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on behalf of themselves and others similarly situated and aggrieved

[Additional Plaintiffs' Counsel listed on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

MARLENE ESTELA; JEANINE DANIELS;
AND LINDA WILLIAMS, individuals, on
behalf of themselves and others similarly
situated,

Plaintiffs,

vs.

PACIFIC DENTAL SERVICES, LLC, a
Delaware limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 37-2020-00010251-CU-OE-NC
(Consolidated with Orange County Case No.
30-2020-01140863-CU-OE-CXC)

CLASS ACTION

Assigned for All Purposes To:

Hon. Robert P Dahlquist

Dept.: N-29

**DECLARATION OF DAVID YEREMIAN
IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
STIPULATION OF SETTLEMENT OF
CLASS, COLLECTIVE, AND
REPRESENTATIVE ACTION**

*[Filed concurrently with Notice of Motion and
Motion; Memorandum of Points and Authorities;
Declarations of other Class Counsel and
Plaintiffs; and [Proposed] Order]*

Reservation #: 2503374

Date: June 3, 2022

Time: 1:30 p.m.

Department N-29

Original Complaint Filed: February 24, 2020

First Amended Complaint: May 26, 2020

Second Amended Complaint: February 7, 2022

1 *[additional Plaintiffs' counsel listing]*

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JEANINE DANIELS; LINDA WILLIAMS; and TIFFANIE LE
11 on behalf of themselves and others similarly situated

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I, David Yeremian, declare:

1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals. I am managing partner of David Yeremian & Associates, Inc., counsel for Plaintiffs Marlene Estela, Jeannie Daniels, Linda Williams, and Tiffanie Le (“Plaintiffs”), individually and on behalf of all other similarly situated and aggrieved employees of Defendant Pacific Dental Services, LLC (“Defendant”). I and our firm are referred to herein as Class Counsel, along with Walter Haines of United Employees Law Group, PC, Joshua S. Falakassa of Falakassa Law, P.C., and Mehrdad Bokhour of Bokhour Law Group, P.C.

2. I have personal knowledge of the facts herein and if called as a witness, I could and would competently testify. I have represented Plaintiffs Estela, Williams, and Daniels and the putative Class since the inception of this matter. I submit this Declaration in support of the Motion for Preliminary Approval, filed by Plaintiffs, on behalf of themselves and other similarly situated employees of Defendant and without opposition from Defendant, of the parties' Stipulation and Settlement of Class, Collective, and Representative Action ("Settlement Agreement"), true and correct copy of which is attached to this Declaration as **Exhibit A**. Also provided for the Court's approval is the Notice of Class Action Settlement ("Class Notice") at **Exhibit 1** to the Settlement.

20

3. My firm is well-qualified because of our experience, knowledge, and resources to act as counsel and represent Plaintiffs and the putative class in this action. My practice is exclusively focused on employment matters, with a substantial percentage devoted to litigating wage, hour, and working-conditions violations on a class-wide basis.

4. I graduated from UC Berkeley in 1997 and received my law degree and MBA from UCLA in 2001. I am a member of the Los Angeles County Bar Association and the California Employment Lawyers Association. I have been honored as a Super Lawyers Rising Star in 2009, 2010, 2012-2015. I have been named honored as a Super Lawyer since 2016.

1 5. I have been practicing law since 2003. Since 2007, I have focused almost
2 exclusively on representing employees, including in wage-and-hour class actions. During my
3 career I have represented employees in over 100 wage-and-hour class action lawsuits as lead or
4 co-lead counsel (including in the Central, Southern, Eastern and Northern Districts of California),
5 and I have obtained six and seven figure settlements against a range of defendants, including
6 Fortune 500 companies. These cases have involved the gamut of wage-and-hour claims, including
7 claims for failure to pay minimum wages, unpaid wages and overtime, failure to provide meal and
8 rest breaks, failure to reimburse necessary business expenses, inaccurate pay statements, failure to
9 pay timely wages—similar to claims at issue in the present matter.

10 6. I am experienced in prosecuting employment matters, particularly class actions. In
11 addition to the present case, I am also class counsel for dozens of other putative wage-and-hour
12 class-action lawsuits pending in various state and federal jurisdictions throughout California.

13 7. My extensive experience in litigating employment wage and hour matters has been
14 integral in identifying legal issues, evaluating the strengths and weaknesses of a case, and
15 generally negotiating fair and reasonable class action settlements. Practice in the narrow field of
16 wage and hour litigation requires skill and knowledge concerning the constantly evolving
17 substantive law (state and federal), as well as the procedural law of class action litigation. In this
18 action, I am fully equipped to use the skills and knowledge I have developed through more than a
19 decade of prosecuting and defending wage and hour class actions to fairly and adequately
20 represent the interests of the Class. Therefore, on the account of my resources, experience, and
21 knowledge, I am well qualified to act as class counsel and represent Plaintiffs and the putative
22 class members in this action.

23 8. In the last several years I have had several contested class cases certified. When
24 necessary we pursue cases on appeal. Owing to my experience, I am well-qualified to evaluate the
25 class claims in this action, to evaluate settlement v. trial and defenses raised. I have negotiated
26 over 100 class action settlements, including many involving the same issues presented in this case.
27 A selection of cases wherein I have served as lead or co-lead class counsel includes: *Galavis v.*
28 *Patina Restaurant Group, LLC* (LASC BC375225; class size approx. 10,000; co-lead counsel);

1 *Milford v. ADT Security Services, Inc.* (CACD CV08-2236; class size approx. 2,000; lead
2 counsel); *Carreon v. Wolfgang Puck Catering and Events, LLC* (LASC BC398569; class size
3 approx. 1,400; lead counsel); *Fluke v. RFG Oil, Inc.* (LASC BC403354; class size approx. 1,400;
4 lead counsel); *Urena v. Camachos Restaurant* (LASC BC365913; class size approx. 887; lead
5 counsel); *Smith v. Rio Rancho Pontiac GMC Buick Inc.* (LASC BC391187; class size approx. 860;
6 lead counsel); *Callela v. Dolce Group* (LASC BC364711; class size approx. 600; lead counsel);
7 *Vasquez v. The Hollywood Pig n Whistle LP* (LASC BC335075; class size approx. 600; lead
8 counsel); *Goldman v. Aorta Restaurant Operating LP* (LASC BC379688; class size approx. 300;
9 lead counsel); *Sink-Crilly v. Centex Homes* (CACD CV09-2476; class size approx. 250; lead
10 counsel); *Utley v. Cranbrook Partners Inc.* (LASC BC392813; class size approx. 200; lead
11 counsel); *Garcia v. California Credits Group* (LASC BC353213; class size approx. 160; lead
12 counsel); *Afanasyev v. Miller Infiniti, Inc.* (LASC BC350788; class size approx. 160; lead
13 counsel); *Morris v. Gymboree, Inc.* (LASC BC393270; class size approx. 150; lead counsel);
14 *Ortega v. AJC Sandblasting, Inc.* (LASC BC378806; class size approx. 140; lead counsel);
15 *Lulejyan v. Jim Falk Motors of Beverly Hills, Inc.* (LASC BC398459; class size approx. 72; lead
16 counsel); *Rylko v. The Griddle Café, Inc.* (LASC BC386126; class size approx. 70; lead counsel);
17 *Healy v. Siemens IT Solutions and Services, Inc.* (Santa Clara Superior Court 108CV113479; class
18 size approx. 60; lead counsel).

19 9. For purposes of this motion, the “Class Members” or “Settlement Class” is defined
20 as: “All current and former non-exempt employees employed by Defendant in the State of
21 California during the stipulated Class Period,” and the Class Period is February 24, 2016 through
22 and including the date of January 31, 2022. (Exhibit A, Settlement, ¶¶ I.H., I.I.). Similarly, the
23 PAGA Members are defined as: “All current and former non-exempt employees employed by
24 Defendant in the State of California during the period of February 24, 2019 through and including
25 the date of Preliminary Approval. (*Id.* at Settlement, ¶ I.U.). I do not believe that I have any
26 conflicts of interest with the Class or with the Class Representatives. I am not related to the Class
27 Representatives. I have not previously represented Defendant in any matter. I respectfully submit
28 that I and David Yeremian & Associates, Inc., along with our co-counsel Walter Haines of United

Employees Law Group, PC and Joshua S. Falakassa of Falakassa Law, P.C., and Mehrdad Bokhour of Bokhour Law Group, P.C., are well suited to act as Class Counsel in this action, and we have and will continue to vigorously represent the interests of the Class.

PROCEDURAL HISTORY AND BACKGROUND

10. Plaintiffs and the Class members and the other aggrieved employees worked for Defendant as Dental Hygienists and Dental Assistants and in other similar and related positions at Defendant's dental office locations throughout San Diego County and Southern California. Class members were assigned job responsibilities for assisting general and specialty dentists in performing both regular dental maintenance work and taking x-rays in support of various dental treatments and surgeries, preparing for procedures, assisting with procedures, and cleaning up after them and filling out required paperwork and providing post-operative care.

11. This class action was filed by Plaintiffs Marlene Estela, Jeannie Daniels, and Linda Williams on February 24, 2020 in San Diego County against Defendant. They filed a First Amended Complaint adding a Penalties Under the Private Attorneys General Act, Labor Code § 2698, et seq. ("PAGA") on May 26, 2020. On July 6, 2020, Defendant filed a Notice of Related Cases in this action regarding the case of *Tiffanie Le v. Pacific Dental Services, LLC*, Orange County Superior Court Case No. 30-2020-01140652-CU-OE-CXC ("the Le Action"). The parties agreed to file a consolidated complaint in this action, adding Tiffany Le as a named Plaintiff and incorporating the claims and allegations in the Le Action.

12. Plaintiffs then filed the operative Second Amended Consolidated Class Action Complaint on February 7, 2022 alleging the following thirteen causes of action against Defendant: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime Under Labor Code § 510; (3) Failure to Pay Wages Under the FLSA, 29 USC §§ 206, 207; (4) Meal Period Liability Under Labor Code § 226.7; (5) Rest-Break Liability Under Labor Code § 226.7; (6) Violation of Labor Code § 246; (7) Violation of Labor Code § 226(a); (8) Violation of Labor Code § 221; (9) Violation of Labor Code § 204; (10) Violation of Labor Code § 203; (11) Failure to Reimburse Necessary Business Expenditures Under Labor Code § 2802; (12) Violation of Business & Professions Code § 17200 et seq.; and (13) Penalties Under the Private Attorneys General Act,

1 Labor Code § 2698, *et seq.* (“PAGA”).

2 13. The Second Amended Consolidated Class Action Complaint (the “Consolidated
3 Complaint”) differs from the First Amended Complaint in that it added claims from the Le Action
4 and added Ms. Le as a Named Plaintiff and Class Representative in this action. It also added a
5 cause of action for failure to pay wages and overtime under the Fair Labor Standards Act, 29
6 U.S.C. §§ 201 *et seq.* and addressed other previously unalleged claims under the PAGA claim,
7 including, but not limited to, allegations regarding sick pay.

8 14. Plaintiffs served Defendant with the First Amended Complaint pursuant to a Notice
9 and Acknowledgment of Receipt, which Defendant signed and returned on May 26, 2020, and the
10 parties stipulated to continue the deadline for Defendant to file its responsive pleading to after
11 mediation completion. The parties attended early mediation on January 5, 2021 with Jeff Krivis,
12 Esq., after completing informal discovery, and following mediation arrived at agreed upon terms
13 to settle all of Plaintiffs’ claims in this action. The parties then executed a detailed Memorandum
14 of Understanding and worked to finalize the terms of their long form Settlement Agreement.

15 15. The parties appeared at a status conference with the Court on February 26, 2021,
16 and the Court did not set further dates given the parties’ representations they would be finalizing
17 their Settlement Agreement and seeking preliminary approval. Thereafter the parties continued
18 negotiations, with the assistance of the mediator, to refine and agree upon all material terms and
19 language. For example, they agreed to close the Class Period at January 31, 2022 and negotiated
20 additional funds to account for additional employees encompassed under the Class after
21 mediation. The parties’ counsel also worked together to agree upon consolidating the Le action
22 into this one and to the claims and allegations in the operative Consolidated Complaint, as
23 addressed above. The parties have finalized their Settlement Agreement, and set the earliest
24 hearing date available upon doing so.

25 16. To facilitate approval of the Settlement as to the PAGA claims, Class Counsel will
26 be submitting the Settlement Agreement to the LWDA concurrently with the filing of this motion
27 pursuant to Labor Code § 2699(1)(2), and can provide proof of submission in advance of the
28 motion for preliminary approval hearing should the Court wish to receive it.

1 17. Plaintiffs were generally scheduled to work at least eight hour shifts, for five days a
2 week and more as required, but have alleged they worked more hours than their scheduled shifts
3 and they were paid. Plaintiffs claim they were required to arrive early to prepare for their work
4 shifts and prepare for the scheduled procedures, and would often have to wait to log onto or wait
5 to access the computer system to clock in. At the end of work shifts, Plaintiffs have also alleged
6 they were expected to stay through completion of their last procedure, and then clean up the
7 treatment room after it was completed, and they were then also expected to complete all required
8 paperwork for the shift or the last procedure they assisted. If this was after their scheduled shift
9 end times, Plaintiffs have asserted they were expected to clock out at or near their scheduled end
10 time and then return to working to complete all daily assignments while off the clock.

11 18. Plaintiffs further alleged this unpaid off the clock work, including that incurred
12 before shift start times, also impacted when employees should have been paid at the applicable
13 hourly overtime rate, as they began incurring overtime later than they should have during a work
14 shift. The Consolidated Complaint also alleges class members were not paid all wages they were
15 owed as they were forced to work off-the-clock in part due to demanding job requirements and
16 Defendant's managers contacting them on their personal cellular phones at various times both on
17 and off duty regarding work and scheduling requirements. Defendant also relied on sending text
18 messages to and calling Plaintiffs and the Class members to daily scheduling issues and regarding
19 other work related matters. Plaintiffs have claimed this practice resulted in further off the clock
20 work and failure to reimburse business expenses. Plaintiffs Daniels and Estela also asserted they
21 were not reimbursed for all mileage they should have been and they were unlawfully required to
22 deduct excessive commute miles.

23 19. Plaintiffs further alleged Defendant paid employees bonuses which were tied
24 directly to the daily performance of their assigned dental facilities and were non-discretionary.
25 However, Defendant failed to include the bonus payments for all regular hours worked in their
26 calculation of the applicable hourly rate used to pay overtime. Plaintiffs also alleged Defendant
27 followed a policy of failing to pay all Paid Time Off ("PTO") accrued by the employees and not
28 paying for their Sick Days accrued and incurred either at all or in a timely manner, including as

1 required under Labor Code § 227.3 and Labor Code § 245 *et seq.*

2 20. The Consolidated Complaint further alleges that meal periods were often not
3 provided at all during a work shift, as work and production demands and management pressure
4 required employees to work through breaks. Even when Plaintiffs and the Class members were
5 able to take a meal period, it was often provided after the first five hours of a work shift, or was
6 provided for less than the required 30 minutes or was otherwise interrupted by work duties.
7 Plaintiffs also asserted rest breaks were not scheduled, as Defendant's policy was not to provide
8 them, and management did not emphasize the requirement to provide at least one ten minute duty-
9 free rest period for each four hour duty period, or major fraction thereof.

10 21. Plaintiffs also have asserted derivative claims for failure to provide accurate wage
11 statements, failure to pay all wages upon separation from employment, unlawful deductions,
12 unfair competition, and for civil penalties and wages under the PAGA. The Collective claims
13 under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") focus on the unpaid regular
14 and overtime wage claims under the FLSA, 29 USC §§ 206, 207, and are limited to those FLSA
15 claims held be the members of the Settlement Class in this action. (Exhibit A, Settlement, ¶¶ I.B.,
16 I.J., I.E.E.).

17 22. Defendant contend in response that, among other things, it has complied at all times
18 with all applicable laws and asserts that Plaintiffs and the Class Members were properly
19 compensated for all time worked, and otherwise treated at all times in compliance with all
20 applicable laws. Defendant also asserted that all Class Members signed valid and enforceable
21 arbitration agreements that included waivers of class proceedings, and therefore the class claims
22 were of negligible value. Defendant also asserted that the Class members were employed at
23 various different offices throughout California that followed their own unique policies and
24 practices and there was no common evidence of uniform violations under commonly applied
25 policies to permit class certification. Defendant has concluded that any further defense of this
26 litigation would be protracted and expensive for all parties, and would require substantial
27 investment of Defendant's time, energy, and resources unless this Settlement is approved.
28

INVESTIGATION AND DISCOVERY

23. Before filing the lawsuit, Class Counsel investigated and researched the facts and circumstances underlying the pertinent issues and the law applicable thereto. This required thorough discussions and interviews between Class Counsel and Plaintiffs, as well as preliminary research into the various legal issues involved in the case, after conducting their initial investigation. Class Counsel determined that Plaintiffs' claims were well-suited for class action adjudication based on what appeared to be a common course of conduct affecting a similarly situated group of employees.

24. After filing the lawsuit and in advance of the mediation, Class Counsel conducted a thorough investigation of the facts and claims giving rise to the action, including: (1) conducting informal discovery and meeting and conferring with defense counsel about same; (2) reviewing and analyzing time and pay records as well as employment related policies; (3) Plaintiffs' personnel file and other documentation; (4) interviewing Plaintiffs and potential Class members; (5) researching the applicable law and potential defenses; (6) constructing damage models based on interpretations of California law; and (7) reviewing information and class data and numbers provided by Defendant in response to discovery and in advance of the mediation.

25. The Class enumerated in this action is ascertainable because the Class Members may be readily identified by reference to Defendant's records, and Defendant has agreed to share the information from these records with the Settlement Administrator in order to identify and contact the Class members during the administration process. Defendant's records at the time of the mediation reflected approximately 3,564 Class members. Given the time following mediation and following further discovery and records review, the parties agreed to cut the Class Period off at January 31, 2022, and Defendant has reported the estimated number of Class members is now **7,104**. This number will be confirmed following preliminary approval filing when Defendant provides the Class list to the Administrator (i.e. ILYM Group, Inc.). To provide baseline data points for the liability exposure analysis, Defendant disclosed these Class members worked approximately 95,667 semi-monthly pay periods during the relevant period of February 19, 2019 through mediation. (Exhibit A, Settlement, ¶ I.U.).

1 26. Defendant vigorously contested liability, the amount of claimed damages, and the
2 propriety of class certification, especially given the arbitration agreements. After Class Counsel
3 analyzed the relevant documents and other gathered data, and completed its review and analysis,
4 Class Counsel believed that this case was appropriate for resolution *via* mediation. Given the high
5 level of risk present for both sides, the parties elected to mediate Plaintiffs' claims and explore the
6 possibility of settlement.

7 27. Upon agreeing to schedule mediation, and leading up to their agreement, the parties
8 conducted informal discovery and exchanged details regarding the claims and defenses and the
9 items Plaintiffs believed were required to file a motion for class certification or a motion for
10 summary judgment for the PAGA claim and to complete a constructive and meaningful mediation.
11 This data, along with counsel's analysis of it and conclusions drawn from it, also permitted Class
12 Counsel to objectively assess the strength and weaknesses of the PAGA and class-wide claims and
13 to appropriately and realistically value them. This also allowed the parties to focus with the
14 mediator on valuing the claims and addressing their merits, or lack thereof, rather than trying to
15 establish the salient numbers necessary to meaningfully estimate potential liability and penalty
16 exposure to Defendant. The produced data and class numbers also included the number of
17 employees separated from February 24, 2019 through mediation (1,652) and the average hourly
18 pay rate (\$18.63/hr). Given the 95,667 semi-monthly pay periods, counsel also estimated there
19 were 191,334 work weeks from February 24, 2019 forward.

20 28. The parties participated in a private mediation session with a respected class action
21 mediator, Jeff Krivis, Esq., on January 4, 2021. The parties and mediator worked to arrive at the
22 general terms for resolving this action, subject to Court approval, and the parties' counsel began
23 working on the Memorandum of Understanding ("MOU").

24 29. From Class Counsel's review of the facts, strengths, and weaknesses of the case,
25 the risks and delays posed by further litigation, and Class Counsel's own prior litigation
26 experience, Class Counsel believes that the recovery for each Class Member is fair and reasonable
27 taking into consideration the amounts received in other wage and hour class actions, the risks
28 inherent in litigation of this genre, and the reasonable tailoring of each class member's claim to the

1 settlement award he or she will receive. Further, and based on the settlement negotiations, which
2 were extensive and conducted in good faith and at arm's length between attorneys with substantial
3 experience litigating class actions and wage and hour cases, the Settlement Agreement was the
4 product of a non-collusive settlement process in which the parties made significant compromises
5 in the interest of reaching a full and complete settlement of the lawsuit.

6 **SUMMARY OF SETTLEMENT**

7 30. The parties have executed their Settlement Agreement attached hereto and
8 incorporated herein as **Exhibit A**. Defendant has agreed to settlement on a non-reversionary basis,
9 such that Defendant will pay the entirety of the agreed upon total settlement amount, referred to as
10 the "Class Settlement Amount," of \$1,500,000.00. The Class Settlement Amount includes
11 Attorneys' Fees of up to one-third of the Class Settlement Amount (i.e., \$500,000.00) and Class
12 Counsel costs (up to \$15,000.00), Settlement and Claims Administration Costs to ILYM Group,
13 Inc. (\$42,500.00), the PAGA Settlement Amount for the alleged civil penalties (\$20,000.00), and
14 the Class Representative Enhancement Payments to each of the four named Plaintiffs (i.e.
15 \$10,000.00 each for a total of \$40,000.00), along with the remaining funds to pay all individual
16 settlement payments to the Settlement Class Members. In addition to the Class Settlement
17 Amount, Defendant will be responsible for any employer payroll taxes required by law, which
18 they will pay separately from the Class Settlement Amount. (Exhibit A, Settlement, ¶¶ I.C., I.D.,
19 I.E., I.K., I.L.). The PAGA Settlement Amount portion of the Class Settlement Amount will total
20 \$20,000.00, which pursuant to the PAGA includes the LWDA Payment of \$15,000.00 (75%) and
21 \$5,000.00 (25%) of the PAGA Settlement Amount will be included in the Net Settlement Amount
22 to be paid to the PAGA Members. (Exhibit A, Settlement, ¶¶ I.Q., I.U, VI.6, VII.7).

23 31. The "Net Settlement Amount" is the Class Settlement Amount less Court-approved
24 Settlement and Claims Administration Costs (up to \$42,500.00), Attorneys' Fees of up to one-
25 third of the Class Settlement Amount (i.e. \$500,000.00), and Costs (up to \$15,000.00), the Class
26 Representative Payments (\$40,000.00 total), and the 75% LWDA Payment portion of the PAGA
27 Settlement Amount (i.e. \$15,000.00). (Exhibit A, Settlement, ¶¶ I.R.).

32. Each Class Member who does not opt out will be entitled, provisionally, to a share of the Net Settlement Amount, and these Individual Settlement Payments will be a fixed proportional amount of the Net Settlement Amount per workweek. (Exhibit A, Settlement, ¶¶ I.EE, VIII.8 and 8(a)-(b)).

33. The “Class Members” or “Class” is defined as: “All current and former non-exempt employees employed by Defendant in the State of California during the stipulated Class Period,” and the Class Period is February 24, 2016 through and including the date of January 31, 2022. (Exhibit A, Settlement, ¶¶ I.H., I.I.). The PAGA Members are similarly defined as: “All current and former non-exempt employees employed by Defendant in the State of California during the period of February 24, 2019 through and including the date of Preliminary Approval. (*Id.* at Settlement, ¶ I.U.).

34. If the Court approves all requested allocations and awards above, the Net Settlement Amount is estimated to be **\$887,500.00**. For the approximately **7,104** estimated Settlement Class Members (if no exclusions), the average gross individual settlement payment, using a straight average, is **\$124.93**. Any amounts not approved by the Court as a Class Representative Payment, or Attorneys’ Fees and Costs, or Settlement and Claims Administration costs or for the PAGA claim will be added back to the Net Settlement Amount to be distributed to the Settlement Class Members who are Class participants. (Settlement, ¶¶ I.C, I.E.). The parties have selected ILYM Group, Inc. as the Settlement Administrator. (Exhibit A, Settlement, ¶¶ I.D., I.E.; *see also* Exhibit 1 thereto, Class Notice).

35. Calculation of Individual Settlement Payments: Each Class Member who fails to opt out will be entitled, provisionally, to a share of the Net Settlement. Individual Settlement Payments will be calculated and apportioned from the Net Settlement Amount based on the number of workweeks a Class Member worked for Defendant in California during the Class Period. (Exhibit A, Settlement, ¶¶ 8, 8(a), 8(b), 9-10).

36. All Individual Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual Settlement Payment will be allocated as wages and eighty percent (80%) will be allocated as non-wage penalties. The Claims Administrator will issue a check and W-

2 Form to each Class Member for the wage component. No withholding shall be made on the penalty portions of the gross Individual Settlement Payment. The Claims Administrator will issue a second check and IRS Form-1099 for the remaining penalty component. The Claims Administrator shall be responsible for issuing the payments and calculating and withholding all required state and federal taxes. (Exhibit A, Settlement, ¶ XII.25).

37. The back of the Settlement Payment Check will include printed language informing Class Members they are opting-into the Settlement for the purposes of releasing the FLSA collective claims. The back of each Individual Settlement Payment received by a participating Class member will state, immediately below the space where the check is to be endorsed by the payee: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understand, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the *Marlene Estela, et al. v. Pacific Dental Services, LLC*, San Diego County Superior Court Case No. 37-2020-00010251-CU-OE-NC, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” (Exhibit A, Settlement, ¶ I.EE.).

38. The “Effective Date” is the date on which the Final Award becomes final. The Final Award “becomes final” only after the Court grants the Motion for Final Approval and upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Order Granting Final Approval (this time period shall not be less than seventy (70) calendar days after the Court’s Order is entered); (ii) the date of affirmance of an appeal of the Order Granting Final Approval becomes final under the California Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final Approval or the final dismissal of any proceeding on review of any court of appeal decision relating to the Order Granting Final Approval. (Exhibit A, Settlement, ¶ I.M.). Individual Settlement Payments will be paid from the Net Settlement Amount pursuant to the settlement formula above, and will be mailed by the Settlement Administrator within 29 days after the Effective Date of final approval of the Settlement. (Exhibit A, Settlement, ¶ II.1.).

1 39. Any checks issued by the Claims Administrator to Class Members will be
2 negotiable for 180 calendar days. After 180 calendar days from the date of mailing, the checks will
3 become null and void, and any monies remaining in the distribution account will be distributed to
4 the Controller of the State of California to be held pursuant to the Unclaimed Property Law,
5 California Civil Code § 1500 *et seq.*, for the benefit of those Settlement Class members who did
6 not cash their checks until such time that they claim their property. The parties agree that this
7 disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the
8 entire Net Settlement Amount will be paid to Settlement Class members, whether or not all checks
9 are cashed. (Exhibit A, Settlement, ¶ XI.23).

10 40. Released Claims by Class Members: Upon the Final Approval by the Court of the
11 Settlement Agreement, and except as to such rights or claims as may be created by the Settlement
12 Agreement, the Class Members will fully release and discharge the Released Parties from any and
13 all Class Released Claims for the entire Class Period. This release will be binding on all Class
14 Members who have not timely submitted a valid and complete Request for Exclusion, including
15 each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem,
16 heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have
17 no further or other liability or obligation to any Class Member with respect to the Class Released
18 Claims, except as expressly provided herein. (Exhibit A, Settlement, ¶¶ XIV.29, I.J.).

19 41. The Class Released Claims include all claims for unpaid wages, including failure to
20 pay minimum wages, straight time compensation, overtime compensation, double-time
21 compensation, and interest; the calculation of the regular rate of pay; meal period and rest period
22 premiums, including failure to pay premiums at the regular rate of compensation; payment for all
23 hours worked, including off-the-clock work; failure to pay sick leave, including at the regular rate
24 of pay; wage statements; failure to keep accurate records; failure to reimburse business expenses;
25 unlawful deductions; failure to timely pay wages; unfair business practices related to the Released
26 Claims; penalties, including civil penalties, statutory penalties, recordkeeping penalties, wage
27 statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys’ fees and
28 costs; all claims related to the Class Released Claims arising under: the California Labor Code

(including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 246.5, 247, 247.5, 248, 248.5, 249, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 2802, 2926, and 2927), the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (“PAGA”); California Business and Professions Code section 17200, *et seq.*; the FLSA, 29 U.S.C. § 201 *et seq.*; and federal common law. This release excludes the release of claims not permitted by law. (Exhibit A, Settlement, ¶¶ XIV.29, I.J., I.A.A.).

42. Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Class Released Claims include any and all claims the Class Members may have under the FLSA arising under or related to the alleged claims during the Class Period. Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Class Released Claims, which are extinguished and precluded pursuant to *Rangel v. PLS Check Cashers of California, Inc.*, 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law. As set forth in Section I.EE. of the Settlement and addressed above, there will be language printed on the reverse of each Settlement Payment Check opting into the FLSA collective and releasing those FLSA claims. (Exhibit A, Settlement, ¶ I.J.).

43. The settlement amount was a compromise figure, factoring in the inherent risks related to certification, liability and damages. However, considering all of the circumstances of the action and the defenses raised by Defendant against certification, liability and damages, Class Counsel believes that the settlement is fair and reasonable. Notice of the Settlement Agreement will be provided to the Class Members in the form of the **Class Notice** attached to the Settlement Agreement as **Exhibit 1**. (See Exhibit A, Settlement, Class Notice at Exhibit 1 thereto). The Class Notice includes a summary of the case and settlement terms and provides Class Members with instructions on how to exclude themselves, dispute the amount of workweeks, and object to the

1 settlement. The Class Notice mailed to all Class Members will advise each of their right to opt-out
2 of the Settlement Agreement by requesting exclusion. Any Settlement Class Member who wishes
3 to opt-out from the Settlement Agreement must submit a Request for Exclusion, in writing to the
4 Settlement Administrator postmarked no later than the Response Deadline, which is forty-five (45)
5 days from the date of mailing of the Class Notice. (Exhibit A, Settlement, ¶¶ I.B.B., I.C.C.). The
6 Settlement Agreement and Class Notice provide further details on the procedures for opting out of
7 the Settlement. The “Notice Packet” the Administrator will mail to the Class members includes the
8 Class Notice and Individual Settlement Payment calculations, to include workweek information,
9 and a Request for Exclusion form. (Exhibit A, Settlement, ¶ I.V.).

10 44. The Class members may also object to the Settlement by submitting a Notice of
11 Objection. For the Notice of Objection to be valid, it must include the objector’s full name,
12 signature, address, and telephone number, and a written statement of all grounds for the objection
13 accompanied by legal support, if any, for such objection. The Notice of Objection must be
14 returned by mail or fax to the Claims Administrator at the specified address or facsimile number,
15 and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax
16 receipt confirmation will be the exclusive means to determine whether a Notice of Objection has
17 been timely submitted. (Exhibit A, Settlement, ¶ I.T.). The Settlement provides further details on
18 the objections and the procedures for the parties to respond to them. (*Id.*).

19 45. Disputes. Class Members will have an opportunity to dispute the information
20 provided in their Notice Packets. To the extent Class Members dispute the number of workweeks
21 to which they have been credited or the amount of their Individual Settlement Payment, Class
22 Members may produce evidence to the Claims Administrator showing that such information is
23 inaccurate. (Exhibit A, Settlement, ¶ I.T.). Absent competent evidence rebutting Defendant’s
24 records, Defendant’s records will be presumed determinative, and the Settlement provides further
25 details on the dispute and response procedures. (*Id.*).

26 **STRENGTH OF PLAINTIFFS’ CASE BASED ON THE SETTLEMENT AMOUNT**

27 46. Because the Class consists of numerous employees across different offices, it was
28 unlikely that the potential monetary claims of individual Class members would have proved viable

1 without the class-action mechanism. The Settlement should be approved in light of two California
2 appellate decisions: *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785 and
3 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116.

4 47. The strength of the Plaintiffs' case in light of the settlement amount is deemed by
5 courts to be the "most important." *Clark v. American Residential Services, LLC* (2009) 175
6 Cal.App.4th 785, 799 (citing *Kullar*). Here, Plaintiffs allege that Defendant failed to provide
7 proper meal and rest breaks or provide premium pay in lieu thereof, failed to pay all wages and
8 overtime, failed to provide accurate wage statements, failed to pay minimum wages and overtime,
9 and failed to pay all wages upon termination, all in violation of California law. Plaintiffs seeks
10 related violations of California's Business & Professions Code, and penalties pursuant to Labor
11 Code § 2698 *et seq.* The merits of each of these claims will be addressed separately below.

12 **Failure to Pay Regular Wages and Overtime**

13 48. Plaintiffs alleged that Defendant failed to pay all wages owed, including by
14 requiring off the clock work before and after scheduled shift times and by California Labor Code
15 § 1197 prohibits "Pay of Less Than Minimum Wage" and states, "[t]he minimum wage for
16 employees fixed by the commission is the minimum wage to be paid to employees, and the
17 payment of a less wage than the minimum so fixed is unlawful." Plaintiffs further alleged that
18 when Defendant required off the clock work, Plaintiffs and the Class members were not being paid
19 for all hours worked, including the time they were under Defendant's "control," such as when
20 performing pre-shift and post-shift tasks or when responding to work requirements while off the
21 clock. Generally, employees must be paid for the time they are working or are "subject to the
22 control of" an employer. *See, Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 582
23 ("*Morillion*"). Defendant argued that these claims were not suitable for class treatment, they did
24 not require off the clock work, they correctly calculated and paid overtime wages under California
25 law. Defendant again asserted arbitration agreements signed by Class members included class
26 action waivers, which would dramatically reduce estimated liability.

27 49. Plaintiffs estimated the Class members endured approximately 5 minutes of off the
28 clock work per work shift, including in the manner described above. From Defendant's numbers

1 through mediation, the Class members had worked 95,667 pay periods , which equated to
2 approximately 191,331 work weeks and 478,336 work weeks. We estimated the regular rate for
3 employees during this period averaged \$18.63/hr and \$27.95 at the overtime rate. As shifts
4 generally were scheduled for at least 8 hours, off the clock work would have been paid at the
5 overtime rate. This resulted in the following estimated liability exposure on the wage claims for
6 failure to pay all regular and overtime wages for all hours worked: 478,336 work shifts x 5
7 min/shift x 1 hour/60 min. x \$27.95/hr = \$1,114,124.26. We also estimated \$851,232.88 in
8 unpaid overtime for alleged miscalculation and using an estimated one hour per week. Thus,
9 Plaintiffs estimated a total estimate liability exposure through mediation of \$1,965,357.14.

10 **Meal Periods and Rest Breaks**

11 50. Plaintiffs alleged the California Class Members were required to work through their
12 meal periods, nor were they afforded the opportunity to take uninterrupted meal periods in
13 accordance with Cal. Labor Code § 512. Moreover, Plaintiffs alleged that what meal periods the
14 California Class Members did receive were often for less than 30 minutes or were interrupted or
15 otherwise “on duty” due to work requirements and demands from customers or doctors, or were
16 provided after five hours into a work shift or not at all when work shifts extended beyond ten
17 hours, all in violation of Labor Code and applicable Wage Orders. Plaintiffs also argued that
18 second meal periods were not provided on shifts over ten hours.

19 51. For each meal period allegedly missed, of less than 30 minutes, or taken late for
20 which the employee was not provided a reasonable opportunity to take a complete and timely meal
21 period, an employer must pay the employee an additional one hour of compensation. Labor Code
22 §226.7. This additional hour of compensation is referred to as “premium pay.” To comply with
23 these laws, every employer must keep, for each employee, accurate time records showing when
24 the employee begins and ends each work period and takes his or her meal periods.

25 52. Plaintiffs alleged that Defendant consistently failed to provide timely and
26 uninterrupted and complete meal breaks to class members by exerting control over them by
27 requiring them to respond to work requirements and provide customers and dentists with services.
28 Moreover, Plaintiffs alleged that what meal periods the California Class Members did receive

1 were often untimely, all in violation of Labor Code and applicable Wage Orders.

2 53. Defendant maintained that during the relevant period, Defendant regularly provided
3 Plaintiffs and other employees opportunities to take compliant meal breaks and that they
4 maintained lawful meal break policies. Defendant also again contended that differences in how the
5 various employees performed their daily duties and work schedules at their work sites would have
6 led to individualized issues predominating and would have defeated class certification.

7 54. Defendant's numbers, and a conservative estimate of one meal period violation per
8 work week (i.e. a violation rate of approx. 20%), the following calculation for estimated meal
9 period liability resulted: 191,334 work weeks x 1 violations/week x \$18.64/violation =
10 \$3,566,465.76.

11 55. As for rest periods, Plaintiffs alleged Defendant's policy also did not permit
12 Plaintiffs and the Class members to leave Defendant's premises during rest periods they were able
13 to take. Plaintiffs alleged that Class members were and are under Defendant's control when they
14 are required by policy to respond to job requirements and demands at the expense of their breaks,
15 and an employer cannot impose any restraints on employees not inherent in the rest period
16 requirement itself, including preventing them from leaving the premises during breaks. Plaintiffs
17 alleged that Defendant has provided either impermissibly restricted or shortened or untimely meal
18 and rest breaks to Plaintiffs and the Class members. Plaintiffs also alleged that they and the Class
19 members missed breaks due to job demands and had their breaks regularly interrupted by work
20 requirements or were asked to respond to text messages or calls to address work issues and
21 requirements.

22 56. From the data and numbers provided by Defendant, and using a 20% violation rate
23 for rest periods, the calculated exposure was determined as follows similar to meal periods:
24 191,334 work weeks x 1 violations/week x \$18.64/violation = \$3,566,465.76.

25 **Inaccurate Wage Statement Violations**

26 57. Under Labor Code § 226(a), Plaintiffs and the Class are entitled to recover \$50 for
27 initial violations for inaccurate wage statements and \$100 for subsequent violations, up to a
28 maximum of \$4,000 per employee. Plaintiffs alleged Defendant issued wage statements to

1 Plaintiffs and the Class members that did not accurately list all hours worked by omitting off the
2 clock work and inaccurately listing applicable hourly rates, including for Defendant's alleged
3 failure to include bonuses in the regular rate calculation for overtime.

4 58. Defendant challenged Plaintiffs' claim for Labor Code § 226(e) penalties, including
5 by arguing they were merely derivative of the other claims that lacked merit, and Plaintiffs' failure
6 to prove the underlying claims could result in the dismissal of these derivative claims. Defendant
7 also argued that it did not knowingly and intentionally commit these alleged violations. *See, e.g.,*
8 Labor Code § 226(e) (recovery of penalties requires showing there was "a knowing and intentional
9 failure by an employer").

10 59. From Defendant's numbers, the Class members in the one year SOL for Section
11 226 claims worked a total of 95,667 pay periods, and the following calculation resulted: The 226
12 penalty was calculated by first using the number of pay periods in the 1-year SOL and estimating a
13 violation every other pay period (i.e. 47,834 pay periods). Defendant also argued there were no
14 "subsequent" violations because it was not on notice of the initial violations, and Plaintiffs
15 therefore calculated Section 226 exposure by presuming there were no subsequent violations.
16 From there, Plaintiffs' calculation was \$50 each wage statement issued every other pay period, i.e.
17 (47,834 pay periods x \$50/pay period) for a total of \$2,391,675.00 in estimated liability.

18 **Failure to Pay Final Wages at Termination or Separation**

19 60. In allegedly failing to pay the Class Members their minimum wages, overtime
20 wages, and premium pay for deficiently provided meal periods and rest breaks, all discussed
21 above, Plaintiffs alleged that Defendant willfully failed to pay these the California Class Members
22 all wages due and certain at the time of termination or within seventy-two (72) hours of
23 resignation, as required under Labor Code § 203.

24 61. Section 203 further provides that if an employer willfully fails to pay an employee
25 all wages due at termination or within 72 hours of resignation, then that employee's wages shall
26 continue as a penalty until paid for a period of up to thirty (30) days from the date they were due.
27 Because class members stopped working for Defendant but again, allegedly were not paid their
28 full compensation for the reasons discussed above, Plaintiffs alleged that Class members did not

1 receive all wages due upon termination of employment.

2 62. Defendant challenged this claim under Labor Code § 203 with several arguments,
3 including that under Labor Code § 203, employers are only obligated to pay waiting-time penalties
4 if they “willfully” fail to pay wages due and owing at the time of termination or resignation. As
5 Title 8, California Code of Regulations, § 13520 states: “A willful failure to pay wages within the
6 meaning of Labor Code Section 203 occurs when an employer intentionally fails to pay wages to
7 an employee when those wages are due. However, a good faith dispute that any wages are due will
8 preclude imposition of waiting time penalties under Section 203.” Defendant argued its good faith
9 disputes and lack of willfulness would excuse its violations. Defendant maintained that because it
10 had viable defenses in both law and fact, especially in light of the *Brinker* holding, that waiting-
11 time penalties could not be awarded and, in any case, such penalties were subject to a three-year
12 limitations period under Labor Code § 203(b). Defendant also argued that there is no liability
13 under Labor Code § 203 for violations of meal and rest break requirements alone.

14 63. For the employees who departed from Defendant’s employment during the relevant
15 time period, Plaintiffs alleged that Defendant failed to provide all wages due to those employees at
16 the time of their termination or resignation. Therefore, Class Counsel argued waiting-time
17 penalties were triggered and employees are entitled to 30 days of wages at their regular rates of
18 pay. Defendant disclosed 1,652 total class members in the three-year SOL for Section 203 claims
19 at the time of mediation. We also conservatively figured Class members worked 8 hour shifts for
20 calculation purposes. The average regular hourly rate was \$18.63/hr, and the following calculation
21 resulted. The 203 penalty was calculated by multiplying the number of terminated employees in
22 the 3-year SOL by 30 days and by the average daily hours and by the average rate of pay as
23 follows: 1,652 former employees x 30 days x 8 hours/day x \$18.63/hr = \$7,386,422.40. Given
24 that the section 203 claims are derivative and argued in addition to damages for wage violations,
25 and in light of the arbitration agreements signed by the Class members waiving class claims, we
26 reduced the estimated liability exposure by 75% to \$1,846,605.60.

PAGA Penalties

64. The Labor Code Private Attorneys General Act, Labor Code § 2698 *et seq.*, allows Plaintiffs to obtain civil penalties on behalf of herself and other aggrieved employees for Defendant's violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to the affected employees. The limitations period as for all penalties is one year prior to the filing of the complaint.

65. The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 226(a), 226.3, 226.7, 510, and 1194. PAGA penalties are not mandatory, and are instead permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (substantially reducing PAGA penalties by 30% under this provision). Defendant contested Plaintiffs' claim for PAGA penalties.

66. PAGA penalties are also derivative of each and every other claim, and Defendant argued the PAGA claims would be subject to the same defenses as the underlying claims, and as well as additional equitable defenses, including substantial compliance. Finally, under *Amaral v. Cintas Corp.* (2008) 163 Cal.App.4th 1157, Defendant asserted that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendant had never been notified of the alleged violations. *Id.* at 1208-1209. Class counsel therefore calculated a representative PAGA penalty calculation for each type of violation as follows: 95,667 pay periods x \$100/pay period = \$9,566,700.00 per violation.

67. However, Class Counsel also estimated any PAGA recovery would be substantially reduced, and applied discounts in light of the countervailing arguments with regard to the other causes of action, and the Court’s power to award “a lesser amount than the maximum civil liability.” The PAGA Settlement Payment allocation agreed upon by the parties therefore is \$20,000.00, subject to the Court’s final approval, of which 75% of that amount (\$15,000.00) will be paid to the LWDA out of the Class Settlement Amount, and the remaining 25% (\$5,000.00) will become part of the Net Settlement Amount for distribution to participating Settlement Class Members. (Exhibit A, Settlement, ¶ I.Q.). In the eventual overall allocation of funds from the Settlement, the parties determined to allocate more funds from the Class Settlement Amount to addressing the substantive alleged wage and hour violations rather than civil penalties for them in an effort to ensure the majority of the Net Settlement Amount is paid to the affected employee Class members rather than the LWDA.

Unfair Business Practices

68. Plaintiffs pled this cause of action in order to augment their other causes of action and aid in their prosecution. Business & Professions Code § 17208 extends the statute of limitations on Plaintiffs' wage claims, which qualify as unfair business practices, to four years rather than the three years provided by statute.

Summary

69. The foregoing discussion establishes why the settlement amount is adequate in light of the merits of Plaintiffs' case. It does so by explaining the legal basis for each of Plaintiffs' causes of action, summarizing the evidence that Class Counsel gathered in support of those causes of action, and relating to Defendant's legal and factual arguments that worked to detract from the strength of Plaintiffs' case.

70. Class Counsel had to apply appropriate discounts in light of the facts and law as discussed above. In addition, meal period liability and wage claim damages exposure is limited by the fact that not all class members worked on the same schedule and under the same supervisors or at the same offices, which would have made certification of all class members across all locations less than a certainty. Additionally, the rest break exposure is limited by the fact there are no

1 records of rest breaks taken by class members so all evidence would have to be testimonial.
2 Further, the existence of arbitration agreements signed by the Class members which include
3 presumably enforceable class action waivers would have compelled Defendant to move to dismiss
4 the Class claims and they would have been of negligible value. This settlement, like most others,
5 was the product of compromise and a realistic and practical assessment of litigation realities.

6 71. In light of the above described risks, and those inherent in any contested litigation,
7 a gross recovery of \$1,500,000.00 under the Settlement Agreement is an excellent result. If the
8 Court approves all requested allocations and awards above, the Net Settlement Amount is
9 estimated to be \$887,500.00. For the approximately 7,104 estimated Settlement Class Members (if
10 no exclusions), the average gross individual settlement payment, using a straight average, is
11 \$124.93. Therefore, by summarizing the potential liability exposure numbers estimated for
12 Plaintiffs' main claims as addressed above, Class Counsel estimated \$12,930,251.40 in potential
13 liability exposure to Defendant for Plaintiffs' main claims for damages and penalties.

14 72. The Gross Fund Value of \$1,500,000.00 therefore represents a recovery for the
15 Class members of approximately 11.60% of the total maximum liability exposure
16 (\$12,930,251.40) Plaintiffs estimated Defendant could face on these class-wide claims at the time
17 of mediation. Plaintiffs and Class Counsel submits this is an excellent result in the face of
18 uncertainty and the prospects of protracted and contested litigation through class certification,
19 summary judgment, and trial, and this is especially true in light of the arbitration agreements with
20 class waivers which would have required an unnecessary multiplicity of individual litigations to
21 otherwise resolve.

22 **THE RISK, EXPENSE, AND LIKELY DURATION OF FURTHER LITIGATION,**
23 **RISK OF MAINTAINING CLASS ACTION STATUS THROUGH TRIAL**

24 73. The next *Clark/Kullar* factors recognize that settlements take into consideration the
25 risks and expenses posed by further litigation and, in the class-action context, the risk of non-
26 certification. Consequently, it is proper that trial courts should keep these considerations in mind
27 when judging the adequacy of class action settlements.
28

1 74. Further litigation of this case posed real risks for a number of reasons. First, there
2 were the risks of unfavorable rulings on the merits of the various indeterminate legal issues
3 outlined in the previous section. Each of Plaintiffs' causes of action was subject to some unique
4 indeterminacy, and the derivative causes of action were doubly indeterminate on their own and
5 based on the claims from which they derive. The arbitration agreements and class waivers had to
6 be given paramount effect and application in the liability exposure considerations, along with the
7 challenges of certifying claims across many offices for employees working for different doctors
8 and under varying schedules. Defendant thus argued that Plaintiffs would be unable to satisfy the
9 commonality and manageability requirements for class proceedings.

10 75. The parties disputed the effect of these and other issues on class certification and
11 decertification. Class Counsel maintained that there were several legal and factual questions at
12 issue in the case that could best be decided on a class wide basis. Plaintiffs contended that the
13 same policies and practices applied to all class members and therefore common questions were
14 likely to predominate over individual inquiries, especially regarding off the clock work and meal
15 and rest break claims. After asserting these issues would never be reached in a class context in
16 light of the waivers, Defendant also disputed these contentions and argued individualized issues
17 would predominate in the putative class to preclude certification, as different facilities followed
18 different procedures and records evidenced compliance. Defendant also argued that its policies
19 were compliant with the law. Plaintiffs disputed that argument, asserting that the lawfulness of
20 such policies give rise to common questions amenable to certification. These disputes weighed in
21 favor of entering into this Settlement.

22 76. Finally, it is always preferable to reach a relatively early resolution of a dispute that
23 saves time and money that would otherwise go towards continuing contested litigation. If this case
24 ended up settling after further litigation, the settlement amount would have to account for the
25 additional costs incurred, and there likely would be less amounts available for Class members
26 when a settlement was finalized. This is not just an abstract contention. The parties were moving
27 into the phase of this litigation where they would have had to depose managers, supervisors, and
28 employees in order to establish class certification and then liability for trial. Continued calling to

1 Class members and gathering of Declarations would have continued in earnest. Potentially, there
2 would have been discovery disputes. The parties were also aware that a class action trial would be
3 a complicated and expensive proceeding, as well as the likelihood of a long, drawn-out appeal
4 process. The settlement provides real and tangible benefits for Class members in the immediate
5 future. The benefits of this Settlement are not insignificant for anyone, especially given the current
6 economic climate. Consequently, the risk and expense of further litigation outweighed the
7 potential benefit that might have otherwise been gained.

8 **NOTICE TO AND REACTION OF CLASS MEMBERS**
9 **TO THE PROPOSED SETTLEMENT**

10 77. It is premature to address this factor now, at the preliminary approval stage, but
11 some observations are in order. First, the notification procedure set out in the Settlement
12 Agreement (at Exhibit A) provides the greatest likelihood that each and every class member will
13 receive the Class Notice (the “Notice”), attached to the Settlement as Exhibit 1. Under the
14 Settlement, the Settlement Administrator (ILYM Group, Inc.) will send the Class Notice to each
15 class member via First Class U.S. mail. (Exhibit A, Settlement, ¶¶ IX.11-13). If any Notice
16 Packets are returned undeliverable, the Settlement Administrator will forward them to any address
17 appearing on the returned envelope or, if there is no forwarding address, perform a skip trace
18 before mailing them to any addresses thereby identified. (*Id.* at ¶ IX.14). This is the best and most
19 practicable way to ensure the greatest possible number of class members will receive the Notice.

20 78. The Class Notice itself fully apprises class members of the nature of the lawsuit,
21 the claims involved, the terms of the settlement, and their options thereunder. It provides for a
22 specific procedure to seek exclusion from the Class, and for lodging objections to the settlement or
23 challenging work weeks. (Exhibit A, Exhibit 1, Class Notice). In the Class Notice, Class members
24 will also receive Class Counsel’s contact information, so they can speak to attorneys conversant
25 with the legal and factual issues involved in this case, as well as the contact information for the
26 Settlement Administrator. The efforts taken to ensure that Class members receive the Class Notice
27 and are well informed about the settlement are reasonable and the best notice practicable under the
28 facts.

1 79. If a class member disputes the number of workweeks stated for that Class member
2 in the Class Notice, the Class member may ask the Settlement Administrator to resolve the matter
3 by submitting the pay periods that the Class member claims to have actually worked for Defendant
4 during the Class Period. (Exhibit A, Settlement, ¶ I.X.16). The Class member is able to submit all
5 supporting documentation he or she has. Defendant's records will have a rebuttable presumption
6 of correctness. After consultation with Class Counsel and Defendant's Counsel and providing time
7 for a response from them, the Settlement Administrator will make a determination of the class
8 member's individual work weeks during the applicable period, and if the parties do not agree, they
9 can turn to the Court for assistance in resolving any disagreement. (*Id.*).

10 **CONCLUSION AS TO THE CLARK/KULLAR ANALYSIS**

11 80. The foregoing discussion establishes the fairness of the class-action settlement in
12 the instant case, including by analyzing it in light of the *Clark* and *Kullar* decisions. This analysis
13 compels a conclusion that the settlement is fair, reasonable, and adequate. Class Counsel
14 conducted a thorough investigation of the subject wage-and-hour practices and engaged in non-
15 collusive, arm's-length negotiations in order to reach a settlement. Defendant has agreed to pay
16 fair value to settle Plaintiffs' claims given the existence of legal uncertainty. From Class Counsel's
17 substantial experience with wage-and-hour class action lawsuits, Class Counsel believes that this
18 case could not have settled on better terms under the circumstances. Request therefore is made that
19 the Settlement be granted preliminary approval so that those persons whom it was intended to
20 benefit will be afforded the opportunity to determine its adequacy for themselves.

21 **REQUEST FOR ATTORNEYS' FEES**

22 81. Under the Settlement, Class Counsel also requests, without opposition from
23 Defendant, an award of attorneys' fees and costs and expenses incurred in connection with the
24 prosecution of this action, and all of the work remaining to be performed by Class Counsel in
25 documenting the Settlement, securing Court approval of the Settlement, carrying out their duties to
26 see that the Settlement is fairly administered and implemented, and obtaining dismissal of the
27 Lawsuit, in an amount not to exceed 33.3% of the Class Settlement Amount (i.e. up to
28 **\$500,000.00**), and for an award of reasonable costs and expenses in an amount not to exceed

1 **\$15,000.00**, subject to approval by the Court. (Exhibit A, Settlement, ¶¶ I.C, I.F.). Class Counsel
2 on this consolidated action are David Yeremian & Associates, Inc.; United Employees Law
3 Group, P.C.; Falakassa Law, P.C.; and Bokhour Law Group, P.C.

4 82. This request is fair, reasonable, and adequate to compensate Class Counsel for the
5 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
6 the first place. The attorneys' fees award is intended to reimburse Class Counsel for all
7 uncompensated work that they have already done and for all the work they will continue to do in
8 carrying out and overseeing the notification to class members, communicating with class members
9 regarding their claims, and assisting in the administration of the settlement if it is preliminarily
10 approved.

11 83. My firm took this case on a contingent-fee basis against a business represented by a
12 reputable defense firm. When we take contingent cases, we must pay careful attention to the
13 economics involved or one bad case can destroy years of work. Accordingly, when we take
14 contingency cases, we anticipate that we will, if successful, receive a fee that exceeds our normal
15 hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the
16 number of hours in a day is limited. Because of this, when we take on one particular matter, we are
17 unable to take on all of the other matters we would otherwise be able to undertake. When Class
18 Counsel became involved in this case, we realized the time commitment that it would entail and
19 we were forced to turn down matters that we otherwise should have been able to handle. In sum,
20 this case claimed a significant portion of Class Counsel's time and attention throughout its
21 pendency.

22 84. The requested fees are reasonable for the services provided to Class Members and
23 for the benefits they are to receive. Indeed, even with a requested multiplier under the lodestar
24 theory, Class Counsel's fees will still be justified. Class Counsel will more fully brief the Court on
25 its lodestar in the motion for final approval. My hourly rate, approved before other Courts, has
26 been \$700 per hour, and I have increased it to \$750 per hour starting in 2020. Alvin B. Lindsay is
27 our firm's senior counsel, and his hourly rate has been consistently approved at \$700 starting in
28 2020. (See concurrently filed Declaration of Alvin B. Lindsay in support of Settlement Approval

1 (“Lindsay Decl.”)). These rates have now also been approved in several matters. Co-counsel
2 Walter Haines, Esq. of United Employees Law Group, P.C. is an extremely well-respected wage
3 and hour class action litigator, and has been practicing for many years, and will also provide a
4 supporting declaration in support of final approval and our fees and costs. (See concurrently filed
5 Declaration of Walter Haines in support of Settlement Approval (“Haines Decl.”)). Our firm
6 attorneys, paralegals, and staff have incurred substantial hours in prosecuting this action, and
7 counsel estimates that no lodestar multiplier will be necessary in cross-check to confirm the
8 reasonableness of the requested fee award. With the additional hours we will incur in taking this
9 action through preliminary approval, claims administration, and final approval, and the time
10 invested by other firm employees and our co-counsel, an award of full attorneys’ fees requested of
11 **\$500,000.00** is fair and reasonable, subject to further documentation and discussion in connection
12 with final approval.

13 85. Class Counsel’s Costs/Expenses reimbursement request at final approval will not
14 exceed fifteen thousand dollars (\$15,000.00). (Exhibit A, Settlement, ¶ I.C.). Counsel will provide
15 a detailed invoice of its costs at final approval, and will request only reimbursement of reasonably
16 incurred and documented costs specific to litigating this action. Any amounts not approved by the
17 Court as a Class Representative Payment, or Attorneys’ Fees and Costs, or Settlement and Claims
18 Administration costs or for the PAGA claim will be added back to the Net Settlement Amount to
19 be distributed to the Settlement Class Members who are Class participants. (Settlement, ¶¶ I.C,
20 I.E.). Through the filing of this motion, Class Counsel has incurred approximately \$9,124.61 in
21 litigation costs. While Class Counsel will incur additional costs in taking this action through
22 administration, final approval, disbursement, and post-distribution accounting, the total will likely
23 not exceed the \$15,000.00 requested. Class Counsel will submit costs and costs invoices in
24 connection with final approval.

25 **ENHANCEMENT TO PLAINTIFFS AS THE CLASS REPRESENTATIVES**

26 86. Plaintiffs herein are entitled to a reasonable service payment for their efforts and
27 initiative in bringing and helping to prosecute this action. Plaintiffs spent a considerable amount of
28 time better apprising themselves of their rights, deciding whether remedial action should be taken,

1 how it should be taken, searching for attorneys, and finally contacting Class Counsel, who spent
2 many hours with Plaintiffs discussing the case and the law. In the end, Plaintiffs decided to
3 vindicate not only their own rights but also those of their co-workers by filing a class action
4 lawsuit.

5 87. Subject to Court approval and in exchange for an individual general release and
6 their efforts in brining and prosecuting the claims in this action, and in addition to their Individual
7 Settlement Payments as a member of the Settlement Class, Plaintiffs will request in connection
8 with final approval and without opposition from Defendant, a Class Representative Enhancement
9 Payment of up to **\$10,000.00** each. (Exhibit A, Settlement, ¶ I.K.). Plaintiffs have also provided
10 Declarations in support of approval and the award of their enhancement payments in connection
11 with the present motion. (See concurrently filed Declarations of Marlene Estela (“Estela Decl.”),
12 Linda Williams (“Williams Decl.”) and Jeanine Daniels (“Daniels Decl.”) in support of Settlement
13 Approval).

14 88. By suing Defendant, Plaintiffs increased their risk of retaliation by not only
15 prospective employers, but also from Defendant. Plaintiffs’ lawsuit has now required Defendant to
16 expend considerable resources and has gained notoriety in the community and amongst Plaintiffs’
17 co-workers, and Plaintiffs justifiably fear the fact they served as a class representative in a wage
18 and hour class action will not be lost on a prospective employer who has to choose between an
19 applicant who has never sued a prior employer and one who has. Plaintiffs contends this risk is
20 particularly real in the information age, where employers can, more easily than ever, perform
21 background checks of prospective employees, sometimes with the stroke of a key.

22 89. But Plaintiffs did not allow their fears of the potential repercussions of being class
23 representatives deter them from acting for the benefit of Class Members. To the contrary,
24 Plaintiffs have been intimately involved in this case since its inception. They have devoted a
25 substantial amount of time to helping Class Counsel effectively develop and prosecute this action
26 at every stage of the litigation. Both before and after the filing of this lawsuit, Plaintiffs conferred
27 with Class Counsel on numerous occasions to discuss every aspect of this case. Plaintiffs provided
28 Class Counsel with information about Defendant and about the industry generally, reviewed

1 documents, identified witnesses, responded to many inquiries from fellow Class members about
2 the case and its status, consulted Class Counsel throughout the litigation at length, responded to
3 informal discovery inquiries and produced documents, participated in the mediation process,
4 monitored the progress of the litigation with Class Counsel, and reviewed and signed the
5 Settlement Agreements and provided their supporting declaration. Plaintiffs provide estimates of
6 the hours they have invested in this litigation. (Daniels Decl., ¶ 11 (41 hours); Estela Decl., ¶ 11
7 (38 hours); Williams Decl., ¶ 11 (45 hours)).

8 90. Plaintiffs spent a significant amount of time with Class Counsel detailing their
9 knowledge of Defendant's practices and helping Class Counsel with the prosecution of this action
10 and the identification of potential witnesses. Class Counsel and Plaintiffs submit they have
11 diligently, adequately, and fairly represented the Class Members, and have not placed their
12 interests above any member of the putative Class. The payments to Plaintiffs are intended to
13 recognize their time and effort on behalf of the Class. The amount requested is fair and appropriate
14 based on their contribution and involvement. The parties agree that Plaintiffs are entitled to an
15 enhancement for their time and effort in this matter and the separate and general releases they are
16 signing and the separate individual settlement agreements they have executed. This sort of
17 payment to a class representatives has been a common feature of settlements negotiated by Class
18 Counsel and has been routinely approved by trial courts. This is especially true when the Plaintiffs
19 and Class Representatives are also providing a general release broader than that of the Class
20 members.

21 91. In light of the foregoing, Plaintiffs and Class Counsel believe that the
22 Representative Enhancement Payments in the amount of \$10,000.00 to each Class Representative
23 is fair and reasonable. This amount is a far cry from the \$50,000 of enhancement awards to the
24 two named plaintiffs approved by the trial court in *Clark*. See *Clark, supra*, 175 Cal.App.4th at
25 807. Although Class Counsel appreciates the Court's duty to ensure that class representatives are
26 not overcompensated at the expense of the Class, modest incentive awards in employment class
27 actions, such as the one here, are necessary not only to compensate class representatives for the
28 time they spend in the case, but also, and more importantly, to encourage aggrieved employees to

1 challenge questionable employment practices notwithstanding the very real consequences they
2 may face.

3 **CRITERIA SATISFIED FOR CERTIFICATION OF SETTLEMENT CLASS**

4 92. Plaintiffs allege that the proposed Class satisfy the criteria for certification of a
5 settlement class under California law, as embodied in California Code of Civil Procedure § 382.
6 Defendant has agreed to the conditional certification of the class for settlement purposes only.
7 Defendant does not concede that certification is appropriate outside of this Settlement and
8 preserves all rights to oppose certification if, for any reason, the settlement does not become
9 effective. (Exhibit A, Settlement Agreement, ¶ X.V.30., X.V.I.I.47-48). In general, courts may
10 take a proposed settlement into account in evaluating the propriety of class certification. *See Dunk*
11 *v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1807 fn. 19. Indeed, a “lesser standard” of
12 scrutiny applies in certifying classes for settlement purposes. *Id.* Therefore the Court should take
13 into consideration the fact that the parties have settled their claims and stipulated to certification
14 for settlement purposes when assessing whether the Settlement is fair and reasonable.

15 93. Numerosity. The putative Class is so numerous that joinder of all members is
16 impractical. Class members are all current and former non-exempt employees of Defendant and
17 Defendant’s records establish 7,104 Class Members through the end of the Class Period on
18 January 31, 2022. There are a sufficient number of Class Members to warrant conditionally
19 certifying these proceedings as a class action for settlement purposes.

20 94. Ascertainability. Plaintiffs allege the putative Class is defined in a manner that is
21 precise, objective, and ascertainable. The 7,104 Class Members have already been identified by
22 reference to Defendant’s payroll and personnel records.

23 95. Typicality. A class representative’s claims are typical when they arise from the
24 same event, practice, or course of conduct that gives rise to the claims of other putative class
25 members, and if their claims rest on the same legal theories. The class representative’s claims
26 must be “typical” but not necessarily identical to the claims of other class members. It is sufficient
27 that the representative is similarly situated so that he or she will have the motive to litigate on
28 behalf of all class members. *Classen v. Weller* (1983) 145 Cal.App.3d 27, 47; *B.W.I. Custom*

1 *Kitchens v. Owens-Illinois, Inc.* (1987) 191 Cal.App.3d 1341, 1347 (“[I]t has never been the law in
2 California that the class representative must have identical interests with the class members.”). It is
3 unnecessary that class representative has personally incurred all of the damages suffered by each
4 of the other class members. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 228.

5 96. Plaintiffs allege their claims are typical of class members’ claims because they
6 arose from the same factual basis and are based on the same legal theories. Plaintiffs were
7 employed by Defendant during the Class Period subject to the allegedly unlawful meal and rest
8 policies and pay practices at issue in this litigation. Accordingly, Plaintiffs are members of the
9 Class. The central issues of this litigation (whether Defendant failed to provide meal periods and
10 rest breaks, whether off the clock work was required, whether Defendant paid employees for time
11 under its control or calculated overtime correctly, etc.), which would arise if this were an
12 individual action brought by Plaintiffs, apply to the other Class members as well, and the answers
13 to these questions would determine Defendant’s liability as to the entire putative Class. Plaintiffs
14 allege that their claims are typical of the claims of the putative Class, and that the typicality
15 requirement is satisfied.

16 97. Adequacy. A class representative must possess the same interest and suffer the
17 same injury as the class members. “To assure ‘adequate’ representation, the class representative’s
18 personal claim must not be inconsistent with the claims of other members of the class.” *J.P.*
19 *Morgan & Co., Inc. v. Sup.Ct. (Heliotrope General, Inc.)* (2003) 113 Cal.App.4th 195, 212. Thus,
20 the adequacy requirement is satisfied when the class representative’s interests are not antagonistic
21 to those of the class. *McGhee v. Crocker-Citizens Nat. Bank* (1976) 60 Cal.App.3d 442, 451.

22 98. Plaintiffs have no conflicts with the Class and their interests are aligned with those
23 of the Class. Plaintiffs allege their claims are identical to those that would be asserted by the
24 unnamed Class Members. Plaintiffs have every interest in zealously representing the unnamed
25 Class members. Plaintiffs have not shrunk from this responsibility. Indeed, Plaintiffs have devoted
26 a substantial amount of time and energy to litigating this action and effecting a settlement.
27 Furthermore, as detailed above, Class Counsel are experienced in wage-and-hour litigation,
28 especially class actions, and have zealously represented the interests of the class in litigating this

1 case. *See supra*, ¶¶ 3-9; *see also* Lindsay Decl. and Haines Decl. filed concurrently herewith.
2 Accordingly, the adequacy requirement is satisfied.

3 99. Commonality. Plaintiffs allege that common questions of law or fact in this case
4 predominate over individual questions. This action involves, *inter alia*, a determination about
5 Defendant's alleged failure to provide meal and rest periods, failure to pay all wages due to
6 allegedly common and unlawful policies, the resulting failure to pay final wages when required,
7 the failure to provide accurate paystubs, and largely derivative claims under the Business &
8 Professions Code and PAGA. Plaintiffs contend these practices, including an alleged practice of
9 failing to provide complete meal and rest periods, related meal and rest period policies applicable
10 to the class, an alleged systemic policy of off the clock work, and the alleged failure to provide
11 corresponding premium and overtime payments, that affected Class members in the same way. All
12 Class members were employed during the Class Period. Plaintiffs allege that the operative
13 Consolidated Complaint delineates a common course of conduct applicable to all Class members.
14 Therefore, based on Class Counsel's investigation, the review of the discovery produced by
15 Defendant, and their discussions with Plaintiffs, Plaintiffs contends the evidence supports their
16 position that the employment practices and policies of Defendant were consistent and uniformly
17 applied.

18 100. Predominance. Plaintiffs allege that individualized issues do not predominate over
19 the issues of law and fact that are common to the Class as a whole. Plaintiffs alleges that the
20 principal issues in controversy are whether Class Members were paid for all hours worked and
21 provided meal and rest breaks. As explained, *supra*, Plaintiffs allege there are common issues of
22 law and fact given that Plaintiffs and all Class Members were subjected to the same policies and
23 pay practices during the relevant time period. Plaintiffs and Class Members seek meal and rest
24 premiums, unpaid wages and overtime, and penalties for work performed as non-exempt
25 employees for Defendant. Plaintiffs allege that these issues are suitable for common adjudication
26 because all Class Members were allegedly subject to the same employment policies and Plaintiffs
27 contend the practices applied uniformly to all Class Members.

1 101. Superiority. Plaintiffs further allege that class resolution is superior to other
2 available methods for the fair and efficient adjudication of the controversy. There is little interest
3 or incentive for Class Members to individually control the prosecution of separate actions.
4 Although the alleged injury resulting from Defendant's policies and practices are allegedly real
5 and significant, the cost of individually litigating each such case against Defendant would easily
6 exceed the value of any relief that could be obtained by any one Class member individually. If
7 Class members are forced to litigate their claims individually this would result in over 7,000
8 individual actions against Defendant. Here, the alternative methods of resolution are individual
9 suits for relatively small amounts. Hence, an individual suit would prove uneconomical for
10 potential plaintiffs because litigation costs would dwarf a potential recovery.

11 102. Except for Plaintiffs' present case before this Court, Plaintiffs are unaware of any
12 other actions by Class Members against Defendant asserting similar claims. San Diego County and
13 North County are appropriate forums for this action given that Defendant employed Class
14 members at facilities here.

15 103. Plaintiffs allege there are no serious manageability difficulties presented by
16 preliminarily approving the case for settlement purposes. As this case will not go to trial if finally
17 approved, all that would remain is settlement and claims administration and responding to possible
18 objectors. Class Counsel respectfully submits the Settlement is within the range of reasonableness
19 to justify granting it preliminary approval so the parties can proceed with the sending the Class
20 Notice and administering the Settlement.

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct.

23 Executed 4th day of April 2022, at Glendale, California.

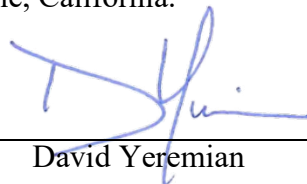
24 
25 _____
26 David Yeremian
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EXHIBIT A

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

MARLENE ESTELA; JEANNIE DANIELS;
and LINDA WILLIAMS, individuals, on
behalf of themselves and others similarly
situated,

Plaintiffs,

vs.

PACIFIC DENTAL SERVICES, LLC, a
Delaware limited liability company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 37-2020-00010251-CU-OE-NC
(Consolidated with Orange County Case No.
30-2020-01140863-CU-OE-CXC)

Assigned for All Purposes To:
Hon. Robert P. Dahlquist
Dept.: N-29

**STIPULATION AND SETTLEMENT OF
CLASS, COLLECTIVE, AND
REPRESENTATIVE ACTION**

Complaint Filed: February 24, 2020
FAC Filed: May 26, 2020
SAC Filed: February 7, 2022
Trial Date: None set.

1 Subject to final approval by the Court, which counsel and the Parties agree to
2 pursue diligently and recommend in good faith, Plaintiffs Marlene Estela (“Estela”), Jeannie
3 Daniels (“Daniels”), Linda Williams (“Williams”), and Tiffanie Le (“Le”) (collectively,
4 “Plaintiffs”), individually and on behalf of all others similarly situated and allegedly aggrieved
5 employees, on the one hand, and Defendant Pacific Dental Services, LLC (“Defendant”), on the
6 other hand (collectively, the “Parties” and individually, a “Party”), hereby agree to the following
7 binding settlement of the class, collective, and representative actions asserted in Marlene Estela, et
8 al. v. Pacific Dental Services, LLC, San Diego County Superior Court Case No. 37-2020-
9 00010251-CU-OE-NC (the “Action”), pursuant to the terms and conditions set forth herein (the
10 “Settlement,” “Settlement Agreement,” or “Agreement”). Upon the Effective Date, and the
11 payment by Defendant of all monies due under the Agreement, Plaintiffs shall file a Satisfaction of
12 Judgment with the Court.

13
14 **I. Definitions.**

15 The following definitions are applicable to this Settlement Agreement. Definitions
16 contained elsewhere in this Settlement Agreement will also be effective.

17 **A. “Action.”**

18 The civil action entitled Marlene Estela, et al. v. Pacific Dental Services, LLC, San
19 Diego County Superior Court Case No. 37-2020-00010251-CU-OE-NC, as amended.

20 **B. “Amended Complaint.”**

21 The Second Amended Consolidated Class Action Complaint entered in this action
22 on February 7, 2022 broadened the proposed class and group of allegedly aggrieved employees to
23 include all non-exempt employees working for Defendant in California during the statutory
24 period. It also added causes of action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*
25 (“FLSA”) to the extent that the FLSA overlaps with the Class Released Claims, and any and all
26 other claims/causes of action encompassed by the Class Released Claims and/or Plaintiffs’
27 Released Claims. The operative Second Amended Complaint also added Tiffanie Le as a named
28 plaintiff/class representative, and added any and all claims and causes of action that were asserted

1 in the civil action entitled Tiffanie Le v. Pacific Dental Services, LLC, Orange County Superior
2 Court Case No. 30-2020-01140652-CU-OE-CXC. Defendant agrees that it shall not seek removal
3 of the Action based on the addition of claims under the FLSA.

4 **C. “Attorneys’ Fees and Costs.”**

5 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class
6 Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class
7 Counsel in the Action, including, but not limited to, costs associated with documenting the
8 Settlement, providing any notices required as part of the Settlement or by Court order, securing the
9 Court’s approval of the Settlement, administering the Settlement, and securing dismissal of the
10 Action. Class Counsel will request attorneys’ fees in an amount not to exceed one-third (1/3) of
11 the Class Settlement Amount of \$1,500,000.00, which is a total amount of \$500,000.00, to be
12 allocated among Class Counsel at their discretion. The costs that Class Counsel will request to be
13 reimbursed will not exceed the total amount of \$15,000.00. The Attorneys’ Fees and Costs to be
14 awarded are subject to the Court’s approval. Such Attorneys’ Fees and Costs shall be paid from
15 the Class Settlement Amount. Should the Court not approve the requested Attorneys’ Fees and/or
16 Costs award(s), this Settlement Agreement shall remain valid and binding and any difference
17 between the requested Attorneys’ Fees and/or Costs award(s) and the actual award(s) shall be
18 allocated to the Net Settlement Amount. Defendant has agreed not to oppose Class Counsel’s
19 request for attorneys’ fees and reimbursement of costs and expenses as set forth in this Section
20 I.C. Attorneys’ Fees and Costs shall be paid from the Class Settlement Amount. Class Counsel
21 will be issued an IRS Form 1099 for the Attorneys’ Fees and Costs, and shall be solely and legally
22 responsible for paying all applicable taxes relating to or arising from any and all payments made
23 pursuant to this Section I.C.

24 **D. “Claims Administrator.”**

25 ILYM Group, Inc. shall be the third-party class action settlement claims
26 administrator as agreed to by the Parties and approved by the Court for the purposes of
27 administering this Settlement. The Parties each represent that they do not have any financial
28

1 interest in the Claims Administrator or otherwise have a relationship with the Claims
2 Administrator that could create a conflict of interest.

3 **E. “Claims Administration Costs.”**

4 The costs payable from the Class Settlement Amount to the Claims Administrator
5 for administering this Settlement, including, but not limited to, printing, distributing, and tracking
6 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
7 distributing the Class Settlement Amount, providing necessary reports and declarations, and other
8 duties and responsibilities set forth herein to process this Settlement Agreement, and as requested
9 by the Parties. The Claims Administration Costs will be paid from the Class Settlement Amount,
10 including, if necessary, any such costs in excess of the amount represented by the Claims
11 Administrator as being the maximum costs necessary to administer the Settlement. The Claims
12 Administrator and the Parties currently estimate that the Claims Administration Costs will be
13 \$42,500.00. To the extent that the Claims Administration Costs are greater than \$42,500.00, such
14 excess amount will be deducted from the Class Settlement Amount, subject to the Court’s
15 approval. The Claims Administration Costs will be paid no sooner than fifteen (15) calendar days
16 following the Effective Date.

17 **F. “Class Counsel.”**

18 David Yeremian & Associates, Inc.; United Employees Law Group, P.C.;
19 Falakassa Law, P.C.; and Bokhour Law Group, P.C. shall be appointed Class Counsel upon
20 approval by the Court.

21 **G. “Class List.”**

22 A complete list of all Class Members that Defendant will diligently and in good
23 faith compile from its records and provide to the Claims Administrator within fourteen (14)
24 business days after Preliminary Approval of this Settlement. The Class List will be formatted in a
25 readable Microsoft Office Excel spreadsheet, and will include each Class Member’s full name,
26 most recent mailing address, telephone number, Social Security number, dates of employment
27 (*i.e.*, hire date and termination date, if applicable), approximate number of workweeks, and any
28 other relevant information needed to calculate Individual Settlement Payments.

1 **H. “Class Member(s)” or “Settlement Class.”**

2 All current and former non-exempt employees employed by Defendant in the State
3 of California during the stipulated Class Period.

4 **I. “Class Period.”**

5 The period from February 24, 2016 through and including the date of January 31,
6 2022.

7 **J. “Class Released Claims.”**

8 As of the date of the Court granting Final Approval, all Class Members fully and
9 finally release the Released Parties (which as defined below specifically includes Defendant) from
10 any and all Class Released Claims. The Class Released Claims include all claims asserted in the
11 Action, arising from or related to the facts and claims alleged in the Action, or that could have
12 been raised in the Action based on the facts and claims alleged, as amended. The Class Released
13 Claims include all claims for unpaid wages, including failure to pay minimum wages, straight time
14 compensation, overtime compensation, double-time compensation, and interest; the calculation of
15 the regular rate of pay; meal period and rest period premiums, including failure to pay premiums
16 at the regular rate of compensation; payment for all hours worked, including off-the-clock work;
17 failure to pay sick leave, including at the regular rate of pay; wage statements; failure to keep
18 accurate records; failure to reimburse business expenses; unlawful deductions; failure to timely
19 pay wages; unfair business practices related to the Released Claims; penalties, including civil
20 penalties, statutory penalties, recordkeeping penalties, wage statement penalties, minimum-wage
21 penalties, and waiting-time penalties; and attorneys’ fees and costs; all claims related to the Class
22 Released Claims arising under: the California Labor Code (including, but not limited to, sections
23 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222,
24 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 246.5, 247, 247.5,
25 248, 248.5, 249, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12,
26 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 2802, 2926, and
27 2927), the Wage Orders of the California Industrial Welfare Commission; the California Private
28 Attorneys General Act of 2004 (“PAGA”); California Business and Professions Code section

1 17200, *et seq.*; the FLSA, 29 U.S.C. § 201 *et seq.*; and federal common law. This release excludes
2 the release of claims not permitted by law.

3 Class Members who timely cash or otherwise negotiate their Settlement Payment
4 Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those
5 Class Members, the Class Released Claims include any and all claims the Class Members may
6 have under the FLSA arising under or related to the alleged claims during the Class Period. Upon
7 entry of Judgment, Class Members are precluded from filing a wage and hour action under the
8 Fair Labor Standards Act against the Released Parties for claims and/or causes of action
9 encompassed by the Class Released Claims, which are extinguished and precluded pursuant to
10 Rangel v. PLS Check Cashers of California, Inc., 899 F.3d 1106 (2018). This release excludes the
11 release of claims not permitted by law. As set forth in Section I.EE., below, the following
12 language will be printed on the reverse of each Settlement Payment Check, or words to this effect:
13 “By endorsing or otherwise negotiating this check, I acknowledge that I read, understand, and
14 agree to the terms set forth in the Notice of Class Action Settlement, and I consent to join in the
15 Fair Labor Standards Act (“FLSA”) portion of Marlene Estela, et al. v. Pacific Dental Services,
16 LLC, San Diego County Superior Court Case No. 37-2020-00010251-CU-OE-NC, elect to
17 participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that
18 are covered by the Settlement.”

19 **K. “Class Representative Enhancement Payments.”**

20 The amount to be paid to Plaintiffs in recognition of their effort and work in
21 prosecuting the Action on behalf of Class Members and for their general release of claims.
22 Subject to the Court granting Final Approval of this Settlement Agreement, Plaintiffs will request
23 Court approval of Class Representative Enhancement Payments of up to \$10,000.00 each to
24 Estela, Daniels, Williams, and Le. Should the Court not approve the requested Class
25 Representative Enhancement Payment(s), this Settlement Agreement shall remain valid and
26 binding and any difference between the requested Class Representative Enhancement Payment(s)
27 and the actual award(s) shall be allocated to the Net Settlement Amount. Each of the Plaintiffs
28 will be issued an IRS Form 1099 in connection with their Class Representative Enhancement

1 Payments, and shall be solely and legally responsible for paying any and all applicable taxes
2 relating to or arising from such payments. Each of the Plaintiffs shall indemnify, defend, and hold
3 harmless the Released Parties from and against any claim or liability for taxes, penalties, or
4 interest arising from or relating to the Class Representative Enhancement Payments. The Class
5 Representative Enhancement Payments will be paid from the Class Settlement Amount, will be in
6 addition to Plaintiffs' Individual Settlement Payments, and are conditioned on the execution of a
7 stand-alone settlement agreement and general release of claims. Defendant makes no
8 representations as to the tax treatment or legal effect of the Class Representative Enhanced
9 Payments, and Plaintiffs are not relying on any statement or representation by Defendant or its
10 counsel in that regard.

11 **L. "Class Settlement Amount."**

12 The total amount of no more than \$1,500,000.00 to be paid by Defendant in full
13 satisfaction of all claims asserted in, arising from, or related to the Action, as amended, or that
14 could have been raised in the Action based on the facts and claims alleged. The Class Settlement
15 Amount includes all Individual Settlement Payments to Class Members (including Plaintiffs), the
16 Class Representative Enhancement Payments to Plaintiffs, the Claims Administration Costs to the
17 Claims Administrator, the LWDA Payment, and the Attorneys' Fees and Costs. Defendant will be
18 responsible for any employer payroll taxes required by law, separate and in addition to the Class
19 Settlement Amount, including the employer FICA, FUTA, and SDI contributions on the wage
20 portion of the Individual Settlement Payments.

21 **M. "Effective Date."**

22 The date on which the Final Award becomes final. For purposes of this Section,
23 the Final Award "becomes final" only after the Court grants the Motion for Final Approval and
24 upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing
25 of any appeal from, or other challenge to, the Order Granting Final Approval (this time period
26 shall not be less than seventy (70) calendar days after the Court's Order is entered); (ii) the date of
27 affirmance of an appeal of the Order Granting Final Approval becomes final under the California
28 Rules of Court; or (iii) the date of final dismissal of any appeal from the Order Granting Final

1 Approval or the final dismissal of any proceeding on review of any court of appeal decision
2 relating to the Order Granting Final Approval.

3 **N. “Final Approval” or “Final Award.”**

4 The Court entering an Order Granting Final Approval of the Settlement Agreement.

5 **O. “Individual Settlement Payment.”**

6 Each Class Member’s share of the Net Settlement Amount, which shall be
7 distributed to the Class Members, less employee portions of state and federal withholding taxes,
8 including the employee FICA, FUTA, and SDI contributions and any other applicable payroll
9 deductions required by law as a result of the payment of the amount allocated to such Class
10 Member as set forth herein.

11 **P. “LWDA Notice.”**

12 The Parties agree that Plaintiffs will submit notice to the Labor and Workforce
13 Development Agency (the “LWDA”) of this Settlement along with a copy of this Settlement
14 Agreement within ten (10) calendar days after its execution by all Parties and their counsel, and
15 Plaintiffs will thereafter submit a copy of any judgment or any other order (*e.g.*, the Final Award)
16 providing for an award of civil penalties in conformity with Labor Code section 2699(1).

17 **Q. “LWDA Payment.”**

18 The amount that the Parties have agreed to pay to the LWDA in connection with
19 the California Private Attorneys General Act of 2004 (the “PAGA”). The Parties have agreed that
20 \$20,000.00 of the Class Settlement Amount will be allocated to the resolution of any Class
21 Members’ claims arising under the PAGA (“PAGA Settlement Amount”). Pursuant to the PAGA,
22 \$15,000.00 (75%) of the PAGA Settlement Amount will be paid to the LWDA and \$5,000.00
23 (25%) of the PAGA Settlement Amount will be included in the Net Settlement Amount.

24 **R. “Net Settlement Amount.”**

25 The portion of the Class Settlement Amount remaining after deduction of the
26 approved Class Representative Enhancement Payments, Claims Administration Costs, LWDA
27 Payment, and Attorneys’ Fees and Costs.

1 **S. “Notice of Class Action Settlement.”**

2 The document substantially in the form attached hereto as Exhibit 1 that will be
3 mailed to Class Members’ last known addresses and which will provide Class Members with
4 information regarding the Action and information regarding the Settlement of the Action.

5 **T. “Notice of Objection.”**

6 A Class Member’s valid and timely written objection to the Settlement Agreement.
7 For the Notice of Objection to be valid, it must include the objector’s full name, signature,
8 address, and telephone number, and a written statement of all grounds for the objection
9 accompanied by legal support, if any, for such objection. The Notice of Objection must be
10 returned by mail or fax to the Claims Administrator at the specified address or facsimile number,
11 and postmarked or faxed on or before the Response Deadline. The date of the postmark or fax
12 receipt confirmation will be the exclusive means to determine whether a Notice of Objection has
13 been timely submitted.

14 Class Members who fail to make objections in the manner specified above shall be
15 deemed to have waived any objections and shall be foreclosed from making any objection
16 (whether by appeal or otherwise) to the Settlement Agreement. Neither the Parties nor their
17 counsel will solicit or otherwise encourage Class Members to submit written objections to the
18 Settlement Agreement or appeal from the Order and Judgment. Class Counsel will not represent
19 any Class Members with respect to any such objections to this Settlement. The Claims
20 Administrator shall provide counsel for the Parties with complete copies of all objections received,
21 including the date of postmark or fax receipt confirmation for each objection, within five (5)
22 business days of receipt. Class Counsel will provide copies of any objections and supporting
23 documents to the Court at least ten (10) calendar days before the Final Approval Hearing, unless
24 otherwise directed by the Court.

25 **U. “PAGA Members.”**

26 All current and former non-exempt employees employed by Defendant in the State
27 of California during the period of February 24, 2019 through and including the date of Preliminary
28 Approval.

1 **V. “Notice Packet.”**

2 The Notice of Class Action Settlement and Individual Settlement Payment
3 calculations, to include workweek information, and a Request for Exclusion form.

4 **W. “Plaintiffs.”**

5 Plaintiffs Marlene Estela, Jeannie Daniels, Linda Williams, and Tiffanie Le.

6 **X. “Plaintiffs’ Released Claims.”**

7 Upon the Effective Date, and as a condition of receiving any portion of their Class
8 Representative Enhancement Payments, Plaintiffs shall fully and finally release the Released
9 Parties from any and all claims, known and unknown, under federal, state and/or local law, statute,
10 ordinance, regulation, common law, or other source of law, including but not limited to claims
11 arising from or related to their employment with Defendant and their compensation while
12 employees of Defendant (“Plaintiffs’ Released Claims”). Plaintiffs’ Released Claims include, but
13 are not limited to, all claims arising from or related to the Action. Plaintiffs’ Released Claims
14 include all claims for unpaid wages, including, but not limited to, failure to pay minimum wages,
15 straight time compensation, overtime compensation, double-time compensation, and interest; the
16 calculation of the regular rate of pay; meal period and rest period premiums, including failure to
17 pay premiums at the regular rate of compensation; reimbursement for all necessary business
18 expenses; payment for all hours worked, including off-the-clock work; failure to pay sick leave,
19 including at the regular rate of pay; wage statements; deductions; failure to keep accurate records;
20 unfair business practices; penalties, including, but not limited to, civil penalties, statutory
21 penalties, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and
22 waiting-time penalties; and attorneys’ fees and costs. Plaintiffs’ Released Claims include all
23 claims arising under the California Labor Code (including, but not limited to, sections 200, 201,
24 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223,
25 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 246.5, 247, 247.5, 248, 248.5,
26 249, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194,
27 1194.1, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 2698, *et seq.*, 2699, *et seq.*,
28 2699.5, 2802, 2926, and 2927); all claims arising under: the Wage Orders of the California

1 Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (“PAGA”);
2 California Business and Professions Code section 17200, *et seq.*; the California Civil Code, to
3 include but not limited to, sections 3287, 3336 and 3294; 12 CCR § 11040; 8 CCR § 11000, *et*
4 *seq.*; 8 CCR § 11060; California Code of Civil Procedure § 1021.5; the California common law of
5 contract; the FLSA, 29 U.S.C. § 201, *et seq.*; federal common law; and the Employee Retirement
6 Income Security Act, 29 U.S.C. § 1001, *et seq.* (“ERISA”). Plaintiffs’ Released Claims also
7 include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages,
8 and attorneys’ fees and costs arising under federal, state, or local laws for discrimination,
9 harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended)
10 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities
11 Act, the Age Discrimination in Employment Act, and the California Fair Employment and
12 Housing Act; and the law of contract and tort. This release excludes the release of claims not
13 permitted by law.

14 Plaintiffs’ Released Claims include all claims, whether known or unknown. Even
15 if Plaintiffs discover facts in addition to or different from those that they now know or believe to
16 be true with respect to the subject matter of Plaintiffs’ Released Claims, those claims will remain
17 released and forever barred. Thus, each Plaintiff expressly waives and relinquishes the provisions,
18 rights, and benefits of section 1542 of the California Civil Code, which provides:

19 **A general release does not extend to claims that the creditor or releasing party**
20 **does not know or suspect to exist in his or her favor at the time of executing**
21 **the release and that, if known by him or her, would have materially affected**
22 **his or her settlement with the debtor or released party.**

23 **Y. “Preliminary Approval.”**

24 The Court’s order granting preliminary approval of the Settlement Agreement.

25 **Z. “Qualified Settlement Account.”**

26 The fund established by the Claims Administrator pursuant to Internal Revenue
27 Code Section 1.468B-1.
28

1 **AA. “Released Parties.”**

2 Defendant (Pacific Dental Services, LLC) and each of its past, present, and future
3 agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders,
4 stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations
5 and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service
6 providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers,
7 alleged co-employers, alleged dual employers, any person/entity with alleged/potential joint
8 liability, affiliates, alter-egos, and affiliated organizations, and all of their respective past, present,
9 and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents,
10 subsidiaries, and assigns.

11 **BB. “Request for Exclusion.”**

12 A written notice submitted by a Class Member requesting to be excluded from the
13 Settlement. For a Request for Exclusion to be valid, it must include the Class Member’s full
14 name, signature, address, and telephone number, and a written statement requesting to be excluded
15 from the Settlement. The Request for Exclusion must be returned by mail or fax to the Claims
16 Administrator at the specified address or facsimile number and postmarked or faxed on or before
17 the Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive
18 means to determine whether a Request for Exclusion has been timely submitted. A Class Member
19 who does not submit a timely and valid Request for Exclusion from the Settlement will be deemed
20 a Class Member and will be bound by all terms of the Settlement Agreement if the Settlement is
21 granted Final Approval by the Court. Any Class Member who timely submits a valid Request for
22 Exclusion will not receive payment from the Settlement, and will not be bound by the terms of the
23 Settlement Agreement or Judgment (with the exception of claims arising under the PAGA).
24 Eligible PAGA Members will receive their share of the employee portion of the LWDA Payment
25 and will be deemed to have released any claims arising out of the PAGA, regardless of whether
26 they submit a Request for Exclusion.

1 **CC. “Response Deadline.”**

2 The deadline by which Class Members must mail or fax to the Claims
3 Administrator valid Requests for Exclusion, Notices of Objection to the Settlement, or workweek
4 disputes. The Response Deadline will be forty-five (45) calendar days from the initial mailing of
5 the Notice Packet by the Claims Administrator, unless the forty-fifth (45th) day falls on a Sunday
6 or federal holiday, in which case the Response Deadline will be extended to the next day on which
7 the U.S. Postal Service is open. The Response Deadline may also be extended by express
8 agreement between Plaintiffs and Defendant. Under no circumstances, however, will the Claims
9 Administrator have the authority to unilaterally extend the deadline for Class Members to submit
10 Requests for Exclusion, Notices of Objection to the Settlement, or workweek disputes.

11 **DD. “Satisfaction of Judgment.”**

12 Upon the Effective Date and payment by Defendant of all monies due under the
13 Settlement Agreement and entry of the Order Granting Final Approval, Plaintiffs shall file a
14 Satisfaction of Judgment with the Court.

15 **EE. “Settlement Payment Check.”**

16 The payment to Class Members. The back of the Settlement Payment Check shall
17 state, immediately below the space where the check is to be endorsed by the payee: “By endorsing
18 or otherwise negotiating this check, I acknowledge that I read, understand, and agree to the terms
19 set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards
20 Act (“FLSA”) portion of the Marlene Estela, et al. v. Pacific Dental Services, LLC, San Diego
21 County Superior Court Case No. 37-2020-00010251-CU-OE-NC, elect to participate in the
22 settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the
23 Settlement.”

24 **II. Funding of the Class Settlement Amount.**

25 1. Within fifteen (15) calendar days after the Effective Date of the Settlement, Defendant will
26 make a one-time deposit of the Class Settlement Amount (and all required employer payroll taxes) into a
27 Qualified Settlement Account to be established by the Claims Administrator. Within fourteen (14)
28 calendar days after the funding of the Settlement, the Claims Administrator will issue payments to: (a)

1 Class Members; (b) the LWDA; (c) Plaintiffs; and (d) Class Counsel. The Claims Administrator will also
2 issue a payment to itself for Court-approved services performed in connection with the Settlement.
3 Defendant has no obligation to deposit the Class Settlement Amount, or any portion thereof, prior to the
4 deadline set forth in this Section II.

5 **III. Attorneys' Fees and Costs.**

6 2. Defendant agrees not to oppose or impede any application by Class Counsel for attorneys'
7 fees in the total amount of not more than \$500,000.00 or the reimbursement of costs and expenses
8 associated with Class Counsel's litigation and settlement of the Action in the total amount of not more than
9 \$15,000.00, and a reduction of Attorneys' Fees and Costs shall not be grounds for nullification of this
10 Settlement. Subject to Court approval, Class Counsel will decide the allocation of attorneys' fees and costs
11 among themselves. No counsel shall be entitled to any amount of attorneys' fees or costs for work
12 performed in the Action other than as provided in this Settlement Agreement. This Settlement Agreement
13 is the exclusive means for recovery of attorneys' fees and costs incurred in the Action by any attorney, law
14 firm, and/or other legal services provider.

15 **IV. Class Representative Enhancement Payments.**

16 3. In exchange for a general release, and in recognition of Plaintiffs' effort and work in
17 prosecuting the Action on behalf of Class Members, Defendant agrees not to oppose or impede any
18 application or motion for Class Representative Enhancement Payments in the amount of up to \$10,000.00
19 for each named Plaintiff, and a reduction of any Class Representative Enhancement Payment(s) shall not be
20 grounds for nullification of this Settlement. The Class Representative Enhancement Payments will be paid
21 from the Class Settlement Amount, and are conditioned on the execution of a stand-alone settlement
22 agreement and general release of claims. Plaintiffs will be solely and legally responsible to pay any and all
23 applicable taxes relating to or arising from the payments made pursuant to this Section IV, and will
24 indemnify, defend, and hold harmless the Released Parties from and against any claim or liability for taxes,
25 penalties, or interest arising from or relating to the Class Representative Enhancement Payments.

1 **V. Claims Administration Costs.**

2 4. The Claims Administrator will be paid for the reasonable costs of administration of the
3 Settlement and distribution of payments from the Class Settlement Amount, which are currently estimated
4 to be \$42,500.00.

5 5. The Parties hereby acknowledge that the Claims Administration Costs may increase above
6 the current estimate of \$42,500.00, and that any such additional Claims Administration Costs that are
7 approved by the Parties' counsel and the Court shall be taken out of the Class Settlement Amount.

8 **VI. Labor and Workforce Development Agency Payment.**

9 6. Subject to Court approval, the Parties agree that \$20,000.00 of the Class Settlement
10 Amount will be designated for satisfaction of Plaintiffs' and Class Members' PAGA claims (the "PAGA
11 Settlement Amount"). Pursuant to the PAGA, \$15,000.00 (75%) of the PAGA Settlement Amount will be
12 paid to the LWDA, and \$5,000.00 (25%) of the PAGA Settlement Amount will be included in the Net
13 Settlement Amount.

14 **VII. Net Settlement Amount.**

15 7. The Net Settlement Amount will be used to satisfy Individual Settlement Payments to
16 Class Members (including Plaintiffs), in accordance with the terms of this Settlement.

17 **VIII. Individual Settlement Payment Calculations.**

18 8. Individual Settlement Payments will be calculated and apportioned from the Net
19 Settlement Amount based on the number of workweeks a Class Member worked for Defendant in
20 California during the Class Period. Specific calculations of Individual Settlement Payments will be made
21 as follows:

22 8(a) The Claims Administrator will calculate the total number of weeks worked
23 (weeks in which at least one day was worked) by each Class Member
24 ("Individual Workweeks") and the total number of weeks worked by all Class
25 Members ("Class Workweeks") during the Class Period.

26 8(b) To determine each Class Member's Individual Settlement Payment, the Claims
27 Administrator will use the following formula: Individual Settlement Payment =
28

(Individual Workweeks ÷ Class Workweeks) × Net Settlement Amount.

9. The Individual Settlement Payment will be reduced by any required withholdings or deductions for each Class Member as set forth herein, including, but not limited to, employee-side tax withholdings or deductions.

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

IX. Claims Administration Process.

11. The Parties agree to cooperate in the administration of the Settlement and to make all reasonable efforts to control and minimize the costs and expenses incurred in administration of the Settlement. The Claims Administrator will provide the following services:

- a. Establish and maintain a Qualified Settlement Account.
- b. Calculate the Individual Settlement Payment each Class Member is eligible to receive.
- c. Print and mail the Notice Packet.
- d. Establish and maintain a toll-free information telephone support line to assist Class Members who have questions regarding the Notice Packet.
- e. Establish and maintain a website with information to assist Class Members.
- f. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
- g. Process Requests for Exclusion, calculate Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion. These services will include settlement proceed calculations, printing and issuance of Settlement Payment Checks, and preparation of IRS W-2 and

1 1099 tax forms. Basic accounting for Defendant's employer payroll taxes and
2 payment of employee tax withholdings and forwarding of all payroll taxes and
3 penalties to the appropriate government authorities will also be included as part of
4 these services.

5 h. Issue to Plaintiffs, Class Members, and Plaintiffs' Counsel any W-2, 1099, or other
6 tax forms as may be required by law for all amounts paid pursuant to this
7 Settlement.

8 i. Provide declarations and/or other information to the Court as requested by the
9 Parties and/or the Court.

10 j. Provide weekly status reports to counsel for the Parties.

11 12. Within fourteen (14) business days after Preliminary Approval, Defendant will provide the
12 Class List to the Claims Administrator.

13 13. Within fourteen (14) calendar days after receiving the Class List from Defendant, the
14 Claims Administrator will mail a Notice Packet to all Class Members via regular First-Class U.S. Mail,
15 using the last known mailing addresses identified in the Class List.

16 14. Prior to mailing, the Claims Administrator will perform a search based on the National
17 Change of Address Database for information to update and correct any known or identifiable address
18 changes. Any Notice Packets returned to the Claims Administrator as non-deliverable on or before the
19 Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address
20 affixed thereto, and the Claims Administrator will indicate the date of such re-mailing on the Notice Packet.
21 If no forwarding address is provided, the Claims Administrator will promptly attempt to determine the
22 correct address using a skip-trace, or other search using the name, address, and/or Social Security number
23 of the Class Member involved, and will then perform a single re-mailing. Those Class Members who
24 receive a re-mailed Notice Packet, whether by skip-trace or by request, will have between the later of (a) an
25 additional fifteen (15) calendar days or (b) the Response Deadline to postmark or fax a Request for
26 Exclusion or Notice of Objection to the Settlement.

27 15. All Class Members will be mailed a Notice Packet containing the forms attached hereto as
28 Exhibit 1 as approved by the Court.

1 16. Workweeks Disputes. Class Members will have an opportunity to dispute the information
2 provided in their Notice Packets. To the extent Class Members dispute the number of workweeks to which
3 they have been credited or the amount of their Individual Settlement Payment, Class Members may
4 produce evidence to the Claims Administrator showing that such information is inaccurate. Absent
5 competent evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
6 However, if a Class Member produces competent evidence that is contrary to Defendant's records, the
7 Claims Administrator will evaluate the evidence submitted by the Class Member and will make the final
8 decision as to the number of eligible workweeks that should be applied and/or the Individual Settlement
9 Payment to which the Class Member may be entitled. The workweek dispute must be returned by mail or
10 fax to the Claims Administrator at the specified address or facsimile number and postmarked or faxed on or
11 before the Response Deadline. The date of the postmark or fax receipt confirmation will be the exclusive
12 means to determine whether a workweek dispute has been timely submitted. All such disputes are to be
13 resolved not later than fourteen (14) calendar days after the Response Deadline.

14 17. Defective Requests for Exclusion. If a Class Member's Request for Exclusion is defective
15 as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s).
16 The Claims Administrator will mail the Class Member a cure letter within three (3) business days of
17 receiving the defective submission to advise the Class Member that his or her submission is defective and
18 that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until
19 (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date
20 is later, to postmark or fax a revised Request for Exclusion.

21 18. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
22 Settlement Agreement must sign and postmark or fax a written Request for Exclusion to the Claims
23 Administrator within the Response Deadline. The date of the postmark on the return mailing envelope or
24 the fax receipt confirmation will be the exclusive means to determine whether a Request for Exclusion has
25 been timely submitted. All Requests for Exclusion will be submitted to the Claims Administrator, who will
26 certify jointly to Class Counsel and Defendant's counsel the Requests for Exclusion that were timely
27 submitted. Any Class Member who does not timely seek exclusion will be bound by the terms of this
28 Settlement Agreement.

1 **X. Nullification of the Settlement Agreement.**

2 19. Defendant's Option to Nullify the Settlement Agreement. If five percent (5%) or more of
3 the Class Members opt out of the Settlement (or are otherwise excluded), Defendant, in its sole and
4 absolute discretion, shall have the option of nullifying the Settlement Agreement. In such a case, the
5 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their respective
6 statuses as of the date and time immediately prior to the execution of this Agreement, and the Parties shall
7 proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already
8 incurred by the Claims Administrator shall be paid by Defendant.

9 20. Nullification of the Settlement Agreement. In the event: (i) the Court does not enter the
10 Preliminary Approval Order and approve the Class Released Claims specified herein; (ii) the Court does
11 not finally approve the Settlement as provided herein; (iii) Defendant exercises its option to nullify the
12 Settlement Agreement based on an excessive number of opt-outs, as described in Section X.19 above; or
13 (iv) the Settlement does not become final for any other reason (*e.g.*, an objection by the LWDA), this
14 Settlement Agreement shall be null and void. A reduction of the Attorneys' Fees and Costs and/or any
15 Class Representative Enhancement Payment(s) shall not be grounds for nullification of this Settlement.
16 Any order or judgment entered by the Court in furtherance of this Settlement Agreement shall be treated as
17 void from the beginning, and the Stipulations and Recitals contained herein shall be of no force or effect,
18 and shall not be treated as an admission by the Parties or their counsel. In such a case, the Parties and any
19 funds to be awarded under this Settlement Agreement shall be returned to their respective statuses as of the
20 date and time immediately prior to the execution of this Settlement Agreement, and the Parties shall
21 proceed in all respects as if this Settlement Agreement had not been executed, except that any fees already
22 incurred by the Claims Administrator shall be paid by Defendant and Plaintiffs on a 50/50 basis.

23 21. Settlement Terms Bind All Class Members Who Do Not Opt Out. Any Class Member
24 who does not affirmatively opt out of the Settlement Agreement by submitting a timely and valid Request
25 for Exclusion will be bound by all terms, conditions, and covenants of the Settlement Agreement,
26 including, but not limited to, those pertaining to the Class Released Claims.

1 **XI. Certification Reports Regarding Individual Settlement Payment Calculations.**

2 22. The Claims Administrator will provide Defendant's counsel and Class Counsel a weekly
3 report which certifies: (a) the number of Class Members who have submitted timely and valid Requests for
4 Exclusion; (b) any objections submitted to the Settlement, along with a copy of any such objection; and (c)
5 whether any Class Member has submitted a challenge to any information contained in his/her Notice
6 Packet. Additionally, the Claims Administrator will provide to counsel for the Parties any updated reports
7 regarding the administration of the Settlement Agreement as needed or requested.

8 23. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to Class
9 Members will be negotiable for one hundred eighty (180) calendar days. After one hundred eighty (180)
10 calendar days from the date of mailing, the checks shall become null and void, and any monies remaining
11 in the distribution account shall be distributed to the Controller of the State of California to be held pursuant
12 to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, for the benefit of those Settlement
13 Class members who did not cash their checks until such time that they claim their property. The Parties
14 agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as
15 the entire Settlement Payment will be paid out to Settlement Class members, whether or not they all cash
16 their Settlement Checks. Therefore, Defendant will not be required to pay any interest on said amount.

17 24. Certification of Completion. Upon completion of administration of the Settlement, the
18 Claims Administrator will provide a written declaration under oath to certify such completion to the Court
19 and counsel for all Parties.

20 **XII. Tax Treatment of Individual Settlement Payments.**

21 25. All Individual Settlement Payments will be allocated as follows: twenty percent (20%) of
22 each Individual Settlement Payment will be allocated as wages and eighty percent (80%) will be allocated
23 as non-wage penalties. The portion allocated to wages will be reported on an IRS Form W-2 and the
24 portions allocated to non-wages will be reported on an IRS Form-1099 by the Claims Administrator. The
25 gross Individual Settlement Payments will be reduced by any required legal deductions for each Class
26 Member. All standard employee payroll deductions will be made for state and federal withholding taxes,
27 including any other applicable payroll deductions owed by the Class Members as a result of the wage
28 component of the Individual Settlement Payment, resulting in a net wage component. The Claims

1 Administrator will issue a check and W-2 Form to each Class Member for the wage component. No
2 withholding shall be made on the penalty portions of the gross Individual Settlement Payment. The Claims
3 Administrator will issue a second check and IRS Form-1099 for the remaining penalty component. The
4 Claims Administrator shall be responsible for issuing the payments and calculating and withholding all
5 required state and federal taxes. The Claims Administrator shall determine the eligibility for, and the
6 amounts of, any Individual Settlement Payments under the terms of this Settlement Agreement. Any
7 disputes not resolved by the Claims Administrator concerning the administration of the Settlement will be
8 resolved by the Court, under the laws of the State of California. Prior to any such involvement of the
9 Court, counsel for the Parties will confer in good faith to resolve the dispute without the necessity of
10 involving the Court.

11 **XIII. Administration of Taxes by the Claims Administrator.**

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

17 27. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
18 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”) AND EACH PARTY
19 TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY (AN
20 “OTHER PARTY”), ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
21 SETTLEMENT AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE
22 BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISORS, IS
23 OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
24 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
25 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10,
26 AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON
27 HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE
28

1 (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT,
2 (B) HAS NOT ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
3 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY
4 OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR
5 DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY
6 TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
7 ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT
8 PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX
9 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
10 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR
11 TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION
12 CONTEMPLATED BY THIS SETTLEMENT AGREEMENT.

13 **XIV. Release by Class Members.**

14 28. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that
15 they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
16 encumber, to any person or entity, any portion of any liability, claim, demand, action, cause of action, or
17 right herein released and discharged.

18 29. It is the desire of Plaintiffs, Class Members (except those who exclude themselves from the
19 Settlement), and Defendant to fully, finally, and forever settle, compromise, and discharge the Class
20 Released Claims. Upon the Final Approval by the Court of this Settlement Agreement, and except as to
21 such rights or claims as may be created by this Settlement Agreement, the Class Members shall fully
22 release and discharge the Released Parties from any and all Class Released Claims for the entire Class
23 Period. This release shall be binding on all Class Members who have not timely submitted a valid and
24 complete Request for Exclusion, including each of their respective attorneys, agents, spouses, executors,
25 representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the
26 Released Parties, who shall have no further or other liability or obligation to any Class Member with
27 respect to the Class Released Claims, except as expressly provided herein.

28

1 **XV. Preliminary Approval Hearing.**

2 30. Plaintiffs will obtain a hearing before the Court to request Preliminary Approval of the
3 Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional certification of
4 the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement
5 Agreement, and (c) setting a date for a Final Approval/Settlement Fairness Hearing.

6 31. The Preliminary Approval Order will provide for the Notice Packet to be sent to all Class
7 Members as specified herein. In conjunction with the Preliminary Approval Hearing, Plaintiffs will submit
8 this Settlement Agreement and will include the proposed Notice Packet.

9 32. Plaintiffs will be responsible for drafting all documents necessary to obtain Preliminary
10 Approval, subject to review by Defendant's counsel. Any failure by the Court to fully and completely
11 approve the Settlement Agreement which has the effect of preventing the full and complete approval of the
12 Settlement Agreement as written and agreed to by the Parties will result in this Settlement Agreement, and
13 all obligations under this Settlement Agreement, being nullified and voided.

14 **XVI. Final Settlement Approval Hearing and Entry of Judgment.**

15 33. Upon expiration of the Response Deadline, and with the Court's permission, a Final
16 Approval/Settlement Fairness Hearing will be conducted to determine the Final Approval of the Settlement
17 Agreement along with the amounts properly payable for: (a) Individual Settlement Payments; (b) the
18 LWDA Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Enhancement Payments;
19 and (e) all Claims Administration Costs.

20 34. The Final Approval/Settlement Fairness Hearing will be held no later than forty-five (45)
21 calendar days after the Response Deadline.

22 35. After filing the Amended Complaint, Le's counsel will request dismissal of the Le case (to
23 include filing all necessary pleadings with the Court), in its entirety, with prejudice as to Le and without
24 prejudice as to the respective alleged aggrieved employees.

25 36. Plaintiffs will be responsible for drafting all documents necessary to obtain Final Approval,
26 subject to review by Defendant's counsel. Plaintiffs will also be responsible for drafting the Attorneys'
27 Fees and Costs application to be heard at the Final Approval/Settlement Fairness Hearing. Any failure by
28 the Court to fully and completely approve the Settlement Agreement will result in this Settlement

1 Agreement entered into by the Parties, and all obligations under this Settlement Agreement, being nullified
2 and voided. Upon such failure, any order or judgment entered by the Court in furtherance of this
3 Settlement Agreement shall be treated as void from the beginning, and the Stipulations and Recitals
4 contained herein shall be of no force or effect and shall not be treated as an admission by the Parties or their
5 counsel. In such a case, the Parties and any funds to be awarded under this Settlement Agreement shall be
6 returned to their respective statuses as of the date and time immediately prior to the execution of this
7 Settlement Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not
8 been executed, except that any fees already incurred by the Claims Administrator shall be paid by
9 Defendant and Plaintiffs on a 50/50 basis.

10 **XVII. Judgment and Continued Jurisdiction.**

11 37. The Court shall retain jurisdiction with respect to the interpretation, implementation, and
12 enforcement of the terms of this Settlement Agreement and all orders and judgments entered in connection
13 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
14 interpreting, implementing, and enforcing the Settlement embodied in this Settlement Agreement and all
15 orders and judgments entered in connection therewith.

16 **XVIII. Other Provisions.**

17 38. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set
18 forth in any and all attached exhibits, which are incorporated in their entirety by this reference as though
19 fully set forth herein. Any exhibits to this Settlement are an integral part of the Settlement.

20 39. Entire Agreement. This Settlement Agreement and any attached exhibits constitute the
21 entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements are,
22 or may be deemed to be, binding on the Parties.

23 40. Amendment or Modification. This Settlement Agreement may be amended or modified
24 only by a written instrument signed by counsel for all Parties or their successors-in-interest and approved
25 by the Court.

26 41. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and
27 represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement
28 Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to

1 this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate
2 the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and
3 use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach
4 agreement on the form or content of any document needed to implement the Settlement, or on any
5 supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties
6 shall seek the assistance of Jeff Krivis, Esq. (mediator), if available, to resolve such disagreement.

7 42. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and
8 inure to the benefit of, the successors or assigns of the Parties.

9 43. California Law Governs. All terms of this Settlement Agreement and exhibits hereto will
10 be governed by and interpreted according to the laws of the State of California and any applicable federal
11 law without regard to choice of law rules or principles.

12 44. Execution and Counterparts. This Settlement Agreement is subject only to the execution
13 of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All
14 executed counterparts and each of them, including facsimile and scanned copies of the signature page, will
15 be deemed to be one and the same instrument.

16 45. Acknowledgement that the Settlement is Fair and Reasonable. The Parties acknowledge
17 and agree that this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action, and
18 that the Parties arrived at this Settlement after arm's-length negotiations and in the context of adversarial
19 litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge
20 and agree that they are each represented by competent counsel, and that they have had an opportunity to
21 consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

26 47. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
27 certification for purposes of this Settlement only; except, however, that either Party may appeal any Court
28 order that materially alters the Settlement Agreement's terms.

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

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

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

24 51. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement
25 or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute
26 a further waiver by such party of the same or any other condition, covenant, right or remedy.

27 52. Enforcement Action. If one or more of the Parties institutes any legal action or other
28 proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights

1 and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the
2 unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees, incurred in
3 connection with any enforcement actions.

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

9 54. Representation by Counsel. The Parties acknowledge that they have been represented by
10 counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this
11 Settlement Agreement has been executed with the consent and advice of counsel and reviewed in full.
12 Further, Plaintiffs and their counsel warrant and represent that there are no liens on the Settlement
13 Agreement.

14 55. All Terms Subject to Final Court Approval. All amounts and procedures described in this
15 Settlement Agreement herein will be subject to final Court approval.

16 56. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good
17 faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement
18 Agreement.

19 57. Confidentiality. Neither Plaintiffs nor Class Counsel shall issue any press release,
20 announcement, or promotion of any kind related in any way to the Settlement. Plaintiffs and Plaintiffs'
21 Counsel agree that, prior to Preliminary Approval of the Settlement, they will keep the terms of this
22 Settlement confidential except for purposes of communicating with Plaintiffs only. Plaintiffs shall be
23 informed that the Settlement is confidential and shall be advised to keep the Settlement confidential. From
24 and after Preliminary Approval of the Settlement, Plaintiffs and their counsel may: (1) as required by law;
25 (2) as required under the terms of the Settlement; or (3) as required under counsel's duties and
26 responsibilities as Class Counsel, comment regarding the specific terms of the Settlement. In all other
27 cases, Plaintiffs and Class Counsel agree to limit their statements regarding the terms of the Settlement,
28 whether oral, written, or electronic (including the world wide web), to say the Action has been resolved and

1 that Plaintiffs and Class Counsel are satisfied with the Settlement terms. Nothing in this Section is intended
2 to interfere with Class Counsel's duties and obligations to faithfully discharge their duties as Class Counsel,
3 including, but not limited to, communicating with Class Members regarding the Settlement.

4 58. Binding Agreement. The Parties warrant that they understand and have full authority to
5 enter into this Settlement, intend that this Settlement Agreement will be fully enforceable and binding on all
6 Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms,
7 notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state
8 law. Plaintiffs, and not their respective representatives, must personally execute this Settlement
9 Agreement.

10 *The Settlement Agreement consists of 28 pages, with signatures beginning on the next page.*
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2 Dated: March 3/24/2022, 2022

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Marlene Estela
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Plaintiff Marlene Estela
or Authorized Representative

4 Dated: March ___, 2022

Plaintiff Jeannie Daniels
or Authorized Representative

6 Dated: March ___, 2022

Plaintiff Linda Williams
or Authorized Representative

8 3/28/2022
9 Dated: March ___, 2022

DocuSigned by:
Tiffanie Le
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Plaintiff Tiffanie Le
or Authorized Representative

11 Dated: March ___, 2022

Defendant Pacific Dental Services, LLC

13 By: _____
14 Title: _____

15 **APPROVED AS TO FORM**

16
17 Dated: March ___, 2022

David Yeremian
Alvin Lindsay
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda Williams

20 Dated: March ___, 2022

Walter Haines
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda

22 3/28/2022 3/28/2022
23 Dated: March ___, 2022

DocuSigned by:
Melhrdad Bokhour
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Joshua Falakassa
Counsel for Plaintiff Tiffanie Le

26 Dated: March ___, 2022

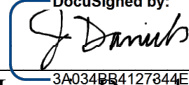
Richard J. Simmons
Nora K. Stilestein
Counsel for Defendant Pacific Dental
Services, LLC

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Dated: March __, 2022

Plaintiff Marlene Estela
or Authorized Representative

Dated: March 9, 2022

DocuSigned by:

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Plaintiff Jeannie Daniels
or Authorized Representative

Dated: March __, 2022

Plaintiff Linda Williams
or Authorized Representative

Dated: March __, 2022

Plaintiff Tiffanie Le
or Authorized Representative

Dated: March __, 2022

Defendant Pacific Dental Services, LLC

By: _____
Title: _____

APPROVED AS TO FORM

Dated: March __, 2022

David Yeremian
Alvin Lindsay
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda Williams

Dated: March __, 2022

Walter Haines
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda

Dated: March __, 2022

Mehrddad Bokhour
Joshua Falakassa
Counsel for Plaintiff Tiffanie Le

Dated: March __, 2022

Richard J. Simmons
Nora K. Stilestein
Counsel for Defendant Pacific Dental
Services, LLC

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Dated: March __, 2022

Plaintiff Marlene Estela
or Authorized Representative

Dated: March __, 2022

Plaintiff Jeannie Daniels
or Authorized Representative

Dated: March 10/2022

DocuSigned by
Williams, Linda
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Plaintiff Linda Williams
or Authorized Representative

Dated: March __, 2022

Plaintiff Tiffanie Le
or Authorized Representative

Dated: March __, 2022

Defendant Pacific Dental Services, LLC

By: _____
Title: _____

APPROVED AS TO FORM

Dated: March 25, 2022

David Yeremian
David Yeremian
Alvin Lindsay
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda Williams

Dated: March 25, 2022

Walter Haines
Walter Haines
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda

Dated: March __, 2022

Mehrddad Bokhour
Joshua Falakassa
Counsel for Plaintiff Tiffanie Le

Dated: March __, 2022

Richard J. Simmons
Nora K. Stilestein
Counsel for Defendant Pacific Dental
Services, LLC

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Dated: March __, 2022

Plaintiff Marlene Estela
or Authorized Representative

Dated: March __, 2022

Plaintiff Jeannie Daniels
or Authorized Representative

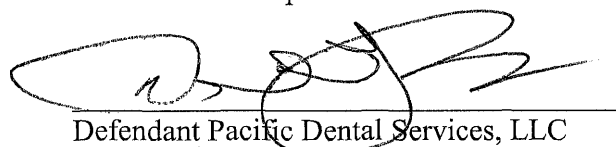
Dated: March __, 2022

Plaintiff Linda Williams
or Authorized Representative

Dated: March __, 2022

Plaintiff Tiffanie Le
or Authorized Representative

Dated: March __, 2022



Defendant Pacific Dental Services, LLC

By: Daniel J. Burke
Title: General Counsel

APPROVED AS TO FORM

Dated: March __, 2022

David Yeremian
Alvin Lindsay
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda Williams

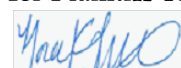
Dated: March __, 2022

Walter Haines
Counsel for Plaintiffs Marlene Estela, Jeannie
Daniels, and Linda

Dated: March __, 2022

Mehrdad Bokhour
Joshua Falakassa
Counsel for Plaintiff Tiffanie Le

Dated: April 4, 2022



Richard J. Simmons
Nora K. Stilestein
Counsel for Defendant Pacific Dental
Services, LLC

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT

If you worked for Pacific Dental Services, LLC as an hourly paid employee in California during the period of February 24, 2016 through January 31, 2022, a class action settlement will affect your rights.

A court authorized this Notice.

Estela, et al. v. Pacific Dental Services, LLC, Case No. 37-2020-00010251-CU-OE-NC

- Four employees, Marlene Estela, Jeanine Daniels, Linda Williams, and Tiffanie Le (collectively, “Plaintiffs”) sued Pacific Dental Services, LLC (“PDS” or “Defendant”) on behalf of themselves and others similarly situated for the following claims: (1) failure to pay minimum wages and for all hours worked; (2) failure to pay wages and overtime; (3) failure to pay wages under the Fair Labor Standards Act (the “FLSA”); (4) failure to provide meal periods; (5) failure to authorize and permit rest periods; (6) failure to pay sick leave at the correct rate of pay; (7) pay stub violations; (8) unlawful deductions; (9) failure to timely pay wages; (10) waiting time penalties; (11) failure to reimburse business expenses; (12) unfair business practices; and (13) penalties under the Private Attorneys General Act (“PAGA”) (the “Action”).
- The claims of Plaintiffs and the Class have been settled. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and any final determination of those issues will be made at the final hearing.
- If you qualify as a Class Member, you could receive money from the settlement.
- Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will be paid your Claim Amount and you will give up any rights to sue for the Released Claims (defined below).
SUBMIT A DATA DISPUTE	Dispute the number of workweeks listed in your Notice. Receive a settlement share and give up any rights to sue for the Released Claims.
EXCLUDE YOURSELF	Waive all rights, including money, from the settlement. Retain all rights you may have against Defendant, with the exception of a Private Attorneys General claim, as explained below.
OBJECT	Write to the Claims Administrator about why you don’t agree with the settlement. The Court may or may not agree with your objection.

HOW MUCH CAN I GET?	Look at paragraph 8 of this Notice.
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- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved.

1. Why Did I Get This Notice Package?

You are not being sued. Plaintiffs sued PDS in a class, collective, and representative action on behalf of similar employees like you.

PDS's records show that you were employed in California by PDS as an hourly paid employee from February 24, 2016 through January 31, 2022.

You received this Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to approve the settlement. If the Court approves it, and after any objections and appeals are resolved, a Claims Administrator appointed by the Court will make the payments that the settlement allows.

This Notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

2. What Is This Lawsuit About?

Plaintiffs were employed in California by PDS as hourly paid employees during the Class Period of February 24, 2016 through January 31, 2022.

The lawsuit alleges that PDS engages in practices that violate California's labor and unfair competition laws and the federal Fair Labor Standards Act by failing to pay all wages and overtime compensation; failing to provide meal and rest breaks; failing to pay meal and rest break premiums at the regular rate of compensation; failing to pay sick leave at the correct rate of pay; making unlawful deductions from wages; failing to reimburse for business expenses; failing to furnish accurate, itemized wage statements upon payment of wages; and failing to pay compensation upon termination of employment. Plaintiffs seek compensation for unpaid wages, waiting time penalties, and other damages and penalties related to the above claims. PDS denies any liability whatsoever and denies that wages, damages, or penalties are owed, or that it acted contrary to California law or federal law.

3. Do I Need to Hire an Attorney?

You do not need to hire your own attorney. You are already represented by Class Counsel (see Section 16 for contact information). However, you may hire your own attorney at your own expense if you choose to do so.

4. What Is PDS's Position?

PDS denies and continues to deny each of the claims and contentions.

PDS has concluded that any further defense of this litigation would be protracted and expensive for all Parties. PDS has already spent time, energy, and resources defending this case and, unless this settlement is agreed to, will have to continue to devote time, energy and resources to the

defense of the claims asserted by the Class. PDS has also taken into account the risks of further litigation in reaching its decision. PDS has, therefore, agreed to settle in the manner and upon the terms set forth in the Settlement Agreement to put to rest the claims as set forth in the Action.

5. Why Is There a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. After a thorough investigation into the facts of this lawsuit, both sides agreed to a settlement after mediating with a neutral third party mediator. The class claims were settled because Class Counsel and Plaintiffs believe that the amount of the settlement is fair and reasonable in light of the strength and weaknesses of the claims and other factors.

6. How Do I Know If I Am Part of the Settlement?

You are a member of the Class if you were employed in California by PDS as an hourly paid employee during the Class Period of February 24, 2016 through January 31, 2022.

7. What Does the Settlement Provide?

Class Members who do not timely submit a signed and valid request for exclusion will receive payments from the Net Settlement Amount. The Net Settlement Amount is the portion of the Class Settlement Amount of \$1,500,000.00 available for distribution to Class Members who do not timely submit a signed and valid request for exclusion after deduction of the Court-approved Class Representative Enhancement Payments, Class Counsel's Attorneys' Fees and Costs, Claims Administration Costs, and the State of California's portion of the PAGA Payment.

Deductions for Class Representative Enhancement Payments, Class Counsel's Attorneys' Fees and Costs, Claims Administration Costs, and the PAGA Payment. Class Counsel will ask the Court to award attorneys' fees in the amount of up to \$500,000.00, which represents one-third (1/3) of the Class Settlement Amount, and litigation costs estimated at \$15,000.00 from the Class Settlement Amount. In addition, Class Counsel will ask the Court to authorize Representative Enhancement Payments from the Class Settlement Amount in the amount of \$10,000.00 to each Plaintiff to compensate them for the risks, time, and expense of their involvement in this Action. This payment is in addition to whatever payment Plaintiffs are otherwise entitled to as Class Members. The Claims Administrator will also be reimbursed for the expense of notifying the Class Members of the settlement, processing claims and requests for exclusions submitted by Class Members, and distributing Individual Settlement Payments. Claims Administration Costs are estimated at \$42,500.00. Finally, Class Counsel will ask the Court to approve a PAGA Payment in the amount of \$20,000.00 for claims under the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*, of which \$15,000.00 will be awarded to the State of California, and \$5,000.00 will be awarded to Class Members.

8. What Can I Get From the Settlement?

Each Class Member will receive approximately \$_____ for each work week worked in the

Class Period. PDS's records indicate that you worked approximately ____ work weeks between February 24, 2016 and (Date of Preliminary Approval). Based on these records, your estimated payment as a Class Member would be \$_____.

The parties estimate that the likely recovery by the average Class Member would be approximately \$_____. Class Members who do not opt-out will be paid out of the Net Settlement Amount. Twenty percent (20%) of each Individual Settlement Payment will be designated for alleged unpaid wages, for which an IRS Form W-2 shall be issued, and eighty percent (80%) will be designated for alleged interest and penalties, for which an IRS Form 1099 shall be issued, as appropriate.

If you do not timely submit a valid Request For Exclusion by the Response Deadline, you will receive your share of the Net Settlement Amount after the Court approves the settlement.

9. How Was My Share Calculated?

To determine the amount of the Net Settlement Amount to which each Class Member is entitled, the Claims Administrator used the work week information provided by PDS to calculate the total number of weeks worked by each Class Member ("Individual Workweeks") and the total number of weeks worked by all Class Members ("Class Workweeks") during the Class Period. To determine each Class Member's Individual Settlement Payment, the Claims Administrator used the following formula: Individual Settlement Payment = (Individual Workweeks ÷ Class Workweeks) × Net Settlement Amount.

The workweek calculation shall be based on PDS's records.

The Individual Settlement Payment will be reduced by any required withholdings or deductions for each Class Member, including, but not limited to, employee-side tax withholdings or deductions.

10. How Can I Get Payment?

You do not need to take any action to qualify for payment. However, if you dispute the number of work weeks to which you have been credited, as provided in this Notice, or the amount of your Individual Settlement Payment, you must contact the Claims Administrator to register your dispute. You must mail or fax the Claims Administrator with the details of your dispute and documentary evidence (for example, W-2s or paystubs). The deadline for this is <<Response Deadline>>. If you do nothing, you will receive your Individual Settlement Payment and be bound by the terms of the settlement (including the Released Claims described in Section 12 below).

California law protects Class Members from retaliation based on their decision to participate in a class action settlement.

11. When Would I Get My Payment?

The Court will hold the Final Approval Hearing on or about <<date>> in Department N-29 of the California Superior Court for the County of San Diego, at the North County Regional Center, 325 South Melrose Drive, Vista, California 92081, to decide whether to approve the settlement.

If the Court approves the settlement, your settlement share will be mailed to you within approximately 90 days from the date of final judgment, unless there are objections, appeals, or other challenges to the final judgment. It is always uncertain when these issues can be resolved, and resolving them can take time.

12. What Rights Do I Give Up If I Participate or Do Nothing?

Unless you exclude yourself, you will remain a Class Member, and you will be bound by the terms of the settlement, including releasing the Released Claims described below. That means that you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders will apply to you and legally bind you.

Released Claims

As of the date of the Court granting Final Approval, all Class Members fully and finally release Defendant and each of its past, present, and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships, divisions, assigns, predecessors, successors, insurers, consultants, service providers, joint venturers, joint employers, co-employers, dual employers, alleged joint employers, alleged co-employers, alleged dual employers, affiliates, alter-egos, any person/entity with alleged/potential joint liability, and affiliated organizations, and all of their respective past, present, and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, and assigns (the "Released Parties") from any and all Class Released Claims. The Class Released Claims include all claims asserted in the Action, arising from or related to the facts and claims alleged in the Action, or that could have been raised in the Action based on the facts and claims alleged, as amended. The Class Released Claims include all claims for unpaid wages, including failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; meal period and rest period premiums, including failure to pay premiums at the regular rate of compensation; payment for all hours worked, including off-the-clock work; failure to pay sick leave, including at the regular rate of pay; wage statements; failure to keep accurate records; failure to reimburse business expenses; unlawful deductions; failure to timely pay wages; unfair business practices related to the Released Claims; penalties, including civil penalties, statutory penalties, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs; all claims related to the Class Released Claims arising under: the California Labor Code

(including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 246.5, 247, 247.5, 248, 248.5, 249, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.1, 1194.2, 1197, 1197.1, 1197.2, 1197.5, 1198, 1198.5, 1199, 2802, 2926, and 2927), the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 (“PAGA”); California Business and Professions Code section 17200, et seq.; the FLSA, 29 U.S.C. § 201 et seq.; and federal common law. This release excludes the release of claims not permitted by law.

Class Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all claims the Class Members may have under the FLSA arising under or related to the alleged claims during the Class Period of February 24, 2016 to January 31, 2022. Upon entry of Judgment, Class Members are precluded from filing a wage and hour action under the Fair Labor Standards Act against the Released Parties for claims and/or causes of action encompassed by the Class Released Claims, which are extinguished and precluded pursuant to the holding in Rangel v. PLS Check Cashers of California, Inc., 899 F.3d 1106 (2018). This release excludes the release of claims not permitted by law.

13. How Do I Exclude Myself from the Settlement?

If you do not wish to participate in the settlement, you may exclude yourself (generally called “opting out”) by submitting the attached Request For Exclusion Form to the Claims Administrator.

In order to opt-out, you must complete the attached Request For Exclusion Form and ensure that your signed statement is faxed or postmarked no later than << **Response Deadline** >> (“Response Deadline”). Your Request For Exclusion must contain your full name (and former names, if any), current address, telephone number, last four digits of your Social Security number, and signature.

You must sign the Request For Exclusion Form personally and may not have someone sign for you, nor may you submit a request for exclusion on behalf of a group. Your Request For Exclusion Form must be signed and returned via fax or United States first class mail postmarked no later than << **Response Deadline** >> to:

ILYM GROUP, INC.

Address

Phone: (*) ***-******

Facsimile: (*) ***-******

If you submit a timely and valid request for exclusion, then upon its receipt you shall no longer be a member of the Class, you will not receive payment from settlement, and you may not object to the settlement.

Regardless of whether you submit a Request for Exclusion, you will receive your share of the employee portion of the PAGA penalties, if eligible, and will be deemed to have released any

claims arising out of PAGA. If you wish, you may pursue, at your own expense, any claims you may have against Defendant, other than a PAGA claim. If you do not submit a complete and timely written request for exclusion, you will be included in the Class, and be bound by the terms of the settlement (including the Released Claims described in Section 12 herein).

Do not submit both a Request For Exclusion Form and an Objection Form. If you submit both, the request for exclusion will be valid, and you will be excluded from the Class.

14. When Is the Final Approval and Fairness Hearing?

The Court will hold a Final Approval Hearing in Department N-29 of the California Superior Court for the County of San Diego, at the North County Regional Center, 325 South Melrose Drive, Vista, California 92081, on <<date and time>> or such other, later date as the Court may authorize, to determine whether the settlement is fair, reasonable, and adequate; and if there are objections, the Court will consider them. The Court will also be asked to approve Plaintiffs' Class Representative Enhancement Payments, Class Counsel's request for Attorneys' Fees and Costs, the Claims Administration Costs, and the PAGA Payment.

The hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing unless you have timely filed an objection or notice of intention to appear with the Court. Notice of the final judgment will be posted on the Claims Administrator's website at [REDACTED].

15. How Do I Object to the Settlement and Appear at the Final Approval and Fairness Hearing?

You may object to the terms of the settlement before the Final Approval Hearing. However, if the Court rejects your objection, you will still be bound by the terms of the settlement. To object, you must fax or mail the attached Objection Form to the Claims Administrator (at the address in Section 13 herein). The Objection Form must contain the reasons for your objection to this settlement. Your objection must also contain your full name, address, telephone number, and signature. To be valid and effective, any Objections to approval of the settlement must be faxed or postmarked no later than << Response Deadline >>. **DO NOT TELEPHONE THE COURT.**

Class Members who fail to make objections in the manner specified above shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the settlement.

You do not have to attend the hearing, but you may do so at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

If the Court approves the settlement despite any objections, you will receive your settlement proceeds and will be bound by the terms of the settlement (including the Released Claims described in section 12 herein).

16. How Do I Get Additional Information?

The above is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should consult the detailed Stipulation And Settlement Of Class, Collective, And Representative Action (“Settlement Agreement”) between Plaintiffs and Defendant, which is Exhibit A to the Declaration of **Plaintiffs’ Counsel** In Support Of Plaintiffs’ Motion For Preliminary Approval filed on April 4, 2022. This document is on file with the Clerk of the Court, case number 37-2020-00010251-CU-OE-NC. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at any time during regular business hours at the Office of the Clerk of the California Superior Court for the County of San Diego.

If you have any questions, you may call the Claims Administrator at [REDACTED] or Class Counsel.

CLASS COUNSEL	ATTORNEYS FOR PDS
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PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS.