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Attorneys for Plaintiff DINO DESANCTIS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF CONTRA COSTA

DINO DESANCTIS; TYRONE BARNES,
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

v.

DOUGLAS PRODUCTS & PACKAGING
COMPANY, LLC, a Missouri Limited
Liability Company; and DOES 1-50, Inclusive,

Defendant.

Case No. C21-01874

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

Date: May 15, 2023

Time: 9:00 a.m.

Judge: Hon. Judge Charles S. Treat
Dept.: 39

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

2 1. I am over eighteen years of age and if called as a witness, I could and would competently
3 testify to the following facts from my own personal knowledge. I am an attorney-at-law and the owner
4 of the law firm of JCL LAW FIRM, APC (hereinafter "Class Counsel"). I am co-counsel of record for
5 Plaintiffs DINO DESANCTIS and TYRONE BARNES (hereafter "Plaintiffs") in this wage and hour
6 class action filed against DOUGLAS PRODUCTS & PACKAGING LLC, a Missouri limited liability
7 company (hereinafter "Defendant").

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

10 **I. EXHIBITS**

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

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

19 5. Attached hereto as **Exhibit "3"** is a true and correct copy of the bid for settlement
20 administration submitted by ILYM Group, Inc., in the amount of \$5,000.

21 **II. INTRODUCTION**

22 6. An objective evaluation of the Settlement confirms that the relief negotiated on behalf of
23 the Class is fair, reasonable, and adequate. The Settlement was negotiated by the Parties at arm's length.
24 The Settlement confers substantial benefits to the Settlement Class. The relief offered by the Settlement
25 is particularly impressive when viewed against the difficulties encountered by plaintiffs pursuing wage
26 and hour cases (*see infra*). Indeed, by settling now rather than proceeding to trial, Class Members will
27 not have to wait (possibly years) for relief, nor will they have to bear the risk of class certification being
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1 denied or of Defendant prevailing at trial. Given that there are approximately 52 Settlement Class
2 Members, *the average gross recovery is approximately \$3,602.56* (Net Settlement Amount divided by
3 Settlement Class Members).

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

9 **III. FACTS AND PROCEDURE**

10 **A. Overview of the Litigation**

11 8. Defendant specializes in manufacturing and marketing specialty products in agriculture
12 and structural pest control, including in California, where Plaintiffs worked. Plaintiff Desanctis worked
13 for Defendant as a non-exempt warehouse worker in California between 2019 to March of 2021.
14 Plaintiff Barnes has worked for Defendant as a non-exempt warehouse handler from March 18, 2018 to
15 the present. At all times during their employment, Plaintiffs had a regular work schedule of three 12-
16 hour shifts. In addition to their base hourly rates, Plaintiffs were also entitled to, among other things,
17 overtime pay and meal and rest periods. Throughout their employment, Plaintiffs were subject to
18 Defendant's written policies and general employment practices.

19 9. Generally, Plaintiffs claim that Defendant failed to pay for all time worked, failed to
20 provide compliant meal and rest periods, failed to furnish accurate itemized wage statements, and failed
21 to pay all wages upon separation. Defendant denies liability for each of Plaintiffs' claims. Further,
22 Defendant asserts that it fully complied with all applicable employment laws and raised several other
23 significant defenses to Plaintiffs' claims, including but not limited to, facially compliant meal and rest
24 period policies, compliant wage statements, and timely paid all wages due upon separation of
25 employment.

26 10. On June 29, 2021, Plaintiff Desanctis served Defendant and the Labor and Workforce
27 Development Agency ("LWDA") with a Notice of Violations ("PAGA Notice"). Plaintiff Desanctis'

1 PAGA Notice set forth the facts and theories supporting Defendant's alleged violations of various
2 provisions of the California Labor Code and applicable Industrial Welfare Commissions ("IWC") Wage
3 Order and of his intent to pursue claims under California Labor Code Private Attorneys General Act,
4 Cal. Lab. Code Sections 2698 *et seq* ("PAGA").

5 11. On September 8, 2021, Plaintiff Desantis filed a class action complaint in the Contra
6 Costa County Superior Court, Case No. C21-01874 ("Desantis Action"). The Action alleged eight
7 causes of action against Defendant for: (1) Unfair Competition in violation of *Bus. and Prof. Code* §§
8 17200; (2) failure to pay overtime wages in violation of California *Labor Code* sections 510 *et seq.*; (3)
9 failure to pay minimum wages in violation of California *Labor Code* sections 1194, 1197 and 1197.1;
10 (4) failure to provide required meal periods in violation of California *Labor Code* sections 226.7 and
11 512; (5) failure to provide required rest periods in violation of California *Labor Code* sections 226.7
12 and 512; (6) failure to provide accurate itemized wage statements in violation of California *Labor Code*
13 section 226; (7) failure to provide wages when due in violation of California *Labor Code* sections 201,
14 202, and 203; and (8) violations of the Private Attorneys General Act ("PAGA") On February 18, 2022,
15 Plaintiff Barnes filed a class action complaint in the Contra Costa County Superior Court alleging
16 similar claims ("Barnes Action").

17 12. After engaging in written discovery, the Parties agreed to mediate this action. To prepare
18 for mediation, the Parties agreed to informally produce additional documents and data points subject to
19 the mediation privilege, including but not limited to, the Class Members' time data and certain payroll
20 data points. As discussed *infra*, Plaintiffs' counsel retained the forensic consultants at Berger
21 Consulting Group ("BCG") to analyze Defendant's time and payroll data.

22 13. On May 23, 2022, the Parties participated in a full day mediation with highly regarded
23 wage and hour mediator David Rotman, Esq. The mediation concluded with a settlement after both
24 sides agreed to a Mediator's proposal. The agreement was memorialized in the form of a Memorandum
25 of Understanding. Thereafter, the Parties drafted and negotiated a long-form settlement agreement,
26 which is the subject of the instant motion. To facilitate the settlement, the Parties have stipulated to the
27 filing of a First Amended Class Action Complaint in the Desantis Action to incorporate the claims and
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1 factual allegations asserted in the Barnes Action, as well as add Plaintiff Barnes as a named plaintiff
2 and Mehrdad Bokhour, Esq. of Bokhour Law Group, P.C., and Joshua Falakassa, Esq. of Falakassa
3 Law P.C. as class counsel in the Desantis Action.

4 **B. Class Counsel Thoroughly Investigated the Factual and Legal Issues**

5 14. Months before filing the Action, Class Counsel began its pre-filing investigation into the
6 Plaintiffs' complaints. Class Counsel's investigation started with several lengthy interviews with
7 Plaintiffs. As part of the interview process, Plaintiffs produced documents related to their employment,
8 including portions of Defendant's handbooks, compensation policies and time and payroll records. At
9 the conclusion of the interviews, Class Counsel determined that Plaintiffs' complaints justified further
10 inquiry.

11 15. Class Counsel subsequently requested Plaintiffs' employee files from Defendant. In
12 response, Defendant produced hundreds of pages of documents, including but not limited, copies of
13 Plaintiffs' hiring documents, payroll and time records, performance reviews and separation documents.
14 Class Counsel reviewed and analyzed the documents and determined the documents appeared to
15 substantiate Plaintiffs' claim that Defendant failed to, among other things, provide accurate wage
16 statements and to provide compliant meal and rest periods.

17 16. Prior to mediation, Defendant produced the time and payroll records for the Class
18 Members, aggregate workweek and pay period data for the Class Members, aggregate meal premiums
19 paid to the Class Members, average hourly rate for the Class Members, and copies of applicable
20 handbooks, policies, and agreements. In total, Class Counsel reviewed hundreds of pages of documents
21 and thousands of unique cells of time and payroll data.

22 17. Class Counsel then retained the statisticians and economists at BCG to evaluate the Class
23 Members' payroll and time data. BCG provides data analysis and damage modeling consulting services
24 specializing in wage and hour class actions. BCG's team of financial and data analysts are credentialed
25 and experienced experts in their fields and have provided their expertise on thousands of cases.

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

19. Prior to mediation, Class Counsel created several damage models predicated on BCG's analysis. Class Counsel's models calculated Defendant's potential liability exposure while accounting for the uncertainties of continued litigation. These damage models informed and guided Class Counsel during the mediated settlement discussions.

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

21. As set forth in greater detail above, Class Counsel conducted a very thorough investigation into the factual and legal issues in dispute. In addition to formal and informal discovery, document review, data analysis and legal research, Class Counsel also researched similar wage and hour actions. Although no two cases are identical, this research provided Class Counsel with a marker to inform settlement discussions and, ultimately, to measure this settlement against. The investigation allowed Class Counsel to realistically assess the value of Plaintiffs' claims and intelligently engage defense counsel in settlement discussions that culminated in the proposed settlement now before the Court.

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

C. The Parties Settled with the Assistance of the Mediator

23. On May 23, 2022, the Parties conducted a full day of mediation with David Rotman, Esq., an experienced mediator of wage and hour class and PAGA actions. After more than eight hours of arm's length and adversarial negotiations, the mediation concluded with a settlement after both sides agreed to a Mediator's proposal.

24. The agreement was memorialized in the form of a Memorandum of Understanding. The complete and final terms of the Parties' settlement are now set forth in the Agreement. Class Counsel submits that the Settlement constitutes a fair, adequate, and reasonable compromise of the claims at issue. At all times, the Parties' negotiations were at an arm's length, adversarial and non-collusive. In fact, despite a full day of mediated negotiations, the Parties reached an impasse and the mediation session nearly concluded without a settlement. The matter resolved only when Mediator Rotman issued a mediator's proposal that the Parties accepted. Mediator Rotman only arrived at his proposal after hearing arguments, reviewing evidence, and evaluating the Parties' respective claims and defenses.

25. Once the Parties agreed to the Mediator's proposal, the Parties engaged in protracted negotiations regarding the written terms of the class action settlement. The Parties maintained the arm's length, non-collusive and adversarial negotiations while arriving at the final terms of the Settlement. The Agreement is the final product of these mediated negotiations. Objectively, the Settlement terms are fair, adequate and represent a reasonable compromise of the claims at issue.

IV. ARGUMENT

A. The Court Should Preliminarily Approve the Settlement

26. The Gross Settlement Amount fair and reasonable considering the nature and magnitude of the claims being settled and the various potential impediments to recovery. Prior to mediation, Class Counsel retained BCG to develop economic damage models measuring Defendant's liability exposure while accounting for the uncertainties of continued litigation. The various models were informed by Class Counsel's investigation, including the analysis of a significant sample of time and payroll data. Class Counsel projected Defendant's liability exposure for *class claims* (excluding PAGA Penalties) at \$1,675,296 if successful at trial. Thus, the Gross Settlement Amount represents a recovery of approximately 22.2% of Defendant's class-wide exposure. The following summarizes Defendant's liability exposure.

27. Plaintiffs' primary claim in the Action alleged Defendant failed to pay its employees for all hours worked. Specifically, Plaintiffs assert that Defendant adopted an alternative workweek schedule ("AWS") without following the proper procedures set forth in Labor Code section 511. As a result, Plaintiff and other Class Members worked shifts greater than eight (8) hours in a workday or more than forty (40) hours in a workweek without the payment of overtime compensation or more than twelve (12) hours in a work shift without payment of overtime compensation at double their regular rate of pay. Further, Plaintiffs assert Defendant employed an unlawful rounding policy pursuant to which Defendant rounded Plaintiffs' and Class Members' time sheets to exact, quarter-rounded total hours worked, despite recording accurate clock-in and clock-out times. As a result, Defendant's rounding policy systematically undercompensated Plaintiffs and Class Members for minimum and overtime wages owed. Finally, Plaintiffs allege that Class Members weren't permitted to clock-in before their scheduled shift start time, but often needed to arrive early in order to have sufficient time to complete all assigned tasks. This resulted in Class Members working approximately ten minutes off-the-clock each day.

28. Defendant vigorously denied liability for this claim. Defendant argued that the AWS was properly implemented, all Class Members were properly paid overtime and double-time compensation when applicable. Further, Defendant argued that its rounding policy is facially neutral and in practice,

1 favors neither overpayment nor underpayment, and that Class Members were instructed not to work
2 off-the-clock. Plaintiffs estimated Defendant's exposure for this claim at \$374,560.

3 29. Plaintiffs also allege that Defendant failed to provide compliant meal periods.
4 Specifically, Plaintiffs assert that Defendant regularly failed to provide a second meal period on all
5 shifts of more than ten (10) hours, and to a lesser extent, failed to provide compliant first meal periods
6 on shifts exceeding five (5) hours. Consequently, Plaintiffs allege that they are owed meal period
7 premiums for meal period violations that occurred during the Class Period.

8 30. Conversely, Defendant denied these claims. Defendant maintains that it fully complied
9 with California meal period laws and maintained legally compliant policies and practices. Courts have
10 found that where an employer's meal period policies are compliant, individualized issues exist as to the
11 reasons for missed, late or truncated meal periods. *See e.g. Lampe v. Queen of the Valley Medical*
12 *Center*, (2018) 19 Cal.App.5th 832, 851 (holding that although only 11.1% of the employees' time
13 punches for meal periods were within the first 5 hours, the claim was not certifiable because
14 individualized issues existed as to the reasons for the late meal periods). If successful, Defendant
15 availed itself to a complete defense of Plaintiff's meal period claim. Defendant also asserted that it paid
16 meal period premiums to its employees in those pay periods when meal period violations occurred
17 throughout the Class Period. Thus, Defendant argued that there was no potential liability for Plaintiff's
18 alleged meal period violations.

19 31. Plaintiffs' meal period claim (together with the rest period claim) likely represented the
20 most factually contested claim in the Actions. Accounting for the strength of Defendant's defenses,
21 and the arguably individualized nature of the claim, Plaintiffs estimated the damages for this claim at
22 \$416,527.

23 32. Plaintiffs also alleged that Defendant failed to provide compliant rest periods.
24 Specifically, Plaintiffs alleged that because of their rigorous work schedules, Plaintiffs and Class
25 Members were required to remain on the premises and on-call, and were unable to take timely and duty-
26 free rest periods.

1 33. Again, Defendant denied liability and asserted that it maintained legally compliant rest
2 period policies and practices throughout the Class Period. Moreover, Plaintiffs recognize the
3 evidentiary burdens in establishing this claim. Establishing Plaintiffs' rest period claim would depend,
4 almost entirely, on Class Member testimony, making it a riskier claim at class certification and liability
5 stages. Defendant likely would have argued that only a small number of Class Members missed their
6 rest breaks. Certification likely would have required depositions of Class Members who provided
7 declarations, and Defendant surely would have obtained opposing declarations stating either rest breaks
8 were taken, or rest breaks were voluntarily waived. *See, e.g., Ordonez v. Radio Shack, Inc.* (C.D. Cal.
9 Jan. 17, 2013) 2013 WL 210223, at *11 ("Because of the competing testimony before the Court,
10 plaintiff's evidence that defendant may have an illegal, written rest break policy is insufficient for this
11 Court to find that common issues predominate."); *Villa v. United Site Servs. of California, Inc.* (N.D.
12 Cal. Nov. 13, 2012) 2012 WL 5503550, at *8 ("Indeed, Plaintiff's own evidence confirms that the
13 written policy does not generate uniform practices."). Plaintiffs estimated Defendant's exposure for this
14 claim at \$438,844.

15 34. Plaintiffs also alleged that Defendant failed to include certain non-discretionary bonuses
16 into the regular rate of pay for purposes of overtime compensation. Specifically, Plaintiffs assert that
17 Defendant paid Class Members non-discretionary incentive compensation directly related to their
18 performance. These incentives were not properly calculated into the regular rate for purposes of
19 overtime calculation and compensation.

20 35. Defendant denied this claim, asserting that any bonuses paid to the Class Members were
21 discretionary in nature and did not need to be calculated into the regular rate of pay. Plaintiffs estimated
22 Defendant's exposure for this claim at \$9,460.

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

1 could not show that Class Members suffered an “injury” because of wage statement violations, as
2 required by Labor Code section 226. *Naranjo v. Spectrum Security Services, Inc.* (2023) 88 Cal.App.5th
3 927. Notwithstanding the uncertain nature of the claims, Plaintiffs estimated Defendant’s exposure for
4 waiting time penalties to be approximately \$435,905 (\$303,505 for LC 203 penalties and \$132,400 for
5 LC 226 penalties).

6 37. Class Counsel’s damage models also estimated Defendant’s exposure for PAGA
7 penalties. At the time of mediation, Plaintiffs estimated Defendant’s PAGA exposure at \$1,734,100.

8 38. Here, the Parties negotiated a good faith PAGA Settlement in the amount of \$16,000
9 which is 4.3% of the Gross Settlement Amount. This amount falls well within the range of approved
10 PAGA Settlements. Seventy-Five percent (75%) of the PAGA Settlement (\$4,000.00) will be paid to
11 the LWDA (“LWDA Payment”) with the remaining twenty-five percent (25%) to be distributed to the
12 Aggrieved Employees, which is within the range of PAGA penalties approved by courts and should be
13 approved.

14 **B. Litigation Risks**

15 39. Although Plaintiffs are confident about the strength of their claims, it would be foolish to
16 ignore the most immediate risk to continued litigation, i.e., class certification. Class certification is far
17 from certain in this, in part, meal and rest period case. Class certification is routinely denied for meal
18 and rest period claims based on an inability to establish predominance.

19 40. Plaintiffs recognize that Defendant has factual and legal defenses that, if successful,
20 would potentially defeat or substantially impair the value of Plaintiffs’ lawsuit. Collectively, the
21 examples cited above illustrate the uncertain nature of class litigation. Consequently, the uncertainty of
22 obtaining certification through a contested motion is a significant risk factor favoring settlement.

23 41. Finally, continuing to litigate this action would require continued and extensive resources
24 coupled with significant Court time to proceed through trial and post-trial motions; which can often
25 take years. Furthermore, wage and hour litigation is complex and expensive, as it often necessitates
26 extensive expert testimony, particularly with regards to damages. But even if Plaintiffs are successful
27 at trial, Plaintiffs are acutely aware that a judgment does not end the litigation. Plaintiffs fully expect
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1 that Defendant would appeal any favorable judgment. As demonstrated by *Magadia, supra*, 999 F.3d
2 668, the risk of an appeal and subsequent reversal is real.

3 42. In this matter, Class Counsel negotiated a Gross Settlement Amount of \$372,500 that is
4 roughly a recovery of 22.2% of Defendant's class-wide exposure. Given the amount of the settlement
5 here, as compared to potential value of the claims, offset by the various inherent risks to continued
6 litigation, the settlement is fair and reasonable.

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

8 43. The Parties jointly drafted the Notice Packet which fairly and neutrally informs the Class
9 Members of their rights and remedies. The Settlement Administrator will first verify addresses, then
10 mail the proposed Notice Packet to all Class Members. The Notice will include information regarding
11 the nature of the lawsuit, a summary of the substance of the Settlement's terms, the class definition, the
12 procedure, and time period within which to requests for exclusions or objections to the Settlement, the
13 date for the final approval hearing, the formula used to calculate settlement payments, and the terms
14 and scope of the Released Claims. Agreement at §III(M). This method was negotiated by the Parties
15 to ensure delivering the most reasonable method of notice to the Class Members while ensuring cost
16 effective administration of the Settlement.

17 44. As detailed in the Agreement, the method of disseminating the proposed Class Notice and
18 contents of the Proposed Class Notice satisfy due process and the California Rule of Court 3.766.

19 **C. The Court Should Preliminarily Approve the Enhancement Award**

20 45. The Settlement provides for Class Representative Service Awards of \$10,000 for Plaintiff
21 Desanctis and \$10,000 for Plaintiff Barnes. The service awards are fair and reasonable compensation
22 for the Plaintiffs' efforts bringing the action, assisting Class Counsel with the litigation and settlement,
23 regularly conferring with Class Counsel on the status of their case and the strategies for prosecuting the
24 claims, reviewing the proposed Settlement to ensure that its terms are fair and provide adequate relief
25 for the Settlement Class, and agreeing to provide Defendant a general release of all claims arising out
26 of their employment.

1 46. Class Counsel on behalf of Plaintiffs will file a formal motion for the negotiated Class
2 Representative Service Awards once preliminary approval of the Settlement is granted. Plaintiffs
3 respectfully submit that the above showing is sufficient for preliminary approval of the negotiated Class
4 Representative Service Awards.

5 **D. The Court Should Preliminary Approve the Class Counsel Award**

6 47. Class Counsel took this matter on a contingency fee basis and invested significant time
7 and expense successfully prosecuting Plaintiffs' claims. As discussed *supra*, the estimated average
8 Individual Settlement Payment illustrates the demonstrably positive outcome for the Settlement Class
9 Members. Considering the positive outcome for the Class Members, and in light of the supporting
10 authority, the proposed Class Counsel award is fair and reasonable.

11 48. Plaintiffs will file a formal motion for the negotiated Class Counsel Award once
12 preliminary approval of the Settlement is granted. Plaintiffs respectfully submit that the above showing
13 is sufficient for preliminary approval of the negotiated attorneys' fees.

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

15 49. For Settlement, Plaintiffs contend, and Defendant does not dispute, that provisional
16 certification of the Class is appropriate.

17 50. Because all Class Members are Defendant's current and former employees, the class is
18 readily ascertainable from Defendant's regular business records, i.e., payroll records.

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

24 52. Plaintiffs' wage and hour claims are typical of the proposed Settlement Class because
25 they arise from the same factual basis and are based on the same legal theories applicable to the other
26 Class Members. Likewise, Plaintiffs' interests are entirely coextensive with the interests of the
27 Settlement Class. Plaintiffs allege that they were injured by the same company-wide practices to which
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1 the proposed Class Members were subject to and seek the same relief. Plaintiffs have already
2 demonstrated their ability to advocate for the interests of the Class Member by initiating this litigation,
3 undertaking extensive class discovery, and evaluating the proposed settlement to assure that it is fair.

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

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

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

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

24 56. I have represented consumers and employees in California class actions, and complex
25 multi-party product liability actions exclusively for more than 13 years. I have been in practice as a
26 plaintiffs' civil litigation attorney since April 2007.

1 57. I have significant class counsel and collective action counsel experience. I served as class
2 and/or collective (PAGA) counsel in the following matters:

3 a. *Felix v. TVI, Inc., d.b.a. Savers*, Santa Clara Superior Court Case No.
4 21CV376407 (February 18, 2022) Hon. Sunil R. Kulkarni approved a \$1.8 million dollar
5 class action and PAGA action settlement for, *inter alia*, unpaid off-the-clock work. The
6 Court appointed JCL Law Firm, APC as Class Counsel and as representative PAGA
7 counsel for the State of California.

8 b. *Munoz v. AMTCR*, San Bernardino Superior Court Case No. CIV-DS2001914
9 (August 24, 2021) Hon. David Cohn approved a \$1.8 million dollar class and PAGA
10 settlement for, *inter alia*, inaccurate itemized wage statements. The JCL Law Firm, APC
11 acted as class counsel for the settlement class and as representative PAGA counsel the
12 State of California and the Aggrieved Employees.)

13 c. *Nunes v. Home Depot U.S.A., Inc.*, San Joaquin Superior Court Case No. STK-
14 CV-UOE-2020-0011011 (October 20, 2021 – Hon. Roger Ross approved a \$1.5 million
15 dollar class and PAGA settlement for, *inter alia*, miscalculated meal period premiums
16 and appointed Jean-Claude Lapuyade, Esq, as Class Counsel.)

17 d. *Pillsbury v. T&T Restaurants CA, Inc.*, Del Norte Superior Court Case No. CVUJ-
18 20-1214 (December 14, 2021 – Hon. Darren McElfresh approved \$550 billing rate and
19 appointed Jean-Claude Lapuyade, Esq, as Class Counsel in a wage and hour class action
20 settlement.)

21 e. *Rodriguez v. RSI Home Products, Inc.*, San Bernardino Superior Court Case No.
22 CIVDS2023354 (July 30, 2021 – Hon. David Cohn approved a \$1.45 million class and
23 PAGA settlement for, *inter alia*, failure to comply with piece-rate laws, and appointed
24 the JCL Law Firm, APC as Class Counsel)

25 f. *Elias Kaser v. Aviation Consultants, Inc.*, Orange County Superior Court Case
26 No. 30-2021-01191204-CU-OE-CXC (September 22, 2021 – Hon. Peter J. Wilson
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1 approved \$550 billing rate in a representative California Labor Code Private Attorney
2 General Act settlement).

3 g. *Jer Vang v. Bridge Property Management*, Alameda County Superior Court, Case
4 No RG19047434 (January 8, 2021 – Hon. Winifred Smith approved a class and PAGA
5 settlement for, *inter alia*, unpaid off the clock work. The JCL Law Firm, APC acted as
6 class counsel for the settlement class and as representative PAGA counsel the State of
7 California and the Aggrieved Employees.)

8 h. *Johnson v. Volt Management Corp., Inc. et al.*, Los Angeles County Superior
9 Court, Case No. 19STCV16466 (December 11, 2020 – Hon. Amy Hogue approved a
10 PAGA Settlement negotiated on behalf of the State of California and the aggrieved
11 employees by the JCL Law Firm, APC.)

12 i. *Salazar v. Frontier Auto Sales Inc., dba Frontier Toyota*, Los Angeles Superior
13 Court, Case No. 19STCV20382 (November 24, 2020 – Hon. John P. Doyle appointed the
14 JCL Law Firm, APC as class counsel and approved a class and PAGA settlement for,
15 *inter alia*, missed meal and rest periods.)

16 j. *Villalobos v. Alterra Group, LLC et al.*, Los Angeles County Superior Court, Case
17 No. 19STCV19448 (November 11, 2020 – Hon. Richard Fruin approved a PAGA
18 Settlement for, *inter alia*, unreimbursed business expenses. The JCL Law Firm, APC
19 acted as counsel for the plaintiff, the State of California and the Aggrieved Employees.)

20 k. *Stevens et al., v. Bank of England*, San Diego County Superior Court Case No.
21 37-2019-00018662-CU-OE-CTL (October 16, 2020 – Hon. John Meyer appointed JCL
22 Law Firm as Class Counsel and granted final approval of wage and hour class action for,
23 *inter alia*, off-the-clock work.)

24 l. *Frazier v. ASA Carlton, Inc.*, San Diego Superior Court Case No. 37-2019-
25 00036147 (October 9, 2020 Hon. Kenneth Medel appointed the JCL Law Firm as Class
26 Counsel and granted final approval of wage and hour class action for off-the-clock work.)
27
28

1 m. *Krake et al., v. Central Valley Diner, Inc.*, Placer County Superior Court Case No.
2 SCV0041645 (September 4, 2020 – Hon. Michael Jones appointed JCL Law Firm as class
3 counsel and granted final approval of wage and hour class action for meal period
4 violations.)

5 n. *Conner v. Ascendant Marketing, LLC et al.*, San Diego Superior Court Case No.
6 37-2019-00026864-CU-OE-CTL (July 24, 2020 Hon. Joel Wohlfeil granted approval of
7 PAGA Settlement for, among other things, off-the-clock work. JCL Law Firm, APC
8 acted as lead counsel.)

9 o. *Guerrero v. Estancia Operations, LLC.*, San Diego Superior Court Case No. 37-
10 2019-00028963 (August 25, 2020 – Hon. Katherine Bacal approved PAGA Settlement
11 for, *inter alia*, missed meal and rest periods. JCL LAW Firm, APC, acted as lead
12 counsel.)

13 p. *Moreno v. Dash Lube, et al.*, United States District Court, Southern District of
14 California, Case No. 18cv1922 DMS (AHG) (December 13, 2019 – Granted class
15 certification of Labor Code Section 226 claim and appointed JCL Law Firm, APC, as
16 Class Counsel.)

17 q. *Perkins et al., v. Tahiti Enterprises, Inc., et al.*, Orange County Superior Court
18 Case No. 30-2016-00863095 (October 22, 2019 – Hon. Peter Wilson appointed JCL Law
19 Firm, APC, as Class Counsel and granted final approval for an unlawful housing class
20 action settlement arising out of Civil Code Section 1940.1.)

21 r. *Hill v. Stemak Holdings, Ltd.*, San Diego Superior Court Case No., 37-2018-
22 00000747 (January 28, 2020 – Hon. Kenneth Medel appointed JCL Law Firm, APC as
23 class counsel and granted final approval of wage and hour class action for unpaid
24 overtime.)

25 s. *Shachno et al., v. KT Hotels, LLC, et al.* San Diego Superior Court Case No Case
26 No. 37-2018-00043601 (May 31, 2019 – Hon, Gregory Pollack appointed JCL Law Firm,
27 APC, as Class Counsel and granted preliminary approval for the wage and hour class
28

1 action settlement involving nearly 900 current and former employees. Final approval
2 scheduled for October 4, 2019)

3 t. *Almanza v. The Express Group, Inc.*, San Bernardino Superior Court Case No.
4 CIVDS1722542 (April 19, 2019 – Hon. David Cohn appointed the JCL Law Firm, APC,
5 as Class Counsel and granted final approval for a wage and hour class action settlement
6 for *inter alia*, missed meal and rest periods and independent contractor misclassification.)

7 u. *Moschetto v. Pillow Global, Inc. San Diego Superior Court*, Case No. 37-2017-
8 00024031-CU-OE-CTL (April 5, 2019 – Hon. John S. Meyer appointed JCL LAW Firm,
9 APC, as Class Counsel and granted final approval for a wage and hour wage class action
10 settlement involving misclassified house cleaners.)

11 v. *Burke v. Friendship Hotel, LLC*, San Diego County Superior Court Case No. 37-
12 2017-00022517-CU-OE-CTL (March 10, 2019 – final approval granted on for an
13 unlawful housing class action arising under Civil Code Section 1940.2)

14 w. *Terrado et al., v. Accredited Debt Relief, LLC*, San Diego County Superior Court
15 Case No. 37-2018-00014181-CU-OE-CTL (February 8, 2019 – Hon. Gregory W. Pollock
16 appointed JCL Law Firm, APC as Class Counsel and granted final approval for a wage
17 and hour class action settlement for meal and rest period violations);

18 x. *Macaspac v. San Antonio Regional Hospital*, San Bernardino Superior Court Case
19 No. CIVDS1512625, (July 27, 2018 – Hon. Thomas S. Garza appointed JCL Law Firm,
20 APC, as Class Counsel and granted final approval for a wage and hour class action
21 settlement involving claims for on duty meal and rest periods.);

22 y. *Summerlin et al. v. Maplebear, Inc. dba Instacart*, Los Angeles Superior Court
23 Case No. BC603030 (2018 - certified and settled wage and hour class action.)

24 z. *Ortega v. Prime Healthcare*, San Diego Superior Court Case No. 37-2014-
25 00011240-CU-OE-CTL (2018 – Approved PAGA only settlement for on duty meal and
26 rest periods)

1 aa. *Engstrom v. Bender-Rosenthal, Inc.* San Diego Superior Court Case No. 37-2016-
2 00012373-CU-OE-CTL (2017 - Certified and settled class action for employee
3 misclassification);
4 bb. *Crawford v. Outlook Amusements, Inc.*, Los Angeles Superior Court Case No.
5 BC617160 (2017 - Certified and settled wage and hour class action.);
6 cc. *Hernandez v. Sunglass Hut Trading, LLC*, San Bernardino Superior Court Case
7 No. CIVDS1505181 (2016 - Certified and settled wage and hour class action);
8 dd. *Burns v. Shalom, LLC*, San Diego Superior Court, Case No., 37-2013-00058356-
9 CU-BT-CTL (2015 - certified and settled class action for unlawful housing practices
10 arising out of Civil Code Section 1940.1));

11 58. Since 2010, my firm has successfully resolved more than sixty (65) cases and recovered
12 in excess of \$75 million on behalf of the Firm's clients.

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

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

17 61. Consequently, I was named to the prestigious Thomson Reuters, Super Lawyers, Rising
18 Star in 2015, 2016, 2017 and, again, in 2018. According to Thomson Reuters, the Super Lawyers, Rising
19 Star list recognizes the top 2.5% of eligible attorneys. (see
20 https://www.superlawyers.com/about/selection_process.html.)

21 I declare under the penalty of perjury under the laws of the State of California that the foregoing
22 is true and correct. Executed this 19th day of April 2023, at San Diego, California.

23 **JCL LAW FIRM, APC**

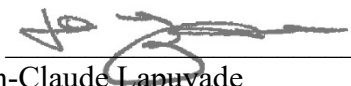
24 By: 
25 Jean-Claude Lapuyade
26 Attorneys for Plaintiff
27
28

EXHIBIT 1

ZAKAY LAW GROUP, APLC

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

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jlapuyade@jcl-lawfirm.com
egarcia@jcl-lawfirm.com

SUPERIOR COURT OF CALIFORNIA

COUNTY OF CONTRA COSTA

DINO DESANCTIS; TYRONE BARNES,
individuals, on behalf of themselves and on
behalf of all persons similarly situated,

Plaintiffs,

v.

DOUGLAS PRODUCTS & PACKAGING
COMPANY, LLC, a Missouri Limited
Liability Company; and DOES 1-50, Inclusive,

DEFENDANT.

Case No. C21-01874

[Action Filed September 8, 2021]

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

Judge: Honorable Edward G. Weil
Dept.: 39

1 This Stipulation of Settlement of Class Action and PAGA Claims and Release of Claims is
2 entered into by and between Plaintiffs DINO DESANCTIS and TYRONE BARNES (hereinafter
3 collectively “Plaintiffs”), individually and on behalf of the Class, and in their representative capacity
4 on behalf of the State of California and the Aggrieved Employees, and Defendant DOUGLAS
5 PRODUCTS & PACKAGING COMPANY, LLC, a Missouri Limited Liability Company.
6 (hereinafter “Defendant”).

7 **I. DEFINITIONS**

8 A. “Actions” shall mean *Desanctis v. Douglas Products & Packaging Company, LLC*,
9 Contra Costa Superior Court, Case No. C21-01874 (“*Desanctis* Action”) and *Barnes*
10 *v. Douglas Products & Packaging Company, LLC*, Contra Costa Superior Court, Case
11 No. C22-00637 (“*Barnes* Action”).

12
13 B. “Aggrieved Employees” shall mean all non-exempt employees who are or previously
14 were employed by Defendant and performed work in California during the PAGA
15 Period.

16
17 C. “Aggrieved Employee Payments” shall mean the individual payments made to each
18 Aggrieved Employee equal to the Aggrieved Employee’s PAGA Payment Ratio
19 multiplied by \$4,000.

20
21 D. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of
22 Class Action and PAGA Claims and Release of Claims.

23
24 E. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC,
25 Mehrdad Bokhour, Esq., of Bokhour Law Group, P.C., Joshua Falakassa, Esq. of
26 Falakassa Law P.C., and Shani Zakay, Esq. of Zakay Law Group, APLC.

1 F. "Class Counsel Award" means the award of fees and expenses that the Court
2 authorizes to be paid to Class Counsel for the services they have rendered to
3 Plaintiffs and the Class in the Actions, consisting of attorneys' fees currently not to
4 exceed one-third of the Gross Settlement Amount currently estimated to be
5 \$124,166.66 out of \$372,500.00 plus costs and expenses \$20,000 and supported by
6 declaration as to the reasonableness of attorney's fees and costs. Class Counsel's
7 award for attorneys' fees will be allocated between Class Counsel as follows: Forty
8 percent (40%) to the JCL Law Firm, APC; forty percent (40%) to the Zakay Law
9 Group, APLC; and twenty percent (20%) to Bokhour Law Group, PC and Falakassa
10 Law P.C.
11

12
13 G. "Class Data" means information regarding Class Members and Aggrieved Employees
14 that Defendant will in good faith compile from its records and provide to the
15 Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and
16 shall include: each Class Member's and or Aggrieved Employee's full name; last
17 known address; Social Security Number; start dates and end dates of employment.
18

19 H. "Class Members" or the "Class" means all non-exempt employees who are or
20 previously were employed by Defendant and performed work in California during the
21 Class Period.
22

23 I. "Class Period" means the period from September 8, 2017, to May 23, 2022.
24

25 J. "Class Representative Service Awards" means the amount that the Court authorizes
26 to be paid to the Class Representatives, in addition to their Individual Settlement
27 Payment, and their pro-rata share of the PAGA Settlement, in recognition of their
28

1 efforts and risks in assisting with the prosecution of the Actions and, partially, in
2 exchange for executing a General Release of Defendant.

3
4 K. “Class Representatives” or “Plaintiffs” shall mean DINO DESANCTIS and
5 TYRONE BARNES.

6
7 L. “Court” means the Superior Court for the State of California, County of Contra Costa
8 currently presiding over the Actions.

9
10 M. “Defendant” shall mean DOUGLAS PRODUCTS & PACKAGING, LLC, a Missouri
11 Limited Liability Company.

12
13 N. “Effective Date” means the earliest date, following entry by the Court of an order and
14 judgment finally approving this Settlement, upon which one of the following have
15 occurred: (i) if no objection is filed to the settlement and no objector appears at the
16 hearing on final approval, the date of the Court’s entry of the order granting final
17 approval, (ii) if an objection is filed to the settlement, or an objector appears at the
18 hearing on final approval, then the later of the following: (a) the expiration of all
19 potential appeal periods without a filing of a notice of appeal of the final approval
20 order or judgment; (b) final affirmance of the final approval order and judgment by
21 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
22 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
23 the final approval order and judgment is no longer subject to further judicial review.

24
25 O. “Funding Date” shall mean sixty-five (65) calendar days after the Effective Date and
26 is the date Defendant transfers the Gross Settlement Amount and the employer’s share
27 of payroll tax into the QSF in accord with the terms of this Agreement
28

1 P. "Gross Settlement Amount" means Three Hundred Seventy-Two Thousand Five
2 Dollars (\$372,500.00) that Defendant must pay into the QSF in connection with this
3 Settlement, inclusive of the sum of the Individual Settlement Payments, the Class
4 Representative Service Awards, the Class Counsel Award, PAGA Settlement and the
5 Settlement Administration Costs and *exclusive* of the employer's share of payroll tax,
6 if any, triggered by any payment under this Settlement.
7

8 Q. "Individual Settlement Payment" means the amount payable from the Net Settlement
9 Amount to each Settlement Class Member and excludes any Aggrieved Employee
10 Payment distributed to Aggrieved Employees.
11

12 R. "Net Settlement Amount" or "NSA" means the Gross Settlement Amount, less Class
13 Counsel Award, Class Representative Service Awards, PAGA Settlement, and
14 Settlement Administration Costs.
15

16 S. "Notice Packet" means the Class Notice to be provided to the Class Members by the
17 Settlement Administrator in the form set forth as Exhibit A to this Agreement (other
18 than formatting changes to facilitate printing by the Settlement Administrator).
19

20 T. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
21 Labor Code § 2698 *et seq.*
22

23 U. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
24 for each Aggrieved Employee divided by the sum total of the Workweeks for all
25 Aggrieved Employees during the PAGA Period.
26
27
28

- 1 V. "PAGA Pay Periods", for purposes of calculating the distribution of the Aggrieved
2 Employee Payment, as defined herein, means the number of Pay Periods of
3 employment during the PAGA Period that each Aggrieved Employee worked in
4 California.
- 5 W. "PAGA Period" means the period of June 29, 2020, to May 23, 2022.
- 6 X. "PAGA Settlement" shall mean Sixteen Thousand Dollars (\$16,000.00) to be
7 allocated from the Gross Settlement Amount.
- 8 Y. "Parties" means Plaintiffs and Defendant, collectively, and "Party" shall mean either
9 Plaintiffs or Defendant, individually.
- 10 Z. "Pay Period" means the time period used by Defendant to calculate and pay earned
11 wages.
- 12 AA. "Payment Ratio" means the respective Workweeks for each Class Member divided
13 by the sum total Workweeks for all Class Members.
- 14 BB. "QSF" means the Qualified Settlement Fund established, designated and maintained
15 by the Settlement Administrator to fund the Gross Settlement Amount and the
16 employer's share of payroll tax.
- 17 CC. "Released Class Claims" means all class claims alleged in the operative complaint,
18 or that reasonably could have been alleged based on the facts alleged in the operative
19 complaint, which occurred during the Class Period, and expressly excluding all other
20 claims, including claims for vested benefits, wrongful termination, unemployment
21 insurance, disability, social security, workers' compensation, and class claims outside
22
23
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25
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of the Class Period.

DD. “Released PAGA Claims” means all PAGA claims alleged in the operative complaint and Plaintiffs’ PAGA notice(s) submitted to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and PAGA claims outside of the PAGA Period.

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

FF. “Settlement” means the disposition of the Actions pursuant to this Agreement.

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

1 HH. "Settlement Class Members" or "Settlement Class" means all Class Members who
2 have not submitted a timely and valid request for exclusion as provided in this
3 Agreement.
4

5 II. "Workweeks", for purposes of calculating the distribution of the Net Settlement
6 Amount, means the number of weeks from Sunday to Saturday of employment during
7 the Class Period that each Class Member was employed by Defendant in California,
8 excluding weeks during which the Class Member did not perform any work for
9 Defendant.
10

11 **II. RECITALS**

12 A. On June 29, 2021, Plaintiff Desantis filed a Notice of Violations with the Labor and
13 Workforce Development Agency (LWDA) and served the same on Defendant.
14

15 B. On September 8, 2021, Plaintiff Desantis filed the Lawsuit for:
16

17 1. Unfair Competition in Violation of Bus. and Prof. Code sections 17200 *et seq*;

18 2. Failure to pay overtime wages in violation of California Labor Code sections
19 510 *et seq*;
20

21 3. Failure to pay minimum wages in violation of California Labor Code sections
22 1194, 1197 and 1197.1;
23

24 4. Failure to provide required meal periods in violation of California Labor Code
25 sections 226.7 and 512 and the applicable IWC wage order;
26
27
28

1 5. Failure to provide required rest periods in violation of California Labor Code
2 sections 226.7 and 512 and the applicable IWC wage order;

3
4 6. Failure to provide accurate itemized wage statements in violation of California
5 Labor Code section 226;

6
7 7. Failure to provide wages when due in violation of California Labor Code
8 sections 201, 202 and 203; and

9
10 8. Violation of the private attorneys general act in violation of Labor Code
11 sections 2698 et seq.

12 C. On February 18, 2022, Plaintiff Barnes filed the Lawsuit for:

13
14 1. Failure to Pay all Minimum Wages;

15
16 2. Failure to Pay all Overtime Wages;

17
18 3. Meal Period Violations;

19 4. Rest Period Violations;

20 5. Wage Statement Violations;

21
22 6. Waiting Time Penalties; and

23
24 7. Unfair Competition.

25 D. The Class Representatives believe they have meritorious claims based on alleged
26 violations of the California Labor Code, and the Industrial Wage Commission Orders,
27 and that class certification is appropriate because the prerequisites for class
28

1 certification can be satisfied in the Actions, and this action is manageable as a PAGA
2 representative action.

3
4 E. Defendant denies any liability or wrongdoing of any kind associated with the claims
5 alleged in the Actions, disputes any wages, damages, and penalties claimed by the
6 Class Representatives are owed, and further contends that, for any purpose other than
7 settlement, the Actions are not appropriate for class or representative action treatment.
8 Defendant contends, among other things, that at all times it complied with the
9 California Labor Code and the Industrial Wage Commission Orders.

10
11 F. The Class Representatives are represented by Class Counsel. Class Counsel
12 conducted an investigation into the facts relevant to the Actions, including conducting
13 an independent investigation as to the allegations, reviewing documents and
14 information exchanged through informal discovery, and reviewing documents and
15 information provided by Defendant pursuant to informal requests for information to
16 prepare for mediation. Defendant produced for the purpose of settlement negotiations
17 certain employment data concerning the Settlement Class, which Class Counsel
18 reviewed and analyzed. Based on their own independent investigation and evaluation,
19 Class Counsel are of the opinion that the Settlement with Defendant is fair,
20 reasonable, and adequate and is in the best interest of the Settlement Class in light of
21 all known facts and circumstances, including the risks of significant delay, defenses
22 asserted by Defendant, uncertainties regarding class certification, and numerous
23 potential appellate issues. Although it denies any liability, Defendant is agreeing to
24 this Settlement solely to avoid the inconveniences and cost of further litigation. The
25
26
27
28

1 Parties and their counsel have agreed to settle the claims on the terms set forth in this
2 Agreement

3
4 G. On May 23, 2022, the Parties participated in mediation presided over by David
5 Rotman, Esq., an experienced mediator of wage and hour class and PAGA actions.
6 The mediation concluded with a settlement after both sides agreed to a Mediator's
7 proposal which was subsequently memorialized in the form of a Memorandum of
8 Understanding ("MOU").

9
10 H. This Agreement replaces and supersedes the MOU and any other agreements,
11 understandings, or representations between the Parties. This Agreement represents a
12 compromise and settlement of highly disputed claims. Nothing in this Agreement is
13 intended or will be construed as an admission by Defendant that the claims in the
14 Actions have merit or that Defendant bears any liability to Plaintiffs or the Class on
15 those claims or any other claims, or as an admission by Plaintiffs that Defendant's
16 defenses in the Actions have merit.

17
18
19 I. The Parties believe that the Settlement is fair, reasonable, and adequate. The
20 Settlement was arrived at through arm's-length negotiations, taking into account all
21 relevant factors. The Parties recognize the uncertainty, risk, expense, and delay
22 attendant to continuing the Actions through trial and any appeal. Accordingly, the
23 Parties desire to fully, finally, and forever settle, compromise, and discharge all
24 disputes and claims arising from or relating to the Actions.

25
26 J. The Parties agree to certification of the Class for purposes of this Settlement only. If
27 for any reason the Settlement does not become effective, Defendant reserves the right
28

1 to contest certification of any class for any reason and reserves all available defenses
2 to the claims in the Actions.

3
4 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

5
6 **III. TERMS OF AGREEMENT**

7 A. Settlement Consideration and Settlement Payments by Defendant.

8 1. Settlement Consideration. In full and complete settlement of the Actions, and
9 in exchange for the releases set forth below, Defendant will pay the sum of
10 the Individual Settlement Payments, the Class Representative Service
11 Awards, the Class Counsel Award, PAGA Settlement, and the Settlement
12 Administration Costs, as specified in this Agreement, equal to the Gross
13 Settlement Amount of Three Hundred Seventy-Two Thousand Five Hundred
14 Dollars (\$372,500.00). The Parties agree that this is a non-reversionary
15 Settlement and that no portion of the Gross Settlement Amount shall revert to
16 Defendant. Other than the Defendant's share of employer payroll taxes, or as
17 otherwise specified in Paragraph III(A)(2) below, Defendant shall not be
18 required to pay more or less than the Gross Settlement Amount, except as
19 provided for hereinbelow.

20
21
22 2. Class Size. At the time of mediation, Defendant estimated that the Settlement
23 Class was comprised of 52 individuals who collectively worked
24 approximately 4,000 Workweeks during the Class Period. Defendant will
25 provide a declaration under penalty of perjury confirming the number of
26 applicable Class Members and Workweeks they worked during the applicable
27
28

1 Class Period. If the total Workweek number increases is more than 4,400, the
2 Gross Settlement Amount will increase proportionally for the number of
3 workweeks over 4,400.
4

5 3. Settlement Payment. Defendant shall pay, via wire transfer, the Gross
6 Settlement Amount to the Settlement Administrator on the Funding Date.
7

8 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
9 payroll taxes is in addition to the Gross Settlement Amount and shall be paid
10 together with the Gross Settlement Amount on the Funding Date.
11

12 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
13 consideration set forth in this Agreement, Plaintiffs and the Settlement Class Members
14 release Defendant from the Released Class Claims for the Class Period.

15 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
16 consideration set forth in this Agreement, the Plaintiffs, the LWDA, and the State of
17 California release Defendant from the PAGA Released Claims for the PAGA Period.
18

19 D. General Release by Plaintiffs. As of the Funding Date, for the consideration set forth
20 in this Agreement, which includes the Class Representative Service Awards, Plaintiffs
21 each waive, release, acquit and forever discharge Defendant from any and all claims,
22 whether known or unknown, which exist or may exist on their behalf as of the date of
23 this Agreement, including but not limited to any and all tort claims, contract claims,
24 wage claims, wrongful termination claims, disability claims, benefit claims, public
25 policy claims, retaliation claims, statutory claims, personal injury claims, emotional
26 distress claims, invasion of privacy claims, defamation claims, fraud claims, quantum
27 meruit claims, and any and all claims arising under any federal, state or other
28

1 governmental statute, law, regulation or ordinance, including, but not limited to claims
2 for violation of the Fair Labor Standards Act, the California Labor Code, the Wage
3 Orders of California's Industrial Welfare Commission, other state wage and hour laws,
4 the Americans with Disabilities Act, the Age Discrimination in Employment Act
5 (ADEA), the Employee Retirement Income Security Act, Title VII of the Civil Rights
6 Act of 1964, the California Fair Employment and Housing Act, the California Family
7 Rights Act, the Family Medical Leave Act, California's Whistleblower Protection Act,
8 California Business & Professions Code Section 17200 et seq., and any and all claims
9 arising under any federal, state or other governmental statute, law, regulation or
10 ordinance. Plaintiffs also waive and relinquish any and all claims, rights or benefits
11 that they may have under California Civil Code § 1542, which provides as follows:
12

13
14 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
15 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
16 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
17 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
18 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
19 ***OR RELEASED PARTY.***
20

21 Thus, notwithstanding the provisions of section 1542, and to implement a full and
22 complete release and discharge of Defendant, Plaintiffs expressly acknowledge this
23 Settlement Agreement is intended to include in its effect, without limitation, all claims
24 Plaintiffs do not know or suspect to exist in Plaintiffs' favor at the time of signing this
25 Settlement Agreement, and that this Settlement Agreement contemplates the
26 extinguishment of any such claims. Plaintiffs warrant that Plaintiffs have read this
27
28

1 Settlement Agreement, including this waiver of California Civil Code section 1542, and
2 that Plaintiffs have consulted with or had the opportunity to consult with counsel of
3 Plaintiffs' choosing about this Settlement Agreement and specifically about the waiver
4 of section 1542, and that Plaintiffs understand this Settlement Agreement and the
5 section 1542 waiver, and so Plaintiffs freely and knowingly enter into this Settlement
6 Agreement. Plaintiffs further acknowledge that Plaintiffs later may discover facts
7 different from or in addition to those Plaintiffs now know or believe to be true regarding
8 the matters released or described in this Settlement Agreement, and even so Plaintiffs
9 agree that the releases and agreements contained in this Settlement Agreement shall
10 remain effective in all respects notwithstanding any later discovery of any different or
11 additional facts. Plaintiffs expressly assume any and all risk of any mistake in
12 connection with the true facts involved in the matters, disputes, or controversies
13 released or described in this Settlement Agreement or with regard to any facts now
14 unknown to Plaintiffs relating thereto.
15

16
17 Notwithstanding this paragraph and/or any other language in this Agreement to the
18 contrary, nothing in this Agreement, including this paragraph and its section 1542
19 waiver, shall act as, or be construed as, a release by Plaintiff Desantis's individual
20 claims all of which are being released pursuant to separate individual settlement
21 agreements between Plaintiff Desantis and Defendant.
22

23
24 E. Amended Pleading: To facilitate the settlement, and review by the Court, the Parties
25 will stipulate to the filing of a First Amended Class Action Consolidated Complaint in
26 the matter of *Desantis* Action to incorporate the claims and factual allegations
27 asserted in the *Barnes* Action, as well as add Plaintiff Barnes as a named plaintiff and
28

1 Mehrdad Bokhour, Esq., of Bokhour Law Group, P.C., Joshua Falakassa, Esq. of
2 Falakassa Law P.C. as class counsel in the *Desantis* Action. Thereafter, Plaintiff
3 Barnes will dismiss the *Barnes* Action, without prejudice. Upon the Court's entry of
4 an Order granting Final Approval of the Settlement, Plaintiff Barnes will, again,
5 dismiss his action, but with prejudice. The First Amended Complaint shall be in the
6 format reflected as **Exhibit B** hereto.
7

8 F. Conditions Precedent: This Settlement will become final and effective only upon the
9 occurrence of all of the following events:
10

- 11 1. The Court enters an order granting preliminary approval of the Settlement;
- 12
- 13 2. The Court enters an order granting final approval of the Settlement and a Final
14 Judgment; and
- 15
- 16 3. If an objector appears at the final approval hearing, the time for appeal of the
17 Final Judgment and Order Granting Final Approval of Class Action
18 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
19 any appeal from the Judgment and Order Granting Final Approval of Class
20 Action Settlement.
21

22 G. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
23 not preliminarily or finally approved by the Court, fails to become effective, or is
24 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
25 Defendant from obtaining a complete resolution of the Released Claims:
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- 1 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
2 and shall not be admissible in any judicial, administrative or arbitral
3 proceeding for any purpose or with respect to any issue, substantive or
4 procedural;
5
- 6 2. The conditional class certification (obtained for any purpose) shall be void *ab*
7 *initio* and of no force or effect, and shall not be admissible in any judicial,
8 administrative or arbitral proceeding for any purpose or with respect to any
9 issue, substantive or procedural; and
10
- 11 3. None of the Parties to this Settlement will be deemed to have waived any
12 claims, objections, defenses, or arguments in the Actions, including with
13 respect to the issue of class certification.
14
- 15 4. The Parties shall equally share the responsibility for any cost to issue or
16 reissue any curative notice to the Settlement Class Members and all Settlement
17 Administration Costs incurred to the date of nullification.
18
- 19 5. But if Defendant fails to fully fund the Gross Settlement Amount as provided
20 for in this Agreement, Paragraphs III(G)(1)-(3) shall be true, but Defendant
21 shall be solely responsible for any cost to issue or reissue any curative notice
22 to the Settlement Class Members and all Settlement Administration Costs
23 incurred to the date of nullification.
24

25 H. Certification of the Settlement Class. The Parties stipulate to conditional class
26 certification of the Class for the Class Period for purposes of settlement only. In the
27 event that this Settlement is not approved by the Court, fails to become effective, or is
28

1 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
2 Defendant from obtaining a complete resolution of the Released Claims, the
3 conditional class certification (obtained for any purpose) shall be void *ab initio* and of
4 no force or effect, and shall not be admissible in any judicial, administrative or arbitral
5 proceeding for any purpose or with respect to any issue, substantive or procedural.
6

7 I. Tax Liability. The Parties make no representations as to the tax treatment or legal
8 effect of the payments in this Agreement, and Class Members and/or Aggrieved
9 Employees are not relying on any statement or representation by the Parties in this
10 regard. Class Members and/or Aggrieved Employees understand and agree that they
11 will be responsible for the payment of any taxes and penalties assessed on the
12 Individual Settlement Payments and/or Aggrieved Employees' individual shares of the
13 PAGA Settlement described and will be solely responsible for any penalties or other
14 obligations resulting from their personal tax reporting of Individual Settlement
15 Payments and/or Aggrieved Employees' individual shares of the PAGA Settlement.
16
17

18 J. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,
19 the "acknowledging party" and each Party to this Agreement other than the
20 acknowledging party, an "other party") acknowledges and agrees that: (1) no provision
21 of this Agreement, and no written communication or disclosure between or among the
22 Parties or their attorneys and other advisers, is or was intended to be, nor shall any
23 such communication or disclosure constitute or be construed or be relied upon as, tax
24 advice within the meaning of United States Treasury Department circular 230 (31 CFR
25 part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his,
26 her or its own, independent legal and tax counsel for advice (including tax advice) in
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1 connection with this Agreement, (b) has not entered into this Agreement based upon
2 the recommendation of any other Party or any attorney or advisor to any other Party,
3 and (c) is not entitled to rely upon any communication or disclosure by any attorney
4 or adviser to any other party to avoid any tax penalty that may be imposed on the
5 acknowledging party, and (3) no attorney or adviser to any other Party has imposed
6 any limitation that protects the confidentiality of any such attorney's or adviser's tax
7 strategies (regardless of whether such limitation is legally binding) upon disclosure by
8 the acknowledging party of the tax treatment or tax structure of any transaction,
9 including any transaction contemplated by this Agreement.
10

11
12 K. Preliminary Approval Motion. At the earliest practicable time, Plaintiffs shall file with
13 the Court a motion for order granting preliminary approval and supporting papers,
14 which shall include this Settlement Agreement. Plaintiffs will provide Defendant with
15 a draft of the motion at least three (3) business days prior to the filing of the motion to
16 give Defendant an opportunity to propose changes or additions to the motion.
17

18 L. Settlement Administrator. The Settlement Administrator shall be responsible for:
19 establishing and administering the QSF; calculating, processing and mailing payments
20 to the Class Representatives, Class Counsel, LWDA and Class Members; printing and
21 mailing the Notice Packets to the Class Members as directed by the Court; receiving
22 and reporting the objections and requests for exclusion; calculating, deducting and
23 remitting all legally required taxes from Individual Settlement Payments and
24 distributing tax forms for the Wage Portion and Non-Wage Portion of the Individual
25 Settlement Payments and/or Aggrieved Employees' individual shares of the PAGA
26 Settlement; processing and mailing tax payments to the appropriate state and federal
27
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1 taxing authorities; providing declaration(s) as necessary in support of preliminary
2 and/or final approval of this Settlement; and other tasks as the Parties mutually agree
3 or the Court orders the Settlement Administrator to perform. The Settlement
4 Administrator shall keep the Parties timely apprised of the performance of all
5 Settlement Administrator responsibilities by among other things, sending a weekly
6 status report to the Parties' counsel stating the date of the mailing, the of number of
7 Elections Not to Participate in Settlement it receives (including the numbers of valid
8 and deficient), and number of objections received.
9

10
11 M. Notice Procedure.

12 1. Class Data. No later than ten (10) business days after the Preliminary
13 Approval Date, Defendant shall provide the Settlement Administrator with the
14 Class Data for purposes of preparing and mailing Notice Packets to the Class
15 Members.
16

17 2. Notice Packets.

18
19 a) The Notice Packet shall contain the Notice of Class Action Settlement
20 in a form substantially similar to the form attached as **Exhibit A**. The
21 Notice of Class Action Settlement shall inform Class Members and
22 Aggrieved Employees that they need not do anything in order to
23 receive an Individual Settlement Payment and/or Aggrieved
24 Employees' individual shares of the PAGA Settlement and to keep the
25 Settlement Administrator apprised of their current mailing address, to
26 which the Individual Settlement Payments and/or Aggrieved
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1 Employees' individual shares of the PAGA Settlement will be mailed
2 following the Funding Date. The Notice of Class Action Settlement
3 shall set forth the release to be given by all members of the Class who
4 do not request to be excluded from the Settlement Class and/or
5 Aggrieved Employees' in exchange for an Individual Settlement
6 Payment and/or Aggrieved Employees Payment, the number of
7 Workweeks worked by each Class Member during the Class Period
8 and the number of Pay Periods worked by the employee during the
9 PAGA Period, if any, and the estimated amount of their Individual
10 Settlement Payment if they do not request to be excluded from the
11 Settlement and each Aggrieved Employee's share of the PAGA
12 Settlement, if any. The Settlement Administrator shall use the Class
13 Data to determine Class Members' Workweeks and PAGA Pay
14 Periods. The Notice will also advise the Aggrieved Employees that
15 they will release the Released PAGA Claims and will receive their
16 share of the PAGA Settlement regardless of whether they request to
17 be excluded from the Settlement.
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19
20

- 21 b) The Notice Packet's mailing envelope shall include the following
22 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
23 ENTITLED TO PARTICIPATE IN A CLASS ACTION
24 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
25 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
26 NOTICE."
27
28

1 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
2 the Settlement Administrator will perform a search based on the National
3 Change of Address Database to update and correct any known or identifiable
4 address changes. No later than fourteen (14) calendar days after receiving the
5 Class Data from Defendant, the Settlement Administrator shall mail and email
6 copies of the Notice Packet to all Class Members via regular First-Class U.S.
7 Mail and electronic mail. The Settlement Administrator shall exercise its best
8 judgment to determine the current mailing address for each Class Member.
9 The address identified by the Settlement Administrator as the current mailing
10 address shall be presumed to be the best mailing address for each Class
11 Member.
12 Member.

13
14 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
15 Administrator as non-delivered on or before the Response Deadline shall be
16 re-mailed to any forwarding address provided. If no forwarding address is
17 provided, the Settlement Administrator shall promptly attempt to determine a
18 correct address by lawful use of skip-tracing, or other search using the name,
19 address and/or Social Security number of the Class Member involved, and
20 shall then perform a re-mailing, if another mailing address is identified by the
21 Settlement Administrator. In addition, if any Notice Packets, which are
22 addressed to Class Members who are currently employed by Defendant, are
23 returned to the Settlement Administrator as non-delivered and no forwarding
24 address is provided, the Settlement Administrator shall notify Defendant.
25 Defendant will request that the currently employed Class Member provide a
26 corrected address and transmit to the Administrator any corrected address
27 corrected address and transmit to the Administrator any corrected address
28 corrected address

provided by the Class Member. Class Members who received a re-mailed Notice Packet shall have their Response Deadline extended fifteen (15) days from the original Response Deadline.

5. Disputes Regarding Individual Settlement Payments or Aggrieved Employee Payments. Class Members will have the opportunity, should they disagree with Defendant's records regarding the number of Workweeks or PAGA Pay Periods to provide documentation and/or an explanation to show contrary information. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

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

7. Exclusions. The Notice of Class Action Settlement contained in the Notice Packet shall state that Class Members who wish to exclude themselves from the Settlement must submit a signed copy of the request for exclusion by the

1 Response Deadline. The written request for exclusion must state that the Class
2 Member wishes to exclude themselves from the Settlement and (1) must
3 contain the name, address, and the last four digits of the Social Security
4 number of the person requesting exclusion; (2) must be signed by the Class
5 Member; and (3) must be postmarked or fax stamped by the Response
6 Deadline and returned to the Settlement Administrator at the specified address
7 or fax telephone number. The request for exclusion will not be valid if it is
8 not timely submitted, if it is not signed by the Class Member, or if it does not
9 contain the name and address and last four digits of the Social Security number
10 of the Class Member. The date of the postmark on the mailing envelope or
11 fax stamp on the request for exclusion shall be the exclusive means used to
12 determine whether the request for exclusion was timely submitted. Any Class
13 Member who submits a timely request for exclusion shall be excluded from
14 the Settlement Class will not be entitled to an Individual Settlement Payment
15 and will not be otherwise bound by the terms of the Settlement or have any
16 right to object, appeal or comment thereon. However, any Class Member that
17 submits a timely request for exclusion that is also a member of the Aggrieved
18 Employees will still receive his/her pro rata share of the PAGA Settlement, as
19 specified below, and in consideration, will be bound by the Release by the
20 Aggrieved Employees as set forth herein. Settlement Class Members who fail
21 to submit a valid and timely request for exclusion on or before the Response
22 Deadline shall be bound by all terms of the Settlement and any final judgment
23 entered in this action if the Settlement is approved by the Court. No later than
24 fourteen (14) calendar days after the Response Deadline, the Settlement
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1 Administrator shall provide counsel for the Parties with a final list of the Class
2 Members who have timely submitted timely request for exclusion. At no time
3 shall any of the Parties or their counsel seek to solicit or otherwise encourage
4 members of the Class to submit Requests for Exclusion from the Settlement.
5

- 6 8. Objections. The Notice of Class Action Settlement contained in the Notice
7 Packet shall state that Class Members who wish to object to the Settlement
8 may submit to the Settlement Administrator a written statement of objection
9 (“Notice of Objection”) by the Response Deadline. The postmark date of
10 mailing shall be deemed the exclusive means for determining that a Notice of
11 Objection was served timely. The Notice of Objection must be signed by the
12 Settlement Class Member and state: (1) the case name and number; (2) the
13 name of the Settlement Class Member; (3) the address of the Settlement Class
14 Member; (4) the last four digits of the Settlement Class Member’s Social
15 Security number; (5) the basis for the objection; and (6) if the Settlement Class
16 Member intends to appear at the Final Approval/Settlement Fairness Hearing.
17 Class Members who fail to make objections in writing in the manner specified
18 above may still make their objections orally at the Final Approval/Settlement
19 Fairness Hearing with the Court’s permission. Settlement Class Members will
20 have a right to appear at the Final Approval/Settlement Fairness Hearing to
21 have their objections heard by the Court. At no time shall any of the Parties
22 or their counsel seek to solicit or otherwise encourage Class Members to file
23 or serve written objections to the Settlement or appeal from the Order and
24 Final Judgment. Class Members who submit a written request for exclusion
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1 may not object to the Settlement. Class Members may not object to the PAGA
2 Settlement

3
4 N. Funding and Allocation of the Gross Settlement Amount. Defendant is required to pay
5 the Gross Settlement Amount on or before the Funding Date, plus any employer's
6 share of payroll taxes as mandated by law within the time specified herein.

7
8 1. Calculation of Individual Settlement Payments. Individual Settlement
9 Payments shall be paid from the Net Settlement Amount and shall be paid
10 pursuant to the formula set forth herein. Using the Class Data, the Settlement
11 Administrator shall add up the total number of Workweeks for all Class
12 Members. The respective Workweeks for each Class Member will be divided
13 by the total Workweeks for all Class Members, resulting in the Payment Ratio
14 for each Class Member. Each Class Member's Payment Ratio will then be
15 multiplied by the Net Settlement Amount to calculate each Class Member's
16 estimated Individual Settlement Payments. Each Individual Settlement
17 Payment will be reduced by any legally mandated employee tax withholdings
18 (e.g., employee payroll taxes, etc.). Individual Settlement Payments for Class
19 Members who submit valid and timely requests for exclusion will be
20 redistributed to Settlement Class Members who do not submit valid and timely
21 requests for exclusion on a pro rata basis based on their respective Payment
22 Ratios.

23
24
25 2. Calculation of Aggrieved Employee Payments. Using the Class Data, the
26 Settlement Administrator shall add up the total number of PAGA Pay Periods
27 for all Aggrieved Employees during the PAGA Period. The respective PAGA
28

1 Pay Periods for each Aggrieved Employee will be divided by the total PAGA
2 Pay Periods for all Aggrieved Employees, resulting in the PAGA Payment
3 Ratio for each Aggrieved Employee. Each Aggrieved Employee's PAGA
4 Payment Ratio will then be multiplied by \$4,000 to calculate each Aggrieved
5 Employee Payment.
6

7 3. Allocation of Individual Settlement Payments. For tax purposes, Individual
8 Settlement Payments shall be allocated and treated as follows: 20% as wages
9 ("Wage Portion") and 80% as penalties and interest ("Non-Wage Portion").
10 The Wage Portion is subject to wage withholdings and shall be reported on
11 IRS Form W-2. The Non-Wage Portion shall not be subject to wage
12 withholdings and shall be reported on IRS Form 1099.
13

14 4. Allocation of Aggrieved Employee Payments. For tax purposes, Aggrieved
15 Employee Payments shall be allocated and treated as 100% penalties and shall
16 be reported on IRS Form 1099.
17

18 5. No Credit Toward Benefit Plans. The Individual Settlement Payments and
19 individual shares of the PAGA Settlement made to Settlement Class Members
20 and/or Aggrieved Employees under this Settlement Agreement, as well as any
21 other payments made pursuant to this Settlement Agreement, will not be
22 utilized to calculate any additional benefits under any benefit plans to which
23 any Class Members may be eligible, including, but not limited to profit-
24 sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans,
25 sick leave plans, PTO plans, and any other benefit plan. Rather, it is the
26 Parties' intention that this Settlement Agreement will not affect any rights,
27
28

1 contributions, or amounts to which any Class Members may be entitled under
2 any benefit plans.

3
4 6. All monies received by Settlement Class Members under the Settlement which
5 are attributable to wages shall constitute income to such Settlement Class
6 Members solely in the year in which such monies actually are received by the
7 Settlement Class Members. It is the intent of the Parties that Individual
8 Settlement Payments and individual Aggrieved Employee Payments provided
9 for in this Settlement agreement are the sole payments to be made by Defendant
10 to Settlement Class Members and/or Aggrieved Employees in connection with
11 this Settlement Agreement, with the exception of Plaintiffs, and that the
12 Settlement Class Members and/or Aggrieved Employees are not entitled to any
13 new or additional compensation or benefits as a result of having received the
14 Individual Settlement Payments and/or their shares of the PAGA Settlement.
15

16
17 7. Mailing. Individual Settlement Payments and Aggrieved Employee Payments
18 shall be mailed by regular First-Class U.S. Mail to Settlement Class Members'
19 and/or Aggrieved Employees last known mailing address no later than fifteen
20 (15) calendar days after Funding Date.
21

22 8. Expiration. Any checks issued to Settlement Class Members and Aggrieved
23 Employees shall remain valid and negotiable for one hundred and eighty (180)
24 days from the date of their issuance. If a Settlement Class Member and/or
25 Aggrieved Employee does not cash his or her settlement check within 90 days,
26 the Settlement Administrator will send a letter to such persons, advising that
27 the check will expire after the 180th day, and invite that Settlement Class
28

1 Member and/or Aggrieved Employee to request reissuance in the event the
2 check was destroyed, lost or misplaced. In the event an Individual Settlement
3 Payment and/or Aggrieved Employee's individual share of the PAGA
4 Settlement check has not been cashed within one hundred and eighty (180)
5 days, all funds represented by such uncashed checks, plus any interest accrued
6 thereon, shall be transmitted to the Controller of the State of California to be
7 held pursuant to the Unclaimed Property Law, California Civil Code § 1500
8 *et seq.*, in the names and corresponding amounts associated with each Class
9 Member and/or Aggrieved Employee whose check(s) are cancelled.
10

- 11
- 12 9. Class Representative Service Awards. In addition to the Individual Settlement
13 Payment and their individual share of the PAGA Settlement to be paid to
14 Plaintiffs, Plaintiffs will apply to the Court for an award of not more than
15 \$10,000.00 each, as the Class Representative Service Awards. Defendant
16 does not presently intend to oppose Class Representative Service Awards of
17 not more than \$10,000.00 for each Plaintiff. In the event the Court reduces or
18 does not approve of the requested Service Award payments, Plaintiffs shall
19 not have the right to revoke the settlement and it will remain binding. Plaintiffs
20 each retain the right to appeal any denial of a requested Service Award. The
21 Settlement Administrator shall pay the Class Representative Service Awards,
22 either in the amount stated herein if approved by the Court or some other
23 amount as approved by the Court, to Plaintiffs from the Gross Settlement
24 Amount no later than fifteen (15) calendar days after the Funding Date. Any
25 portion of the requested Class Representative Service Awards that are not
26 awarded to the Class Representatives shall be part of the Net Settlement
27
28

1 Amount and shall be distributed to Settlement Class Members as provided in
2 this Agreement. The Settlement Administrator shall issue an IRS Form 1099
3 — MISC to Plaintiffs for their Class Representative Service Awards.
4 Plaintiffs shall be solely and legally responsible to pay any and all applicable
5 taxes on their Class Representative Service Awards and shall hold harmless
6 the Defendant from any claim or liability for taxes, penalties, or interest
7 arising as a result of the Class Representative Service Awards. The Class
8 Representative Service Awards shall be in addition to Plaintiffs' Individual
9 Settlement Payment as a Settlement Class Member. Approval of this
10 Settlement shall not be conditioned on Court approval of the requested amount
11 of the Class Representative Service Award. In the event that the Court reduces
12 or does not approve the requested Class Representative Service Award,
13 Plaintiffs shall not have the right to revoke the Settlement, and it will remain
14 binding.
15
16

- 17
18 10. Class Counsel Award. Defendant understands a motion by Class Counsel for
19 attorneys' fees not to exceed one-third of the Gross Settlement Amount
20 currently estimated to be \$124,166.66 plus costs and expenses supported by
21 declaration not to exceed Twenty Thousand Dollars (\$20,000), from the Gross
22 Settlement Amount will be filed. Any portion of the requested Class Counsel
23 Award that is not awarded to Class Counsel shall be part of the Net Settlement
24 Amount and shall be distributed to Settlement Class Members as provided in
25 this Agreement. The Settlement Administrator shall allocate and pay the
26 Class Counsel Award to Class Counsel from the Gross Settlement Amount no
27 later than fifteen (15) calendar days after the Funding Date. Class Counsel
28

1 shall be solely and legally responsible to pay all applicable taxes on the
2 payment made pursuant to this paragraph. The Settlement Administrator shall
3 issue an IRS Form 1099 — MISC to Class Counsel for the payments made
4 pursuant to this paragraph. In the event that the Court reduces or does not
5 approve the requested Class Counsel Award, Plaintiffs and Class Counsel
6 shall not have the right to revoke the Settlement, or to appeal such order, and
7 the Settlement will remain binding.
8

- 9
- 10 11. PAGA Settlement. Sixteen Thousand Dollars (\$16,000) shall be allocated
11 from the Gross Settlement Amount to the “PAGA Settlement.” The
12 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
13 Settlement (\$12,000.00) to the California Labor and Workforce Development
14 Agency no later than twenty-five (25) calendar days after the Funding Date
15 (hereinafter “LWDA Payment”). Twenty-five (25%) of the PAGA Settlement
16 (\$4,000.00) will be distributed to the Aggrieved Employees as Aggrieved
17 Employee Payments as described in this Agreement. In the event that the
18 Court alters or otherwise does not approve the amount allocated to the PAGA
19 Settlement in this Agreement, the Parties agree that the Gross Settlement
20 Amount will not be affected and any additional amount attributed to the
21 PAGA Settlement will come from the Net Settlement Amount or any
22 reduction in the amount attributed to the PAGA Settlement will be added to
23 the Net Settlement Amount and Plaintiffs and Class Counsel shall not have
24 the right to revoke the Settlement, or to appeal such order, and the Settlement
25 will remain binding.
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12. Settlement Administration Costs. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Gross Settlement Amount. The estimate of the Settlement Administration Costs is \$5,000. The Settlement Administrator shall be paid the Settlement Administration Costs no later than fifteen (15) calendar days after the Funding Date.

O. Final Approval Motion. Class Counsel and Plaintiffs shall use best efforts to file with the Court a motion for order granting final approval and entering judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Awards, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs. Plaintiffs will provide Defendant with a draft of the motion at least three (3) business days prior to the filing of the motion to give Defendant an opportunity to propose changes or additions to the motion

1. Declaration by Settlement Administrator. No later than seven (7) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiffs' motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other

1 information as the Parties mutually agree or the Court orders the Settlement
2 Administrator to provide.

3
4 2. Final Approval Order and Judgment. Class Counsel shall present a proposed
5 order granting final approval of class action settlement to the Court for its
6 approval, and Judgment thereon, at the time Class Counsel files the Motion
7 for Final Approval.
8

9 N. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
10 an opportunity for Counsel for Defendant to review the motions for preliminary and
11 final approval, including the proposed order granting final approval of class action
12 settlement, and Judgment before filing with the Court. The Parties and their counsel
13 will cooperate with each other and use their best efforts to effect the Court's approval
14 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
15 Judgment.
16

17 O. Cooperation. The Parties and their counsel will cooperate with each other and use
18 their best efforts to implement the Settlement.
19

20 P. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Actions,
21 except such proceedings necessary to implement and complete the Settlement, pending
22 the Final Approval/Settlement Fairness Hearing to be conducted by the Court
23

24 Q. Amendment or Modification. This Agreement may be amended or modified only by
25 a written instrument signed by counsel for all Parties or their successors-in-interest.
26
27
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1 R. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
2 Agreement among these Parties, and no oral or written representations, warranties or
3 inducements have been made to any Party concerning this Agreement or its Exhibit
4 other than the representations, warranties and covenants contained and memorialized
5 in this Agreement and its Exhibit.
6

7 S. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
8 represent they are expressly authorized by the Parties whom they represent to negotiate
9 this Agreement and to take all appropriate action required or permitted to be taken by
10 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
11 documents required to effectuate the terms of this Agreement. The persons signing
12 this Agreement on behalf of Defendant represents and warrants that he/she is
13 authorized to sign this Agreement on behalf of Defendant. Plaintiffs represent and
14 warrant that they are authorized to sign this Agreement and that they have not assigned
15 any claim, or part of a claim, covered by this Settlement to a third-party.
16
17

18 T. No Public Comment: The Parties and their counsel agree that they will not issue any
19 press releases, initiate any contact with the press, respond to any press inquiry, or have
20 any communication with the press about the fact, amount or terms of the Settlement
21 Agreement. Class Counsel further agrees not to use the Settlement Agreement or any
22 of its terms for any marketing or promotional purposes. Nothing herein will restrict
23 Class Counsel from including publicly available information regarding this settlement
24 in future judicial submissions regarding Class Counsel's qualifications and experience.
25 Further, Class Counsel will not include, reference, or use the Settlement Agreement
26 for any marketing or promotional purposes, either before or after the Motion for
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1 Preliminary Approval is filed. Nothing herein or in the individual settlement
2 agreements between Plaintiff Desanctis and Defendant shall prevent Plaintiff
3 Desanctis from disclosing the terms of the individual settlement to the Court, upon the
4 Court's request, in an effort to seek and obtain approval of this Settlement.
5

6 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
7 to the benefit of, the successors or assigns of the Parties, as previously defined.
8

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

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

17 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
18 is a fair, adequate and reasonable settlement of these Actions and have arrived at this
19 Settlement after extensive arms-length negotiations, taking into account all relevant
20 factors, present and potential.
21

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

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

5
6 AA. No Unalleged Claims. Plaintiffs and Class Counsel represent that, except for Plaintiff
7 Desanctis's individual claims, which are covered in their individual settlement
8 agreement, they do not currently intend to pursue any claims against the Defendant,
9 including, but not limited to, any and all claims relating to or arising from Plaintiffs'
10 employment with Defendant, regardless of whether Class Counsel is currently aware
11 of any facts or legal theories upon which any claims or causes of action could be
12 brought against Defendant, including those facts or legal theories alleged in the
13 operative complaints in the Actions. The Parties further acknowledge, understand and
14 agree that this representation is essential to the Agreement and that this Agreement
15 would not have been entered into were it not for this representation.

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18 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
19 certification for purposes of this settlement only.

20
21 CC. No Admissions by the Parties. Plaintiffs have claimed and continue to claim that the
22 Released Claims have merit and give rise to liability on the part of Defendant.
23 Defendant claims that the Released Claims have no merit and do not give rise to
24 liability. This Agreement is a compromise of disputed claims. Nothing contained in
25 this Agreement and no documents referred to and no action taken to carry out this
26 Agreement may be construed or used as an admission by or against the Defendant or
27 Plaintiffs or Class Counsel as to the merits or lack thereof of the claims asserted. Other
28

1 than as may be specifically set forth herein, each Party shall be responsible for and
2 shall bear its/their own attorney's fees and costs.

3
4 DD. Confidentiality. Class Counsel agrees that it will not initiate or contact or have any
5 communications with putative Class Members during the Settlement approval process.
6 Nothing will prevent Class Counsel from responding to inquiries from putative Class
7 Members. For its part, Defendant agrees it shall not discourage putative Class
8 Members from participating in the Settlement and shall refer any questions to the
9 Claims Administrator. No public comment, communications to media, or any form of
10 advertising or public announcement (including social media) regarding the case shall
11 be made by Plaintiffs or Class Counsel at any time. Prior to filing of the Motions for
12 Preliminary and Final Approval, Class Counsel shall not discuss the terms of the
13 settlement or the negotiations leading to settlement with any person other than the
14 Plaintiffs and Class Administrator. Nothing herein or in the individual settlement
15 agreement between Plaintiff Desantis and Defendant shall prevent Plaintiff Desantis
16 from disclosing the terms of the individual settlement to the Court, upon the Court's
17 request, in an effort to seek and obtain approval of this Settlement.
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20 EE. Individual Settlement Agreement. The Parties have separately entered into an
21 individual settlement agreement and general release of Plaintiff Desantis derivative
22 individual claims (Case Number RCI-CM-827567) for damages and penalties that are
23 outside the scope of this Settlement. Plaintiff Desantis shall separately receive
24 payment from Defendant in accordance with a separate individual settlement
25 agreement, which shall be confidential, except to the extent that disclosure of such
26
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individual settlement agreement is necessary in order to secure the Court's approval of
this Agreement.

IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFFS:

DATED: Nov 21, 2022


Dino de Sanctis (Nov 21, 2022 16:20 PST)

DINO DESANCTIS

DATED: 12/20/2022


F450C92EF95944A...

TYRONE BARNES

IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:

DATED: _____

DOUGLAS PRODUCTS AND PACKAGING
COMPANY, LLC

Printed Name

Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: November 22, 2022

JCL LAW FIRM, A.P.C.

By: 

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: November 22, 2022

ZAKAY LAW GROUP, APLC

1 individual settlement agreement is necessary in order to secure the Court's approval of
2 this Agreement.
3

4 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFFS:
5

6 DATED: _____
7

DINO DESANCTIS

8 DATED: _____
9

TYRONE BARNES

10
11 IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANT:
12

13 DATED: _____
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15 
DOUGLASS PRODUCTS AND PACKAGING
COMPANY, LLC

16 Chris Bridgnell
17 Printed Name

18 Chief Financial Officer
19 Title

20 IT IS SO AGREED AS TO FORM BY COUNSEL:
21

22 DATED: _____
23

JCL LAW FIRM, A.P.C.

24 By: _____
25

Attorneys for Plaintiffs and the Settlement Class
Members

26
27
28 DATED: _____

ZAKAY LAW GROUP, APLC

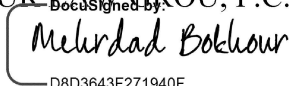
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By: 

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: 12/20/2022

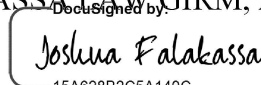
BOKHOUR LAW GROU, P.C.

By: 
_____D8D3643F271940F...

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: 12/20/2022

FALAKASSA LAW GIRM, APC

By: 
_____15A628B2C5A149C...

Attorneys for Plaintiffs and the Settlement Class
Members

DATED: _____

HUSCH BLACKWELL, LLP

By: _____

Attorneys for Defendant

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By: 

Attorneys for Plaintiffs and the Settlement Class
Members

BOKHOUR LAW GROU, P.C.

By: _____

Attorneys for Plaintiffs and the Settlement Class
Members

FALAKASSA LAW GIRM, APC

By: _____

Attorneys for Plaintiffs and the Settlement Class
Members

HUSCH BLACKWELL, LLP

By: 

Attorneys for Defendant

EXHIBIT A

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

*(Desanctis v. Douglas Products & Packaging, LLC, Contra Costa County Superior Court
Case No. C21-01874)*

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

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

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit pending in the Superior Court for the State of California, County of Contra Costa (the “Court”) has been reached between Plaintiffs Dino Desanctis (“Plaintiff *Desanctis*”) and Tyrone Barnes (“Plaintiff *Barnes*”) (collectively Plaintiffs”) and Defendant Douglas Products & Packaging, LLC, a Missouri Limited Liability Company (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

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

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

The “Class Period” is the period of time running from September 8, 2017 to May 23, 2022.

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

2. What is this class action lawsuit about?

On September 8, 2021, Plaintiff *Desanctis* filed a Complaint against Defendant in the Superior Court of the State of California, County of Contra Costa (“*Desanctis* Action”). Plaintiff *Desanctis* asserted claims that Defendant: (a) Violated California Business and Professions Code § 17200 *et seq.*; (b) Failed to pay overtime wages in violation of California Labor Code §§ 510, *et seq.*; (c) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512, and the applicable IWC Wage Order; (f) Failed to provide accurate and complete itemized wage statements in violation of California Labor Code § 226; (g) Failed to provide wages when due in violation of California Labor Code §§ 201, 202, and 203; and (h) Violations of the Private Attorney General Act at Labor Code Section 2698, *et seq.* On XX, Plaintiff *Desanctis* filed a First Amended Complaint incorporating the claims and factual allegations asserted Barnes Action as well as adding Tyrone Barnes as a named Plaintiff in the *Desanctis* Action.

On February 18, 2022, Plaintiff *Barnes* filed a Complaint against Defendant in the Superior Court of the State of California County of Contra Costa (“*Barnes* Action”). Plaintiff *Barnes* asserted claims that Defendant: (1) Failed to pay all minimum wages; (2) Failed to pay all overtime wages; (3) Meal Period Violations; (4) Rest Period Violations; (5) Wage Statement Violations; (6) Waiting Time Penalties; and (7) Unfair Competition.

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

On May 23, 2022, the Parties participated in an all-day mediation with David Rotman, Esq., an experienced mediator of wage and hour class actions. The mediation concluded with a settlement after both sides agreed to a Mediator’s proposal. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representative, and the law firms of JCL Law Firm, APC, Bokhour Law Group, P.C., and Zakay Law Group, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Three Hundred Seventy-Two Thousand Five Hundred Dollars (\$372,500) (the “Gross Settlement Amount”) to fund the settlement. The Gross Settlement Amount includes the payment of all Settlement Shares to Participating Class Members, Class Counsel’s attorneys’ fees and costs, Settlement Administration Expenses, the LWDA Payment, PAGA Shares, and the Class Representative Service Payments to the Plaintiffs.

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

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

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$5,000.00 for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Costs. Payment to Class Counsel of an award of a Class Counsel Fees Payment of no more than 1/3 of the Gross Settlement Amount (currently \$124,166.66) and a Class Counsel Litigation Expenses Payment of not more than \$20,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.
- Class Representative Service Payments. Class Representative Service Payments of up to Ten Thousand Dollars (\$10,000) to each Plaintiff, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook.
- PAGA Payment. A payment of \$16,000 relating to Plaintiffs' claim under the Private Attorneys General Act ("PAGA"), \$12,000.00 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$4,000.00 will be distributed to PAGA Employees as part of the Net PAGA Amount.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the LWDA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Settlement Class Members"). The Settlement Share for each Settlement Class Member will be calculated by dividing the Net Settlement Amount by the total number of workweeks for all Settlement Class Members that occurred during the Class Period and multiplying the result by each individual Settlement Class Member's workweeks that occurred during the Class Period. A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendant's records, a member of the class worked at least one-day during any such workweek.
- Calculation of PAGA Penalties Payments to PAGA Employees. The Net PAGA Amount shall be distributed to PAGA Employees irrespective of whether they exclude themselves or opt-out. The Net PAGA Amount will be divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period, and then taking that number and multiplying it by the number of pay periods worked by each respective Aggrieved Employee during the PAGA Period. "Aggrieved Employees" means all non-exempt employees who are or previously were employed by Defendant and performed work in California during the PAGA Period. The PAGA Period means the period between June 29, 2020 to May 23, 2022.

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

Tax Matters. 20% of each Settlement Share is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. 80% of each Settlement Share is allocated to interest, penalties and other non-wage payments, and no taxes will be withheld, and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment. In addition, no taxes will be withheld from the PAGA Penalties paid to Aggrieved Employees, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendant's counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

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

4. What Do I Release Under the Settlement?

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

Release by the Aggrieved Employees. Upon entry of final judgment and upon funding in full of the Gross Settlement Amount by Defendant, all Aggrieved Employees shall release all PAGA claims alleged in the operative complaint and Plaintiffs' PAGA notice(s) submitted to the LWDA which occurred during the PAGA Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendant's records reflect that you have << [redacted] >> Workweeks worked during the Class Period (September 8, 2017 to May 23, 2022).

Based on this information, your estimated Individual Settlement Payment is << [redacted] >>.

Defendant's records reflect that you have << [redacted] >> PAGA Pay Periods worked during the PAGA Period (June 29, 2020 to May 23, 2022).

Based on this information, your estimated Individual Aggrieved Employee is << [redacted] >>.

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

6. How can I get a payment?

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

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

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

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

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

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

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

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections may be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Desantis v. Douglas Products and Packaging Company, LLC, Contra Costa County Superior Court, Case No. C21-01874***. You may also object without submitting a written objection by appearing at the final approval hearing scheduled as described in Section 9 below.

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

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

The addresses for the Parties' counsel are as follows:

Class Counsel:

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

Class Counsel:

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

Counsel for Defendant:

Andrew J. Weissler
Husch Blackwell, LLP
190 Carondelet Plaza, Suite 600
St. Louis, MO 6315
Tel.: (314) 480-1500
Fax: (314) 480-1505
E-Mail: aj.weissler@huschblackwell.com

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

The Court will hold a Final Approval Hearing at **00:00 AM/PM on** , at the Contra Costa County Superior Court, Dept. 39, located at 725 Court Street, Martinez, CA 94553 before Judge Edward G. Weil. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

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

You may call the Settlement Administrator at 1-888-250-6810 or write to ***Desantis v. Douglas Products and Packaging Company, LLC, Contra Costa County Superior Court, Case No. C21-01874***, Settlement Administrator, c/o _____.

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

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed.
- In the event an Individual Settlement Payment and/or Individual Aggrieved Employee Payment has not been cashed within one hundred and eighty (180) days, all funds represented by such uncashed checks, plus any interest accrued thereon, shall be distributed consistent with California Code of Civil Procedure § 384 as follows: transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the names and corresponding amounts associated with each Class Member and/or Aggrieved Employee whose check(s) are cancelled.

EXHIBIT 2

EXHIBIT 3

Case Name: Desanctis v. Douglas Products

Thursday, May 26, 2022

Requesting Attorney:	Eddie Garcia
Requesting Attorney's E-mail:	EGarcia@jcl-lawfirm.com
ILYM Contact	Sean Hartranft
E-Mail	<u>Sean@ilymgroupclassaction.com</u>
Contact Number	949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

Opt-Out

ASSUMPTIONS	
Total Estimated Number of Class Members	52
Estimated Percentage of Undeliverable Mail	20%
NCOA	Yes
Certified Spanish Translation	No
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	1	\$150.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$325.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	4	\$480.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	0	\$0.00
Report Processing	Hourly	\$70.00	2	\$140.00
NCOA	Per Piece	\$25.00	1	\$25.00
Toll-Free Phone Support	Flat Fee	\$35.00	1	\$35.00
ILYM Group Static Website, Including Hosting	Flat Fee	\$750.00	1	\$750.00
Status Reports	Flat Fee	\$750.00	1	Waived

Subtotal \$1,500.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING

Initial Mailing, Fulfillment of Notices	Per Piece	\$2.50	52	\$130.00
USPS First Class Postage	Per Piece	\$0.55	52	\$28.60
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$3.00	10	\$31.20
Storage, Photocopies, Deliveries	Flat Fee	\$291.00	1	\$291.00

Subtotal \$480.80

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	2	\$300.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	2	\$250.00
Check, Stub & Release - Print & Mail (including W2 and/or 1099)**	Per Check	\$2.50	52	\$130.00
Check Mailing Postage	Per Piece	\$0.55	52	\$28.60
Reminder Mailing, Includes Postage	Per Piece	\$3.00	5	\$15.60
Preparation of Taxes	Hourly	\$120.00	5	\$600.00
Annual Filing of Tax Return	Per Year	\$750.00	1	\$750.00

***Additional Bank fees may apply*

Subtotal \$2,074.20

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	1	\$120.00
Declaration	Hourly	\$125.00	2	\$250.00

Subtotal \$470.00

Total Case Estimate: \$4,850.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. **Attached here to is Exhibit D:** ILYM hereby incorporates the attached Exhibit D into the terms and conditions herein and Exhibit D shall be a part of this agreement. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.