corbett H. Williams, and 27.5% to Zakay Law Group, APLC. The Class Counsel Litigation Expenses Payment shall be divided among Class Counsel based on actually incurred costs by each of them.
- 1.7. “Class Data” means Class Member identifying information in Defendant Barton’s possession that Defendant Barton will provide to the Administrator. To the extent available, the Class Data shall contain Class Member’s full name, last-known mailing address, telephone number, Social Security number, and number of Class Period

Workweeks and PAGA Pay Periods.

- 1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an PAGA Settlement Class Members).
- 1.9. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.10. “Class Notice” means the Court-approved Notice of Class Action Settlement in a form substantively similar to **Exhibit A**, to be mailed to Class Members informing them of the settlement, including their rights to request exclusion or to object to the Settlement, the right to dispute their estimated workweeks/payment, of their estimated payment to be received without the need to return a claim form, and the date set for the Final Approval Hearing.
- 1.11. “Class Period” means the period from April 15, 2021, to November 30, 2021.
- 1.12. “Class Representative” or “Class Representatives” means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as a Class Representatives.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of Los Angeles.
- 1.15. “Defendants” mean Barton & Associates, Inc. and Safety Management Systems, LLC.
- 1.16. “Defense Counsel” means Gibson, Dunn and Crutcher LLP, counsel for Defendant Barton & Associates, Inc.
- 1.17. “Effective Date” means the date by when both of the following have occurred:
(a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.

- 1.19. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.20. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.21. “Funding Date” means the date on which Defendant Barton shall fund the Gross Settlement Amount to the Administrator.
- 1.22. “Gross Settlement Amount” means the non-reversionary sum of Nine Hundred Thousand Dollars and Zero Cents (\$900,000.00) which is the total amount Defendant Barton agrees to pay under the Settlement except as provided in Paragraphs 8 and 9 below. The Gross Settlement Amount will be used to pay Individual Class Settlement Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks that the Class Member performed services during the Class Period. Any Class Member who submits a timely and valid request for exclusion pursuant to the procedures set forth herein is not eligible to receive an Individual Class Payment.
- 1.24. “Individual PAGA Payment” means the PAGA Settlement Class Members’ pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any two-week period during which a PAGA Settlement Class Member performed at least one day of services during the PAGA

Period.

- 1.31. “PAGA Period” means the period from April 15, 2021, to November 30, 2021.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means Plaintiff Latisha Anderson’s September 20, 2021, letter to Defendant and the LWDA, Sarah Baxley’s January 5, 2022, letter to Defendant and the LWDA, and Jason Anderson’s December 6, 2021 to Defendant and the LWDA, all providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the PAGA Settlement Class Members (\$12,500.00) and the 75% to LWDA (\$37,500.00) in settlement of PAGA claims.
- 1.35. “PAGA Settlement Class Members” means all nurse practitioners and physician assistants who were classified as independent contractors by Defendant Barton and placed by Defendant Barton to perform services at the Pomona, California Border Crisis Covid-19 emergency response site during the PAGA Period.
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. “Plaintiffs” means LATISHA ANDERSON, SARAH BAXLEY, JASON ANDERSON, and MELODY JAMES, the named plaintiffs in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval of the Settlement.
- 1.40. “Released Class Claims” means all claims alleged in the *Latisha Anderson v. Barton* (L.A. Super.) Operative Complaint (or which could have been alleged based on the facts pleaded in the Operative Complaint) and which accrued during the Class Period. Released Class Claims shall include all claims arising out of or relating to the alleged misclassification of Settlement Class Members, and all claims based on state, federal, local, or common law for unpaid wages, minimum wages, regular wages, overtime wages, working more than six days in seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper deduction of wages, failure to provide workers’ compensation insurance, meal periods, rest breaks, sick leave, final pay, timely payment of wages, waiting time penalties, and unfair business practices. Released Class Claims shall extend to all forms of relief, including restitution, damages, interest, costs and expenses, attorneys’ fees, declaratory relief, injunctive relief, penalties, equitable remedies, and pre or post judgment interest. Released Class Claims shall also include all claims brought in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) (or which could have been alleged based on the facts pleaded in the Baxley complaint), and all

claims which could have been brought based on the facts pleaded in *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.).

- 1.41. “Released PAGA Claims” means all PAGA claims alleged in the Operative Complaint (or which could have been alleged based on the facts pleaded in the Operative Complaint), and all PAGA claims alleged in Latisha Anderson’s PAGA letter to the LWDA, which accrued during the PAGA Period. The release shall include all PAGA claims brought (or which could have been brought based on the facts pleaded) in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) and *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.) and the PAGA letters sent to the LWDA by Sarah Baxley and Jason Anderson.
- 1.42. “Released FLSA Claims” means all Federal Labor Standards Act (“FLSA”) claims which could have been brought based on the facts pleaded in the Operative Complaint, and all FLSA claims which could have been brought based on the facts pleaded in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) and *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.).
- 1.43. “Released Parties” means: Barton & Associates, Inc., and its parents, subsidiaries, predecessors, successors, affiliates, owners, officers, employees, and clients, including SMS and SMS’s parents, subsidiaries, predecessors, successors, affiliates, owners, officers and employees.
- 1.44. “Request for Exclusion” means a Class Member’s written request, signed by the Class Member and submitted to the Administrator, requesting to be excluded from the Class Settlement.
- 1.45. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to Class Members and PAGA Settlement Class Members, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days after the Response Deadline has expired.
- 1.46. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.47. “Workweek” means any week during which a Class Member performed services for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On September 20, 2021, Plaintiff Latisha Anderson filed a Notice of Violations with the Labor and Workforce Development Agency (“LWDA”) and served the same on Defendant Barton.

- 2.2. On November 24, 2021, Plaintiff Latisha Anderson commenced the Action by filing a Complaint in the Los Angeles Superior Court alleging causes of action against Defendant Barton for: (1) Unfair Competition in violation of Cal. Bus. & Prof. Code §§ 1700, *et seq.*; (2) Failure to Pay Overtime Wages in violation of Cal. Lab. Code §§ 510, *et seq.*, (3) Failure to Pay Minimum Wages in violation of Cal. Lab. Code §§ 1194, 1197, 1197.1; (4) Failure to Provide Required Meal Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (5) Failure to Provide Required Rest Periods in violation of Cal. Lab. Code §§ 226.7 & 512 and the Applicable IWC Wage Order; (6) Failure to Provide Accurate Itemized Wage Statements in violation of Cal. Lab. Code § 226; (7) Failure to Pay Wages When Due in violation of Cal. Lab. Code §§ 201, 202, and 203; (8) Violation of the Private Attorneys General Act [Labor Code §§ 2698, *et seq.* (“PAGA”).
- 2.3. On January 5, 2022, Defendant Barton removed the Action to the United States District Court, Central District.
- 2.4. On January 11, 2022, Plaintiff Baxley filed an action Against Defendant Barton (“Baxley Action”) alleging: (1) Violation of Cal. Lab. Code §§ 510, 1194, 1197.1 (Unpaid Overtime Wages); (2) Violation of Cal. Lab. Code §§ 226.7, 226.7(b), and 512 (Meal Periods); (3) Violations of Cal. Lab. Code § 226.7 (Rest Breaks); (4) Violation of Cal. Lab. Code § 226(a) (Wage Statements); (5) Violation of Cal. Lab. Code §§ 201 and 202 (Wages Not Timely Paid Upon Termination); (6) Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*
- 2.5. On February 14, 2022, Plaintiff Jason Anderson filed an action against Defendants Barton and SMS alleging a single cause of action for violation of PAGA.
- 2.6. On March 7, 2022, Plaintiff Latisha Anderson filed a First Amended Complaint in the Action.
- 2.7. On July 29, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., a highly respected mediator of wage-and-hour class and representative actions, which led to this Agreement to settle the Action.
- 2.8. Prior to mediation, Plaintiffs obtained, through informal discovery, timekeeping and payroll records for the Class Members. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129–130 (“*Dunk/Kullar*”).
- 2.9. On August 29, 2022, pursuant to their tentative settlement agreement and for settlement purposes only, the Parties stipulated to remand the Action to Los Angeles Superior Court for settlement purposes only. The Court granted the stipulation and ordered remand of the Action on August 31, 2022.
- 2.10. On November 14, 2022, pursuant to their tentative settlement agreement and for settlement purposes only, Plaintiffs filed a Second Amended Complaint (the “Operative

Complaint”) in the Action in the Los Angeles Superior Court to add Plaintiff Jason Anderson, Plaintiff Sarah Baxley, and Plaintiff Melody James as named Plaintiffs, add SMS as a Defendant, and add Plaintiffs Jason Anderson’s and Sarah Baxley’s claims. Barton and SMS deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and deny any and all liability for the causes of action alleged.

- 2.11. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiffs gave timely written notice to Defendant Barton and the LWDA by sending the PAGA Notice.
- 2.12. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraphs 8 and 9 below, Defendant Barton promises to pay, by payment made to the Administrator, Nine Hundred Thousand Dollars and Zero Cents (\$900,000.00), and no more, as the Gross Settlement Amount, by the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Settlement Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant Barton.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiffs: Class Representative Service Payment to the Class Representatives of not more than \$40,000, with \$10,000 allocated to each named Plaintiff, in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Members. Defendants will not oppose Plaintiffs’ request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for taxes owed on the Class Representative Service Payment and hold Defendants harmless for, and indemnify Defendants from, any dispute or controversy arising from or related to any such taxes.
 - 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be Three

Hundred Thousand Dollars (\$300,000.00), and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless for, and indemnifies Defendants from, any dispute or controversy arising from or related to any division or sharing of the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$10,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$10,000, the Administrator will allocate the remainder to the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 100% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for damages, penalties and interest. The Individual Class Payments are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and PAGA Settlement Class Members: PAGA Penalties in the amount of \$50,000 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment

by (a) dividing the amount of the PAGA Settlement Class Members' 25% share of PAGA Penalties (i.e., \$12,500.00) by the total number of PAGA Period Pay Periods that all PAGA Settlement Class Members performed services during the PAGA Period and (b) multiplying the result by each PAGA Settlement Class Member's PAGA Period Pay Periods. PAGA Settlement Class Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and PAGA Pay Periods. Based on a review of its records to date, Defendant Barton estimates there are 367 Class Members who collectively worked a total of 4,005 Workweeks, and 367 PAGA Settlement Class Members who worked a total 2,219 of PAGA Pay Periods.
- 4.2. Class Data. Not later than ten (10) business days after the Court grants Preliminary Approval of the Settlement, Defendant Barton will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant Barton has a continuing duty to immediately notify Class Counsel and the Administrator if it discovers that the Class Data omitted Class Member-identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant Barton must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of Gross Settlement Amount. Defendant Barton shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than five (5) business days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant Barton funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member, thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant Barton fully funds the entire Gross Settlement Amount, Plaintiffs, Class Members, and Class Counsel shall release claims against all Released Parties as follows:

5.1 Plaintiffs' Release. Plaintiffs, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally release and discharge Released Parties from all claims alleged in the *Latisha Anderson v. Barton* (L.A. Super.) Operative Complaint (or which could have been alleged based on the facts pleaded in the Operative Complaint) and which accrued during the Class Period. The release shall include all Released Class Claims, Released PAGA

Claims, and Released FLSA Claims. Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or law or Plaintiffs' discovery of them.

- 5.2 Plaintiffs James and Baxley's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs James and Baxley's Releases, Plaintiffs James and Baxley expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at 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.

This specifically excludes claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

- 5.3 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint. The release shall include all Released Class Claims and Released FLSA Claims. Except as set forth in Section 5.4 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.
- 5.4 Release by PAGA Settlement Class Members: All PAGA Settlement Class Members are deemed to generally release, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, and ascertained in the course of the Action, including, all PAGA claims alleged in the Operative Complaint (or which could have been alleged based on the facts pleaded in the Operative Complaint), and all PAGA claims alleged in Latisha Anderson's PAGA letter to the LWDA, which accrued during the PAGA Period. The release shall include all PAGA claims brought (or which could have been brought based on the facts pleaded) in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) and *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.) and the PAGA letters sent to the LWDA by Sarah Baxley and Jason Anderson.

6. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

- 6.1 Defendant Barton’s Declaration in Support of Preliminary Approval. Within thirty (30) days of the full execution of this Agreement, Defendant Barton will prepare and deliver to Class Counsel signed Declarations from Defendant Barton and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defendant Barton and Defense Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; and (iii) a draft proposed Class Notice.
- 6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.
- 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

7. SETTLEMENT ADMINISTRATION.

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

- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice [with Spanish translation, if applicable] substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the forty-five (45) days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defendant Barton or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously

meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

- 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her legally authorized representative that clearly and unequivocally states that the Class Member wishes to be excluded from the Settlement and must include the Class Member's name, address and email address or telephone number. Requests for Exclusion must be exercised individually by the Class Member, not as or on behalf of a group, class, or subclass, except that such individual Request may be submitted by a Class Member's legally authorized representative who is not the Class Member's counsel. All Requests for Exclusion must be submitted by the requesting Class Member even if the Class Member is represented by a legally authorized representative. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- 7.5.2 Class Counsel shall recommend the settlement to the Class Members, and Class Counsel agree to use their best efforts to resolve any objections to the Release of Claims described in Paragraph 5. Plaintiffs shall not opt out of or object to the settlement, nor shall Plaintiffs or Class Counsel directly or indirectly encourage Settlement Class Members to opt out of or object to the settlement.
- 7.5.3 The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- 7.5.4 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.1 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

- 7.5.5 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Settlement Class Members are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual PAGA Payment.
- 7.6 Challenges to Calculation of Workweeks. Each Class Member shall have forty-five (45) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.
- 7.7 Objections to Settlement.
- 7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- 7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send written objections to the Administrator must do so not later than forty-five (45) after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).
- 7.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement and/or this Agreement.
- 7.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

- 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than fourteen (14) days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendant Barton estimates that, as of the date of this Settlement Agreement, (1) there are 367 Class Members and 4,005 Total Workweeks during the Class period and (2) there were 367 PAGA Settlement Class Members who worked 2,219 PAGA Pay Periods during the PAGA Period. If the number of Workweeks increases by more than 5% of the estimate at the time of mediation, the Gross Settlement Amount will increase proportionally for the number of workweeks over 105% of 4,005 (12,708 Workweeks).
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of Workweeks increases or decreases by more than 50% of the estimated number of Workweeks in paragraph 8, then Defendant Barton has the option, in its sole discretion, to withdraw from the Settlement. The Parties agree that, if Defendant Barton withdraws from the Settlement, the Settlement shall be void ab initio, shall have no force or effect whatsoever, and neither Party shall have any further obligation to perform under this Agreement; provided, however, Defendant Barton will remain responsible for paying all Settlement Administration Expenses incurred prior to its notice of election to withdraw. Defendant Barton must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope

of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under Code of Civil Procedure section 664.6, solely for purposes of (i) enforcing this Agreement and/or the Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

10.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement shall constitute, or be offered, received, claimed,

construed, or deemed as, an admission, finding, or evidence of: (a) any wrongdoing; (b) any violation of any statute, law, or regulation; (c) any liability on the claims or allegations in the Action or any other proceeding; (d) the propriety of certifying a litigation class in the Action; or (e) the merits of Defendants' defenses in the Action. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason, the Court does not grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to contest certification of any class for any reasons, Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant Barton's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and Defense Counsel agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter, all of whom will be instructed to keep this Agreement confidential; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify the other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants and Defense Counsel each agree not to, directly or indirectly, initiate any oral or written communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter is being resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

12.5 Attorney Authorization. Class Counsel and Defense Counsel warrant and represent that they are authorized by Plaintiffs and Defendant Barton, respectively, to take all

appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying this Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of this Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber, to any person or entity any liability, claim, demand, action, cause of action, or right released and discharged by them in this Settlement.
- 12.8 No Tax Advice. Neither the Parties nor Class Counsel or Defense Counsel are providing any advice regarding taxes or taxability; nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during the Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant Barton in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any

existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant Barton unless, prior to the Court's discharge of the Administrator's obligation, Defendant Barton makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

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

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

12.17 Notice. All notices, demands or other communications between the Plaintiffs and Defendant Barton in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

JCL LAW FIRM, APC
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292

ZAKAY LAW GROUP
5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203

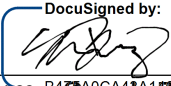
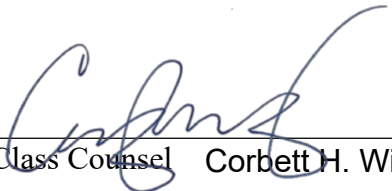
To Defendant Barton:

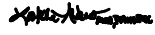
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Ave
Los Angeles, CA 90071
T: 213-229-7018
F: 213-229-6018

12.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of

them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

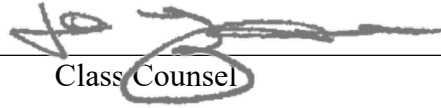
- 12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement (i) the Action shall be stayed, except to effectuate the terms of this Agreement; and (ii) the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process shall be extended pursuant to CCP section 583.330.

DocuSigned by:  B475A9CA43A1E90 Plaintiff Sarah Baxley	 Corbett H. Williams Class Counsel Corbett H. Williams
Plaintiff	Class Counsel
Plaintiff	Class Counsel
Plaintiff	Class Counsel
Defendant	Counsel For Defendant
Defendant	Counsel For Defendant



Latisha Anderson (Nov 14, 2022 18:30 EST)

Plaintiff



Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

Defendant

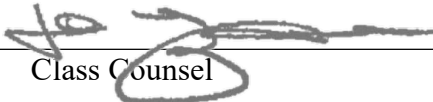
Counsel For Defendant

Defendant

Counsel For Defendant


Melody James (Nov 14, 2022 10:37 PST)

Plaintiff


Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

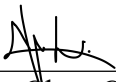
Defendant

Counsel For Defendant

Defendant

Counsel For Defendant

Jason Anderson 11/14/2022
Plaintiff

 11.14.2022
Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

Plaintiff

Class Counsel

Defendant

Counsel For Defendant

Defendant

Counsel For Defendant

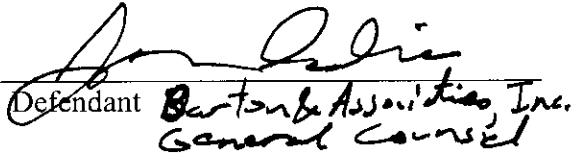
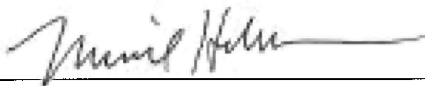
Plaintiff	Class Counsel
Plaintiff	Class Counsel
Plaintiff	Class Counsel
Plaintiff	Class Counsel
 Defendant Bartonbe Associates, Inc. General Counsel	 Counsel For Defendant
Defendant	Counsel For Defendant

EXHIBIT A

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

Anderson v. Barton & Associates, Inc., Case No. 21STCV43314

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

You may be eligible to receive money from a class action lawsuit (“Action”) against Defendant Barton & Associates, Inc. (“Defendant Barton”) and Defendant Safety Management Systems, LLC (“Defendant SMS”) for alleged wage and hour violations (Defendant Barton and Defendant SMS may be referred to collectively as “Defendants”). The Action was filed by Latisha Anderson, Sarah Baxley, Jason Anderson, and Melody James (“Plaintiffs”) and seeks payment of (1) back wages for a class of nurse practitioners and physician assistants who were classified as independent contractors by Defendant Barton and staffed or placed by Defendants to perform work at the Pomona, California Border Crisis Covid-19 emergency response site (“Class Members”) during the Class Period (April 15, 2021 to November 30, 2021); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all nurse practitioners and physician assistants who were classified as independent contractors by Defendant Barton and staffed or placed by Defendant to perform work at the Pomona, California Border Crisis Covid-19 emergency response site during the PAGA Period (April 15, 2021 to November 30, 2021) (“PAGA Settlement Class Members”).

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

Based on Defendant Barton’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant Barton’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ Pay Periods** during the PAGA Period. “Workweek” means any week during which you performed worked at the Pomona, California Border Crisis Covid-19 emergency response site for at least one day. “Pay Period” means any two-week period during which you performed worked at the Pomona, California Border Crisis Covid-19 emergency response site for at least one day. If you believe that you worked more workweeks, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment

that requires Defendant Barton to make payments under the Settlement and requires Class Members and PAGA Settlement Class Members to give up their rights to assert certain claims against Defendants.

If you are a Class Member, you have two basic options under the Settlement:

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [REDACTED]	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant Barton must pay Individual PAGA Payments to all PAGA Settlement Class Members and the PAGA Settlement Class Members must give up their rights to pursue Released Claims (defined below).

Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
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You Can Participate in the _____ Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on . You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by 	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Workweeks you worked during the Class Period and how many Pay Periods you worked during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant Barton’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs performed work for Defendants Barton and/or SMS as independent contractors. The Action accuses Defendants of violating California labor laws by misclassifying Plaintiffs as independent contractors, thereby failing to pay overtime wages, minimum wages, wages due upon termination and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiffs are represented by attorneys in the Action: JCL Law Firm, APC, Hartounian Law Firm, P.C., Law Offices of Corbett H. Williams, and Zakay Law Group APLC. (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages due, and they contend they complied with all applicable laws.

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendants hired Tripper Ortman, Esq., an experienced,

neutral mediator in an effort to resolve the Action by negotiating an end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

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

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

1. Defendant Barton Will Pay \$900,000 as the Gross Settlement Amount (Gross Settlement). Defendant Barton has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendant Barton will fund the Gross Settlement not more than five (5) days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$300,000 (one-third of the Gross Settlement] to Class Counsel for attorneys’ fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$40,000 as a Class Representative Award, with \$10,000 allocated to each named Plaintiff, for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$10,000 to the Administrator for services administering the Settlement.
 - D. Up to \$50,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the PAGA Settlement

Class Members based on their PAGA Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Allocation of Individual Class Payments. Plaintiffs and Defendants are asking the Court to approve an allocation of 100% of each Participating Class Member’s Individual Class Payment will be allocated to settlement of claims for damages, penalties and interest. The Individual Class Payments are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you do not cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

If the monies represented by your check is sent to the Controller’s Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [REDACTED] Response Deadline. The Request for Exclusion should be a signed letter from a Class Member or his/her legally authorized representative that clearly and unequivocally states that the Class Member wishes to be excluded from the Settlement, and must set forth a Class Member’s name, present address, and telephone number or email address. The Request for Exclusion must be exercised individually by the Class Member, not as or on behalf of a group, class, or subclass, except that such individual Request may be submitted by a Class Member’s legally authorized representative who is not the Class Member’s counsel. All Requests for Exclusion must be submitted by the requesting Class Member even if the Class Member is represented by a legally authorized representative. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. Excluded Class Members (i.e., Non-Participating

Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

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

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

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, generally release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint in *Latisha Anderson v. Barton & Associates, Inc.*, Case No. 21STCV43314 (L.A. Super.) during the Class Period. The release shall include all claims arising out of or relating to the alleged misclassification of Settlement Class Members, and any claims based on state, federal, local, or common law for unpaid wages, minimum wages, regular wages, overtime wages, working more than six days in seven, expense reimbursement, wage statements, payroll recordkeeping, reporting time, improper deduction of wages, failure to provide workers’ compensation insurance, meal periods, rest breaks, sick leave, final pay, timely payment of wages, waiting time penalties, and unfair business practices. The release shall also include all Federal Labor Standards Act claims which could have been

brought based on the facts pleaded in the Operative Complaint. The release shall extend to all forms of relief, including restitution, damages, interest, costs and expenses, attorneys' fees, declaratory relief, injunctive relief, penalties, equitable remedies, and pre or post judgment interest. The release shall also include all claims brought in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) (or which could have been alleged based on the facts pleaded in the Baxley complaint), and all claims which could have been brought based on the facts pleaded in *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.). Except as set forth in Section 10 of this Notice, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

All PAGA Settlement Class Members are deemed to generally release, on behalf of themselves and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, and the PAGA Notice, in *Latisha Anderson v. Barton & Associates, Inc.*, Case No. 21STCV43314 (L.A. Super.), and ascertained in the course of *Latisha Anderson v. Barton & Associates, Inc.*, Case No. 21STCV43314 (L.A. Super.), including, all PAGA claims alleged in the Operative Complaint (or which could have been alleged based on the facts pleaded in the Operative Complaint), and all PAGA claims alleged in Latisha Anderson's PAGA letter to the LWDA, which accrued during the PAGA Period. The release shall include all PAGA claims brought (or which could have been brought based on the facts pleaded) in *Sarah Baxley v. Barton*, Case No. 2:22-cv-01011 (C.D. Cal.) and *Jason Anderson v. Barton & SMS*, No. 22STCV05355 (L.A. Super.) and the PAGA letters sent to the LWDA by Sarah Baxley and Jason Anderson.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$12,500 by the total number of PAGA Pay Periods worked by all PAGA Settlement Class Members and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual PAGA Settlement Class Members.
3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant Barton's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Anderson v. Barton & Associates, Inc.*, Case No. 21STCV43314 and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for

verification purposes). You must make the request yourself and the request must be on behalf of yourself individually, not as or on behalf of a group, class, or subclass. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [REDACTED].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. You must submit your objections in writing to the Administrator, by fax, email, or mail. Make sure you identify the Action *Anderson v. Barton & Associates, Inc.*, Case No. 21STCV43314, include your name, current address, telephone number, and approximate dates that you worked at the Pomona, California Border Crisis Covid-19 emergency response site, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in [REDACTED]

Department 6 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally

or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to The County of Los Angeles Superior Court's website at <https://www.lacourt.org/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 21STCV43314. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

JCL LAW FIRM, APC

5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-599-8292
F: 619-599-8291

ZAKAY LAW GROUP

5440 Morehouse Drive, Suite 3600
San Diego, CA 92121
T: 619-892-7095
F: 858-404-9203

HARTOUNIAN LAW FIRM, P.C.

234 E. Colorado Blvd, Suite 800
Pasadena, CA 91101
T: 818-794-9675
F: 818-459-6997

Law Offices of Corbett H. Williams

24422 Avenida de la Carlota, Suite 370
Laguna Hills, CA 92653
T: 949-679-9909
F: 949-535-1031

Settlement Administrator:

ILYM Group, Inc.
P.O. Box 2031 Tustin, CA 92781
T: 1-888-250-6810

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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