

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
Sean M. Blakely (SBN 264384)
sblakely@haineslawgroup.com
Alexandra R. McIntosh (SBN 320904)
amcintosh@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ALVIN N. WILLIAMS III, as an individual
and on behalf of all other aggrieved
employees,

Plaintiff,

vs.

NO ORDINARY MOMENTS, INC., a
California Corporation; and DOES 1 through
100,

Defendants.

Case No. 30-2020-01140925-CU-OE-CXC

CLASS ACTION

*[Case assigned for all purposes to the Hon.
William Claster; Dept. CX104]*

**DECLARATION OF SEAN M.
BLAKELY IN SUPPORT OF
PLAINTIFF'S SUPPLEMENTAL
BRIEF**

Date: August 12, 2022
Time: 9:00 a.m.
Dept.: CX104

Complaint Filed: May 26, 2020
Trial Date: None

1 I, SEAN M. BLAKELY, declare as follows:

2 1. I am a Partner of Haines Law Group, APC, and counsel for the named Plaintiff
3 Alvin N. Williams III (“Plaintiff”) and the proposed Settlement Class in the above-captioned
4 matter. I am a member in good standing of the bar of the State of California and am admitted to
5 practice in this Court. I have personal knowledge of the facts stated in this declaration and could
6 testify competently to them if called upon to do so.

7 2. This declaration is submitted in support of Plaintiff’s Supplemental Brief in
8 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

9 3. Following the Court’s Minute Order dated June 24, 2022 (“Minute Order”), my
10 firm has worked diligently with defense counsel to amend the Stipulation of Settlement
11 (“Settlement Agreement”) and the Notice of Pendency of Class Action and Proposed Settlement
12 (“Class Notice”) in accordance with the Court’s Minute Order.

13 4. Attached hereto as **Exhibit 1** is the fully executed amended Settlement Agreement.
14 Attached hereto as **Exhibit 2** is the final version of the Class Notice. Attached hereto as **Exhibit**
15 **3** is a red-line version of the amended Settlement Agreement reflecting all changes. Attached
16 hereto as **Exhibit 4** is a red-line version of the amended Class Notice reflecting all changes.

17 5. Defendant No Ordinary Moments, Inc. (“Defendant”) represents that other than
18 this instant action, there are no other lawsuits currently pending against Defendant that allege any
19 of the same claims or causes of action that are alleged in this action. My office has similarly
20 investigated this issue and is unaware of any other pending actions that may be affected by this
21 Settlement. Additionally, my office has reviewed the PAGA database and there are no other
22 matters in the pre-filing LWDA stage that would be affected by this Settlement.

23 6. Defendant represents that **over 99%** of the proposed Settlement Class are personal
24 attendants (i.e., home care workers). Therefore, less than 1% of the Settlement class works in a
25 position other than home care worker. Plaintiff contends that some of the alleged claims apply to
26 the non-home care worker, such as Plaintiff’s claim for alleged unpaid wages due to Defendant’s
27 timekeeping policies/practices. Other claims such as Plaintiff’s meal and rest period theories of
28 liability were specific to personal attendants. However, Defendant asserts that nearly all

1 Settlement class members signed valid and enforceable arbitration agreements, which was a
2 defense common to all Settlement Class members, regardless of job position.

3 7. In connection with his Motion for Final Approval of Class Action Settlement,
4 Plaintiff will submit Class Counsel's billing records for attorneys' fees and costs.

5 8. In connection with his Motion for Final Approval of Class Action Settlement,
6 Plaintiff will provide a declaration from the Settlement Administrator which contains records
7 supporting settlement administrative costs, as well as the high, low, and average individual
8 settlement payments, as well as Plaintiff's individual payment.

9 9. The Parties contend that the Notice should be provided in English and Spanish
10 only.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. Executed on August 3, 2022, at El Segundo, California.

13 
14 Sean M. Blakely

EXHIBIT 1

EXHIBIT 1

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Alvin N. Williams III (“Plaintiff” or “Class Representative”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant No Ordinary Moments, Inc. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC (collectively, “Class Counsel”). Defendant is represented by James P. Carter and Nasim S. Tourkaman of Jackson Lewis P.C.

On May 26, 2020, Plaintiff filed a representative action complaint under the Private Attorneys General Act against Defendant in Orange County Superior Court entitled *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Case No. 30-2020-01140925-CU-OE-CXC. As a material term of this Settlement, the Parties agreed to file a First Amended Class and Representative Action Complaint to add class-wide allegations against Defendant (the “Action”). The Action alleges that Defendant: (i) failed to pay all overtime wages; (ii) failed to pay minimum wages for all hours worked; (iii) failed to provide all legally required meal periods; (iv) failed to provide all legally required rest periods; (v) failed to reimburse non-exempt employees for all necessary business expenditures; (vi) failed to timely pay all wages; (vii) failed to issue accurate and itemized wage statements; (viii) engaged in unfair unlawful business practices; and (ix) is liable for civil penalties under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“PAGA”).

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class and PAGA Aggrieved Employees Defined.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees of Defendant employed in the State of California from May 26, 2016, through July 16, 2021 (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

Additionally, the “PAGA Aggrieved Employees” shall be defined as:

All current and former non-exempt employees of Defendant employed in the State of California from March 10, 2019 through July 16, 2021 (the “PAGA Period”).

2. Release by Settlement Class Members, PAGA Aggrieved Employees, and Plaintiff. Plaintiff and every member of the Settlement Class (except those who opt out) will release and discharge Defendant and all of its current and former parent companies, subsidiaries, divisions, related or and affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (collectively, the “Released Parties”), as follows:

- A. Release by Settlement Class Members. Settlement Class members (except those who opt out) will release and discharge the Released Parties from all claims under state, or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative First Amended Class and Representative Action Complaint or Plaintiff’s March 10, 2020 PAGA Notice to the Labor & Workforce Development Agency (“LWDA”), including but not limited to: failure to pay overtime wages; failure to pay minimum wages; failure to pay reimbursement for business expenses; meal period violations; rest period violations; itemized wage statement violations; failure to pay wages when due; unfair competition, including but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or that could have been made based on the allegations in the Action, with the exception of the PAGA claims addressed separately in Paragraph 2.B. below, from May 26, 2016 through July 16, 2021 (collectively, “Released Claims”).
- B. Released PAGA Claims. Plaintiff and all PAGA Aggrieved Employees will release and discharge the Released Parties from any and all claims under the PAGA premised on the facts and/or allegations in Plaintiff’s letter to the LWDA dated March 10, 2020 that arose during the PAGA Period (the “PAGA Release”). It is understood and acknowledged that PAGA Aggrieved Employees receiving a share of the PAGA Amount as set forth in Paragraph 4.C. will be issued a check for their share of the PAGA Amount and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon Plaintiff and all PAGA Aggrieved Employees upon Court approval and payment of the PAGA Amount as set forth in Paragraph 4.C. Further, the PAGA Aggrieved Employees are bound by the PAGA Release regardless of whether they cash their PAGA check.
- C. In light of Plaintiff’s Class Representative Enhancement Award, Plaintiff has agreed to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers’ compensation claims nor any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Specifically excluded from Plaintiff's Released Claims are any claims for workers' compensation benefits, which cannot be released as a matter of law.

3. **Total Settlement Amount.** As consideration, Defendant agrees to pay a "Total Settlement Amount" of Seven Hundred Seventy-Five Thousand Dollars and Zero Cents (\$775,000.00) in full and complete settlement of the Lawsuit, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
 - B. The Total Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days of the "Effective Date." ("Effective Date"). The Effective date shall mean the date when all of the following events have occurred: (1) this Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendant's Counsel; (2) the Court has granted preliminary approval to this Stipulation of Settlement; (3) the Class Notice has been given to the Settlement Class members, providing them with an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4) the Court has held a Final Fairness hearing and entered a final Order and Judgment certifying the Settlement Class and approving this Stipulation of Settlement; (5) 65 calendars days have passed since the Court has entered a final Order and Judgment certifying the Settlement Class, and approving the Stipulation of Settlement; and (6) in the event there are written objections filed prior to the final fairness hearing which are not later withdrawn or denied, the alter of the following events: five business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's final Order approving this Stipulation of Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court's final Order approving this Stipulation of Settlement has been filed, five business days after any appeal, writ or other appellate proceedings opposing this Stipulation of Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief.
 - C. This is a non-reversionary settlement. The Total Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator which are anticipated to be no greater than Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00);

- (3) Up to \$5,000.00 for Plaintiff's Class Representative Enhancement Award in recognition for Plaintiff's contributions to the Lawsuit and Plaintiff's service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Award, Plaintiff shall not have the right to revoke the Settlement Agreement for that reason, and the Settlement will remain binding;
 - (4) Up to one-third (33.33%) of the Total Settlement Amount in Class Counsel's attorneys' fees (currently estimated at \$258,333.33), plus actual costs and expenses incurred by Class Counsel related to the Lawsuit as supported by declaration, which are currently estimated to be no greater than \$25,000.00. In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke the Settlement Agreement based on that reason, and the Settlement will remain binding; and
 - (5) \$50,000.00 of the Total Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$37,500.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or \$12,500.00, will be payable to the Settlement Class members as the "PAGA Amount," as described below.
 - D. Defendant will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the Settlement Class members who do not opt-out.
 - E. **Escalator Clause.** Defendant represents that there are approximately 122,000 workweeks worked, based on approximately 503,514 shifts worked, through the date of mediation. If at the time of preliminary approval, the number of workweeks, based on the number of shifts worked, has increased by 10% or more (i.e., if there are 134,201 or more workweeks) then Defendant agrees to increase the Total Settlement Amount on a proportional basis (e.g., if there was a 15% increase in the number of workweeks, Defendant shall increase the Total Settlement Amount by 15%).
 - F. **Employer Payroll Taxes.** The Total Settlement Amount does not include the employer's share of standard payroll taxes (FICA, FUTA, etc.), which shall be paid by Defendant separate and apart from, and in addition to, the Total Settlement Amount.
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:
- A. The Settlement Administrator shall first deduct from the Total Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class

Counsel's costs and expenses, the Class Representative Enhancement Award, the Settlement Administrator's fees and expenses for administration, and the PAGA Amount. The remaining amount shall be known as the "Net Settlement Amount."

B. Payments from the Net Settlement Amount. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. Waiting Time Amount: 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time between May 26, 2017 and the end of the Class Period.
- ii. Wage Statement Amount: 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Defendant at any time from May 26, 2019 through July 16, 2021 shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the period from May 26, 2019 through July 16, 2021, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from May 26, 2019 through July 16, 2021, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members during the time period from May 26, 2019 through July 16, 2021.
- iii. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member's total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

C. Payments from the PAGA Amount. In addition to the NSA, 25% of the amount set aside as PAGA civil penalties (i.e., \$12,500) has been set aside as the "PAGA Amount", as mentioned above. The PAGA Amount shall be paid to all PAGA Aggrieved Employees (regardless whether they opt out) who worked for Defendant in California at any time during the PAGA Period, based on their proportional number of pay periods worked for Defendant in California during the PAGA Period. Specifically, each Settlement Class member's payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Aggrieved Employee's number of pay periods

worked during the PAGA Period, and the denominator of which is the total pay periods worked by all PAGA Aggrieved Employees during the PAGA Period.

- D. Within 10 business days following the funding of the Total Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment, and will prepare and mail Individual Settlement Payments to Settlement Class members.
- E. Each Settlement Award shall be allocated as 20% wages and 80% penalties and interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest).
- F. Defendant shall fully discharge its obligation to the participating Settlement Class members who will receive an Individual Settlement Payment through the mailing of a Settlement check, regardless of whether such checks are actually received and/or negotiated by Class Members. Each member of the Settlement Class who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.
- G. All Individual Settlement Payments to individual Settlement Class members shall be deemed to be paid to such Settlement Class member solely in the year in which such payments actually are received by the Settlement Class member. It is expressly understood and agreed that the receipt of such Individual Settlement Payments will not entitle any Settlement Class member to additional compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Settlement Class member to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. It is the intent that the Individual Settlement Payments provided for in this Settlement are the sole payments to be made by Defendant to the Settlement Class member, and that the Settlement Class member are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).
- H. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Total Settlement Amount, which is currently estimated to be \$258,333.33. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed \$25,000.00 from the Total Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award approved by the Court.

6. **Class Representative Enhancement Award.** Defendant will not object to a request for Class Representative Enhancement Award of \$5,000.00 for Plaintiff's time and risk in prosecuting this case and Plaintiff's service to the Settlement Class. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member, and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking approval to pay up to Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00).00 for the administration services from the Total Settlement Amount. The Settlement Administrator shall be responsible for depositing into an account and holding the various payments from Defendant comprising the Total Settlement Amount, sending Notice Packets to the Settlement Class members, calculating Individual Settlement Payments and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Total Settlement Amount only after Individual Settlement Payments have been mailed to all participating Settlement Class members. The Settlement Administrator shall also provide notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for settlement purposes only;
- B. Appointing Paul K. Haines, Sean M. Blakely and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff Alvin N. Williams III as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators, as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;

- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Notice of Estimated Settlement Payment, and Request for Exclusion Form), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within 14 calendar days after the Court signs an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, dates of employment, and workweek information for each Settlement Class member during the Class Period.
- B. Within 14 calendar days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within 5 business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within 5 business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional 14 calendar days after the Response Deadline to opt-out, object, or dispute their Settlement Payment. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion Form (defined below) to the Settlement Administrator within 60 calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion Form has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA premised on the facts and/or allegations in Plaintiff's letter to the LWDA dated March 10, 2020 that arose during the PAGA Period, whether they submit a valid and timely Request for Exclusion or not.
- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
- iii. Right to Rescind. Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement if more than 5% of the Settlement Class members validly opt-out of the Settlement. Defendant shall communicate its decision to nullify the Settlement Agreement in writing to the Settlement Administrator and Class Counsel within 30 calendar days of the expiration of the Response Deadline. Should Defendant exercise this right, Defendant shall be solely responsible for all costs incurred by the Settlement Administrator through the date that Defendant communicates its decision to nullify the Settlement Agreement to the Settlement Administrator and Class Counsel.

- E. Objections. Members of the Settlement Class who do not opt-out may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court) within the Response Deadline. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection must be postmarked no later than the Response Deadline. Any Settlement Class member who wishes to may appear in person or through their own counsel and raise an objection at the Final Approval Hearing.
 - F. Notice of Individual Settlement Payment / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Payment, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.
 - G. Defendant understands its legal obligation not to retaliate against the Settlement Class members for their participation and/or election to participate in the benefits to be afforded any of them by the Settlement and/or the Lawsuit.
10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Award, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
 - C. Entering judgment pursuant to California Rule of Court 3.769. The final judgment shall be posted to the Settlement Administrator's website.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Confidentiality.** The Parties and their counsel will keep the Settlement, the Settlement-related documents, and their Settlement negotiations confidential, and will not disclose that information to any third party until after the date of filing of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff:	Paul K. Haines of Haines Law Group, APC 2155 Campus Drive, Ste 180, El Segundo, CA 90245 phaines@haineslawgroup.com
if to Defendant:	James P. Carter of Jackson Lewis, P.C. 200 Spectrum Center Drive, Ste 500, Irvine, CA 92618 james.carter@jacksonlewis.com

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED: 7-28-22

NO ORDINARY MOMENTS, INC.

By: 
Name: Luis Pena
Title: President

DATED: July 22nd 2022

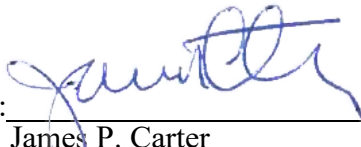
PLAINTIFF ALVIN N. WILLIAMS III

Alvin Williams
By: Alvin Williams (Jul 22, 2022 14:12 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: July 26, 2022

Jackson Lewis, P.C.

By: 
James P. Carter
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: 
Paul K. Haines
Attorneys for Plaintiff

EXHIBIT 2

EXHIBIT 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

ALVIN N. WILLIAMS III, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

NO ORDINARY MOMENTS, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No. 30-2020-01140925-CU-OE-CXC

NOTICE OF CLASS ACTION SETTLEMENT

To: All current and former non-exempt employees of No Ordinary Moments, Inc (“No Ordinary Moments”) employed in the State of California from May 26, 2016, through July 16, 2021 (the “Class Period”). Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Orange County Superior Court, Case No. 30-2020-01140925-CU-OE-CXC (the “Lawsuit”). Your rights may be affected by the Settlement, and it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant No Ordinary Moments, Inc.’s (“No Ordinary Moments”) records show that you were employed as a non-exempt employee in California from May 26, 2016 through July 16, 2021 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Alvin N. Williams III (“Plaintiff”) filed this lawsuit against No Ordinary Moments, asserting claims on behalf of all Settlement Class members. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

In the Lawsuit, Plaintiff alleges that No Ordinary Moments: (1) failed to pay all overtime wages; (2) failed to pay minimum wages for all hours worked; (3) failed to provide all legally required meal periods; (4) failed to authorize and permit all legally required rest periods; (5) failed to reimburse non-exempt employees for all necessary business expenditures; (6) failed to issue accurate and itemized wage statements; (7) failed to timely pay all wages; (8) engaged in unfair, unlawful business practices; and (9) is liable for civil penalties under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“PAGA”).

No Ordinary Moments denies that it has done anything wrong. No Ordinary Moments denies that it owes Settlement Class members any wages, restitution, penalties, or other damages or amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of No Ordinary Moments, who expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in No Ordinary Moments' best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. No Ordinary Moments provided relevant information to Class Counsel and the Settlement was reached after mediation conducted by an experienced mediator and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to No Ordinary Moments, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by No Ordinary Moments, your decision about whether to participate in the Settlement will not affect your employment. California law and No Ordinary Moments' policy strictly prohibit unlawful retaliation. No Ordinary Moments will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / Settlement Class members:	Attorneys for No Ordinary Moments:
HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Sean M. Blakely (SBN 264384) sblakely@haineslawgroup.com Alexandra R. McIntosh (SBN 320904) amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	JACKSON LEWIS P.C. James P. Carter (SBN 150052) James.Carter@jacksonlewis.com Nasim S. Tourkaman (SBN 300933) Nasim.Tourkaman@jacksonlewis.com 200 Spectrum Center Drive, Suite 500 Irvine, California 92618 Tel: (949) 885-1360 Fax: (949) 885-1380 jacksonlewis.com

What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt (hourly paid) employees who worked for No Ordinary Moments in California during the Class Period. Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against No Ordinary Moments as described below in the “Release” section.

No Ordinary Moments has agreed to pay \$775,000.00 (the “Total Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys' fees and expenses, settlement administration costs, the class representative enhancement award, and the amount designated as PAGA civil penalties.

The Total Settlement Amount will be paid within 30 days of the effective date, which is 65 calendar days of receiving final court approval of the Settlement if there are no objectors, or if there are objectors, within 5 business days of receiving final court approval of the Settlement and the expiration of the time to file appeals or the resolution of any appeals (“Effective Date”).

The following deductions from the Total Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and who will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$17,500.00 from the Total Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Total Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of up to one-third of the Total Settlement Amount (which is currently estimated to be \$258,333.33) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$25,000.00 for verified costs which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Award. Class Counsel will ask the Court to award \$5,000.00 as the Class Representative enhancement award. This payment is meant to compensate Plaintiff for his service and extra work provided on behalf of the Settlement Class members.

PAGA Payment to the State of California. The parties have agreed to allocate \$50,000.00 of the Total Settlement Amount as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties (\$37,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$12,500.00) will be payable to the Settlement Class as the "PAGA Amount."

Calculation of Settlement Class Members' Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Total Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) Wage Statement Amount: 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by No Ordinary Moments at any time between May 26, 2019 and July 16, 2021, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
- (ii) Waiting Time Amount: 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from No Ordinary Moments at any time between May 26, 2017 and the end of the Class Period.
- (iii) The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period.

Payment from PAGA Amount: In addition to the Net Settlement Amount, \$12,500.00 of the Total Settlement Amount has been designated as the "PAGA Amount" as described above, and will be allocated to all Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) who worked for No Ordinary Moments in California at any time between March 10, 2019 and July 16, 2021 (the "PAGA Period"), in proportion to the number of pay periods that each Settlement Class member worked for No Ordinary Moments in California during that time period.

Individual Settlement Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Payments will be mailed to Settlement Class members who did not opt out of the settlement by submitting a valid and timely Request for Exclusion. Settlement Class members may not opt-out of the release of PAGA claims (as described in the "Release" paragraph on page 4) and will thus receive payment for their share of the PAGA Amount even if they opt out of the Settlement and do not receive a class portion of their Settlement Payments.

Each participating Settlement Class member who receives a Settlement Payment must cash that check within 180 calendar days from the date the Settlement Administrator mails it. Any funds payable to participating Settlement Class members whose checks are not cashed within 180 calendar days after mailing will be distributed by the Settlement Administrator to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be allocated as 20% wages and 80% penalties and interest. The Settlement Administrator will be responsible for issuing to Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest). Settlement Class members are responsible for the proper income tax treatment of the Settlement Payments. The Settlement Administrator, No Ordinary Moments and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release by Settlement Class members. If the Court approves the Settlement, each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully release and discharge No Ordinary Moments and all of its current and former parent companies, subsidiaries, divisions, related or and affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (collectively the “Released Parties”) from all claims under state, or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint or Plaintiff’s March 10, 2020 PAGA Notice to the Labor & Workforce Development Agency (“LWDA”), including but not limited to: failure to pay overtime wages; failure to pay minimum wages; failure to pay reimbursement for business expenses; meal period violations; rest period violations; itemized wage statement violations; failure to pay wages when due; unfair competition, including but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or that could have been made based on the allegations in the Action, with the exception of the PAGA claims addressed separately below, from May 26, 2016 through July 16, 2021 (collectively, “Released Claims”).

Regardless of whether Settlement Class members submit a valid and timely Request for Exclusion from the class action settlement, Settlement Class members who worked for No Ordinary Moments during the PAGA Period will release and discharge the Released Parties from any and all claims under the PAGA premised on the facts and/or allegations in Plaintiff’s letter to the LWDA dated March 10, 2020 that arose during the PAGA Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment which has been calculated for you based on the formula set forth above, and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, as well as your eligibility to receive a share of the Wage Statement Amount, the Waiting Time Amount, and the PAGA Amount. The information contained in No Ordinary Moments’ records regarding this information, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. Should a consensus among the Parties not be reached, any outstanding disputes will be submitted to the Court for a final determination.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written Request for Exclusion Form no later than **<<RESPONSE**

DEADLINE>>, with your name, address, telephone number, and last four digits of your social security number. A Request for Exclusion Form is included with this Notice.

A Request for Exclusion Form must be sent directly to the Settlement Administrator at **<<ADMINISTRATOR CONTACT INFO>>**. Any person who submits a timely Request for Exclusion Form from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, and shall be barred from participating in any portion of the class action settlement. However, Settlement Class members who were employed by No Ordinary Moments at any time during the PAGA Period shall still be entitled to their portion of the PAGA Amount described above. **Do not submit both a Dispute and a Request for Exclusion Form.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before **<<RESPONSE DEADLINE>>**.

You may also appear at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Orange County Superior Court, Case No. 30-2020-01140925-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the enhancement award to the Class Representative, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.** To appear at the Final Approval Hearing remotely, please visit the Court's website at www.occourts.org/media-relations/civil.html, click on "click here to appear/check-in for civil limited/unlimited/complex remote proceedings," select Complex Civil – Department CXC104 – Judge William D. Claster, and then select *Williams v. No Ordinary Moments, Inc.*, Case Number 30-2020-01140925-CU-OE-CXC.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab,

selecting “Civil Case & Document Access,” and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, NO ORDINARY MOMENTS OR IT’S ATTORNEYS FOR
INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>. These deadlines will be strictly enforced.

EXHIBIT 3

EXHIBIT 3

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Alvin N. Williams III (“Plaintiff” or “Class Representative”), individually and on behalf of all members of the Settlement Class (defined below), on one hand, and Defendant No Ordinary Moments, Inc. (“Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines, Sean M. Blakely, and Alexandra R. McIntosh of Haines Law Group, APC (collectively, “Class Counsel”). Defendant is represented by James P. Carter and Nasim S. Tourkaman of Jackson Lewis P.C.

On May 26, 2020, Plaintiff filed a representative action complaint under the Private Attorneys General Act against Defendant in Orange County Superior Court entitled *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Case No. 30-2020-01140925-CU-OE-CXC. As a material term of this Settlement, the Parties agreed to file a First Amended Class and Representative Action Complaint to add class-wide allegations against Defendant (the “Action”). The Action alleges that Defendant: (i) failed to pay all overtime wages; (ii) failed to pay minimum wages for all hours worked; (iii) failed to provide all legally required meal periods; (iv) failed to provide all legally required rest periods; (v) failed to reimburse non-exempt employees for all necessary business expenditures; (vi) failed to timely pay all wages; (vii) failed to issue accurate and itemized wage statements; (viii) engaged in unfair unlawful business practices; and (ix) is liable for civil penalties under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“PAGA”).

Given the uncertainty of litigation, Plaintiff and Defendant wish to settle both individually and on behalf of the Settlement Class. Accordingly, Plaintiff and Defendant agree as follows:

1. **Settlement Class and PAGA Aggrieved Employees Defined.** For the purposes of this Settlement Agreement only, Plaintiff and Defendant stipulate to the certification of the following Settlement Class:

All current and former non-exempt employees of Defendant employed in the State of California from May 26, 2016, through July 16, 2021 (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

Additionally, the “PAGA Aggrieved Employees” shall be defined as:

All current and former non-exempt employees of Defendant employed in the State of California from March 10, 2019 through July 16, 2021 (the “PAGA Period”).

2. Release by Settlement Class Members, PAGA Aggrieved Employees, and Plaintiff. Plaintiff and every member of the Settlement Class (except those who opt out) will release and discharge Defendant and all of its current and former parent companies, subsidiaries, divisions, related or and affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (collectively, the “Released Parties”), as follows:

- A. Release by Settlement Class Members. Settlement Class members (except those who opt out) will release and discharge the Released Parties from all claims under state, or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative First Amended Class and Representative Action Complaint or Plaintiff’s March 10, 2020 PAGA Notice to the Labor & Workforce Development Agency (“LWDA”), including but not limited to: failure to pay overtime wages; failure to pay minimum wages; failure to pay reimbursement for business expenses; meal period violations; rest period violations; itemized wage statement violations; failure to pay wages when due; unfair competition, including but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or that could have been made based on the allegations in the Action, with the exception of the PAGA claims addressed separately in Paragraph 2.B. below, from May 26, 2016 through July 16, 2021 (collectively, “Released Claims”).
- B. Released PAGA Claims. Plaintiff and all PAGA Aggrieved Employees will release and discharge the Released Parties from any and all claims under the PAGA premised on the facts and/or allegations in Plaintiff’s letter to the LWDA dated March 10, 2020 that arose during the PAGA Period (the “PAGA Release”). It is understood and acknowledged that PAGA Aggrieved Employees receiving a share of the PAGA Amount as set forth in Paragraph 4.C. will be issued a check for their share of the PAGA Amount and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph. The PAGA Release is binding upon Plaintiff and all PAGA Aggrieved Employees upon Court approval and payment of the PAGA Amount as set forth in Paragraph 4.C. Further, the PAGA Aggrieved Employees are bound by the PAGA Release regardless of whether they cash their PAGA check.
- C. In light of Plaintiff’s Class Representative Enhancement Award, Plaintiff has agreed to release, as an individual and in addition to the Released Claims described above, all claims, whether known or unknown, under federal law or state law against the Released Parties. The Parties understand and agree that Plaintiff is not, by way of this release, releasing any workers’ compensation claims nor any other claims which cannot be released as a matter of law. Notwithstanding the foregoing, Plaintiff understands that this release includes unknown claims and that Plaintiff is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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

Specifically excluded from Plaintiff's Released Claims are any claims for workers' compensation benefits, which cannot be released as a matter of law.

3. **Total Settlement Amount.** As consideration, Defendant agrees to pay a "Total Settlement Amount" of Seven Hundred Seventy-Five Thousand Dollars and Zero Cents (\$775,000.00) in full and complete settlement of the Lawsuit, as follows:
- A. The Parties have agreed to engage Phoenix Settlement Administrators as the "Settlement Administrator" to administer this Settlement.
 - B. The Total Settlement Amount shall be deposited with the Settlement Administrator within thirty (30) calendar days of the "Effective Date." ("Effective Date"). The Effective date shall mean the date when all of the following events have occurred: (1) this Stipulation of Settlement has been executed by all Parties, Class Counsel and Defendant's Counsel; (2) the Court has granted preliminary approval to this Stipulation of Settlement; (3) the Class Notice has been given to the Settlement Class members, providing them with an opportunity to object to the terms of this Stipulation of Settlement or opt out of the settlement; (4) the Court has held a Final Fairness hearing and entered a final Order and Judgment certifying the Settlement Class and approving this Stipulation of Settlement; (5) 65 calendars days have passed since the Court has entered a final Order and Judgment certifying the Settlement Class, and approving the Stipulation of Settlement; and (6) in the event there are written objections filed prior to the final fairness hearing which are not later withdrawn or denied, the alter of the following events: five business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's final Order approving this Stipulation of Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court's final Order approving this Stipulation of Settlement has been filed, five business days after any appeal, writ or other appellate proceedings opposing this Stipulation of Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief.
 - C. This is a non-reversionary settlement. The Total Settlement Amount includes:
 - (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator which are anticipated to be no greater than Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00);

- (3) Up to \$5,000.00 for Plaintiff's Class Representative Enhancement Award in recognition for Plaintiff's contributions to the Lawsuit and Plaintiff's service to the Settlement Class. In the event that the Court reduces or does not approve the requested Class Representative Enhancement Award, Plaintiff shall not have the right to revoke the Settlement Agreement for that reason, and the Settlement will remain binding;
 - (4) Up to one-third (33.33%) of the Total Settlement Amount in Class Counsel's attorneys' fees (currently estimated at \$258,333.33), plus actual costs and expenses incurred by Class Counsel related to the Lawsuit as supported by declaration, which are currently estimated to be no greater than \$25,000.00. In the event that the Court reduces or does not approve the requested Class Counsel attorneys' fees or costs, Class Counsel shall not have the right to revoke the Settlement Agreement based on that reason, and the Settlement will remain binding; and
 - (5) \$50,000.00 of the Total Settlement Amount has been set aside by the Parties as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or \$37,500.00, will be payable to the Labor & Workforce Development Agency ("LWDA"), and the remaining 25%, or \$12,500.00, will be payable to the Settlement Class members as the "PAGA Amount," as described below.
- D. Defendant will not oppose the reasonableness of these requests. Any reduction by the Court of these requests will revert to the Settlement Class members who do not opt-out.
 - E. **Escalator Clause.** Defendant represents that there are approximately 122,000 workweeks worked, based on approximately 503,514 shifts worked, through the date of mediation. If at the time of preliminary approval, the number of workweeks, based on the number of shifts worked, has increased by 10% or more (i.e., if there are 134,201 or more workweeks) then Defendant agrees to increase the Total Settlement Amount on a proportional basis (e.g., if there was a 15% increase in the number of workweeks, Defendant shall increase the Total Settlement Amount by 15%).
 - F. **Employer Payroll Taxes.** The Total Settlement Amount does not include the employer's share of standard payroll taxes (FICA, FUTA, etc.), which shall be paid by Defendant separate and apart from, and in addition to, the Total Settlement Amount.
4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:
 - A. The Settlement Administrator shall first deduct from the Total Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class

Counsel's costs and expenses, the Class Representative Enhancement Award, the Settlement Administrator's fees and expenses for administration, and the PAGA Amount. The remaining amount shall be known as the "Net Settlement Amount."

B. Payments from the Net Settlement Amount. From the Net Settlement Amount, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. Waiting Time Amount: 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from Defendant at any time between May 26, 2017 and the end of the Class Period.
- ii. Wage Statement Amount: 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by Defendant at any time from May 26, 2019 through July 16, 2021 shall receive a portion of the Wage Statement Amount proportionate to the number of Workweeks that he or she worked during the period from May 26, 2019 through July 16, 2021, and which will be calculated by multiplying 5% of the Net Settlement Amount by a fraction, the numerator of which is the participating Settlement Class member's number of Workweeks worked from May 26, 2019 through July 16, 2021, and the denominator of which is the total number of Workweeks worked by all participating Settlement Class members during the time period from May 26, 2019 through July 16, 2021.
- iii. The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class member's total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

C. Payments from the PAGA Amount. In addition to the NSA, 25% of the amount set aside as PAGA civil penalties (i.e., \$12,500) has been set aside as the "PAGA Amount", as mentioned above. The PAGA Amount shall be paid to all PAGA Aggrieved Employees (regardless whether they opt out) who worked for Defendant in California at any time during the PAGA Period, based on their proportional number of pay periods worked for Defendant in California during the PAGA Period. Specifically, each Settlement Class member's payment from the PAGA Amount will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Aggrieved Employee's number of pay periods

worked during the PAGA Period, and the denominator of which is the total pay periods worked by all PAGA Aggrieved Employees during the PAGA Period.

- D. Within 10 business days following the funding of the Total Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate each Settlement Class member's Individual Settlement Payment, and will prepare and mail Individual Settlement Payments to Settlement Class members.
- E. Each Settlement Award shall be allocated as 20% wages and 80% penalties and interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest).
- F. Defendant shall fully discharge its obligation to the participating Settlement Class members who will receive an Individual Settlement Payment through the mailing of a Settlement check, regardless of whether such checks are actually received and/or negotiated by Class Members. Each member of the Settlement Class who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.
- G. All Individual Settlement Payments to individual Settlement Class members shall be deemed to be paid to such Settlement Class member solely in the year in which such payments actually are received by the Settlement Class member. It is expressly understood and agreed that the receipt of such Individual Settlement Payments will not entitle any Settlement Class member to additional compensation or benefits under any company bonus, contest or other compensation or benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle any Settlement Class member to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. It is the intent that the Individual Settlement Payments provided for in this Settlement are the sole payments to be made by Defendant to the Settlement Class member, and that the Settlement Class member are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).
- H. Neither Plaintiff nor Defendant shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

5. **Attorneys' Fees and Costs.** Defendant will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Total Settlement Amount, which is currently estimated to be \$258,333.33. Additionally, Class Counsel will request an award of actual costs and expenses as supported by declaration, in an amount not to exceed \$25,000.00 from the Total Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued an IRS Form 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award approved by the Court.

6. **Class Representative Enhancement Award.** Defendant will not object to a request for Class Representative Enhancement Award of \$5,000.00 for Plaintiff's time and risk in prosecuting this case and Plaintiff's service to the Settlement Class. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member, and shall be reported on an IRS Form 1099 issued by the Settlement Administrator.

7. **Settlement Administrator.** Defendant will not object the appointment of Phoenix Settlement Administrators as Settlement Administrator. Defendant will not object to Plaintiff seeking approval to pay up to Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00).00 for the administration services from the Total Settlement Amount. The Settlement Administrator shall be responsible for depositing into an account and holding the various payments from Defendant comprising the Total Settlement Amount, sending Notice Packets to the Settlement Class members, calculating Individual Settlement Payments and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Total Settlement Amount only after Individual Settlement Payments have been mailed to all participating Settlement Class members. The Settlement Administrator shall also provide notice of final judgment by posting the final judgment to its website.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for settlement purposes only;
- B. Appointing Paul K. Haines, Sean M. Blakely and Alexandra R. McIntosh of Haines Law Group, APC as Class Counsel;
- C. Appointing Plaintiff Alvin N. Williams III as Class Representative for the Settlement Class;
- D. Approving Phoenix Settlement Administrators, as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;

- F. Approving the form and content of the Notice Packet (which is comprised of the Class Notice, Notice of Estimated Settlement Payment, and Request for Exclusion Form), and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:

- A. Within 14 calendar days after the Court signs an order preliminarily approving this Agreement, Defendant will provide the Settlement Administrator with the names, last known addresses, phone numbers, social security numbers, dates of employment, and workweek information for each Settlement Class member during the Class Period.
- B. Within 14 calendar days from receipt of this information, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the address of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Settlement Payment for each Settlement Class member; and (iv) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within 5 business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class member immediately, and in any event within 5 business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have an additional 14 calendar days after the Response Deadline to opt-out, object, or dispute their Settlement Payment. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline.
- D. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail a Request for Exclusion Form (defined below) to the Settlement Administrator within 45-60 calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the Settlement must submit a Request for Exclusion Form by the Response Deadline. The Request for Exclusion Form must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Request for Exclusion Form does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion Form not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion Form shall be the exclusive means used to determine whether a Request for Exclusion Form has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement and will not be bound by the terms of the Settlement or have any right to object, appeal or comment thereon. Notwithstanding the foregoing, the PAGA settlement and release provisions will apply to all Settlement Class members whether or not they exclude themselves from the class action settlement. Settlement Class members who were employed by Defendant at any time during the PAGA Period and submit a valid and timely Request for Exclusion shall still be entitled to their portion of the PAGA Amount described above, and will release all claims for civil penalties under the PAGA premised on the facts and/or allegations in Plaintiff's letter to the LWDA dated March 10, 2020 that arose during the PAGA Period, whether they submit a valid and timely Request for Exclusion or not.
- ii. At no time will the Parties or their counsel seek to solicit or otherwise encourage any Settlement Class member to object to the Settlement or opt-out of the Settlement Class or encourage any Settlement Class member to appeal from the final judgment.
- iii. Right to Rescind. Notwithstanding any other provision of this Settlement Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to nullify the Settlement if more than 5% of the Settlement Class members validly opt-out of the Settlement. Defendant shall communicate its decision to nullify the Settlement Agreement in writing to the Settlement Administrator and Class Counsel within 30 calendar days of the expiration of the Response Deadline. Should Defendant exercise this right, Defendant shall be solely responsible for all costs incurred by the Settlement Administrator through the date that Defendant communicates its decision to nullify the Settlement Agreement to the Settlement Administrator and Class Counsel.

- E. Objections. Members of the Settlement Class who do not opt-out may object to this Settlement Agreement as explained in the Class Notice by filing a written objection with the Settlement Administrator (who shall serve all objections as received on Class Counsel and Defendant's counsel, as well as file all such objections with the Court) within the Response Deadline. Defendant's counsel and Class Counsel shall file any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Defendant's counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection must be postmarked no later than the Response Deadline. Any Settlement Class member who wishes to may appear in person or through their own counsel and raise an objection at the Final Approval Hearing.
 - F. Notice of Individual Settlement Payment / Disputes. Each Notice Packet mailed to a Settlement Class member shall disclose the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Defendant's records regarding the information stated in the Notice of Settlement Payment, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement. However, if the Settlement Administrator and the Parties cannot agree on a resolution, the Parties will submit the dispute to the Court for a final determination.
 - G. Defendant understands its legal obligation not to retaliate against the Settlement Class members for their participation and/or election to participate in the benefits to be afforded any of them by the Settlement and/or the Lawsuit.
10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:
- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees and costs, Class Representative Enhancement Award, settlement administration costs, and payment to the LWDA for its share of civil penalties under PAGA; and
 - C. Entering judgment pursuant to California Rule of Court 3.769. The final judgment shall be posted to the Settlement Administrator's website.

11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code Section 1152.

12. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

13. **Confidentiality.** The Parties and their counsel will keep the Settlement, the Settlement-related documents, and their Settlement negotiations confidential, and will not disclose that information to any third party until after the date of filing of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement.

14. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Plaintiff: Paul K. Haines of Haines Law Group, APC
2155 Campus Drive, Ste 180, El Segundo, CA 90245
phaines@haineslawgroup.com

if to Defendant: James P. Carter of Jackson Lewis, P.C.
200 Spectrum Center Drive, Ste 500, Irvine, CA 92618
james.carter@jacksonlewis.com

15. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

16. **Enforcement Action.** In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

DATED:

NO ORDINARY MOMENTS, INC.

By: _____
Name: _____
Title: _____

DATED:

PLAINTIFF ALVIN N. WILLIAMS III

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED:

Jackson Lewis, P.C.

By: _____
James P. Carter
Attorneys for Defendant

DATED:

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff

EXHIBIT 4

EXHIBIT 4

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

ALVIN N. WILLIAMS III, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

NO ORDINARY MOMENTS, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No. 30-2020-01140925-CU-OE-CXC

NOTICE OF CLASS ACTION SETTLEMENT

To: All current and former non-exempt employees of No Ordinary Moments, Inc (“No Ordinary Moments”) employed in the State of California from May 26, 2016, through July 16, 2021 (the “Class Period”). Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Orange County Superior Court, Case No. 30-2020-01140925-CU-OE-CXC (the “Lawsuit”). Your rights may be affected by the Settlement, and it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant No Ordinary Moments, Inc.’s (“No Ordinary Moments”) records show that you were employed as a non-exempt employee in California from May 26, 2016 through July 16, 2021 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Alvin N. Williams III (“Plaintiff”) filed this lawsuit against No Ordinary Moments, asserting claims on behalf of all Settlement Class members. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

In the Lawsuit, Plaintiff alleges that No Ordinary Moments: (1) failed to pay all overtime wages; (2) failed to pay minimum wages for all hours worked; (3) failed to provide all legally required meal periods; (4) failed to authorize and permit all legally required rest periods; (5) failed to reimburse non-exempt employees for all necessary business expenditures; (6) failed to issue accurate and itemized wage statements; (7) failed to timely pay all wages; (8) engaged in unfair, unlawful business practices; and (9) is liable for civil penalties under the Private Attorneys General Act (Labor Code § 2698 *et seq.*) (“PAGA”).

No Ordinary Moments denies that it has done anything wrong. No Ordinary Moments denies that it owes Settlement Class members any wages, restitution, penalties, or other damages or amounts. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of No Ordinary Moments, who expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in No Ordinary Moments' best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. No Ordinary Moments provided relevant information to Class Counsel and the Settlement was reached after mediation conducted by an experienced mediator and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to No Ordinary Moments, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by No Ordinary Moments, your decision about whether to participate in the Settlement will not affect your employment. California law and No Ordinary Moments' policy strictly prohibit unlawful retaliation. No Ordinary Moments will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff / Settlement Class members:	Attorneys for No Ordinary Moments:
HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Sean M. Blakely (SBN 264384) sblakely@haineslawgroup.com Alexandra R. McIntosh (SBN 320904) amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	JACKSON LEWIS P.C. James P. Carter (SBN 150052) James.Carter@jacksonlewis.com Nasim S. Tourkaman (SBN 300933) Nasim.Tourkaman@jacksonlewis.com 200 Spectrum Center Drive, Suite 500 Irvine, California 92618 Tel: (949) 885-1360 Fax: (949) 885-1380 jacksonlewis.com

What are the terms of the Settlement?

On <<PRELIM APPROVAL DATE>>, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt (hourly paid) employees who worked for No Ordinary Moments in California during the Class Period. Settlement Class members who do not submit a valid and timely Request for Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against No Ordinary Moments as described below in the “Release” section.

No Ordinary Moments has agreed to pay \$775,000.00 (the “Total Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class members, attorneys' fees and expenses, settlement administration costs, the class representative enhancement award, and the amount designated as PAGA civil penalties.

The Total Settlement Amount will be paid within 30 days of the effective date, which is 65 calendar days of receiving final court approval of the Settlement if there are no objectors, or if there are objectors, within 5 business days of receiving final court approval of the Settlement and the expiration of the time to file appeals or the resolution of any appeals (“Effective Date”).

The following deductions from the Total Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and who will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$17,500.00 from the Total Settlement Amount to pay the Settlement administration costs.

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Total Settlement Amount. Settlement Class members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of up to one-third of the Total Settlement Amount (which is currently estimated to be \$258,333.33) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$25,000.00 for verified costs which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Award. Class Counsel will ask the Court to award \$5,000.00 as the Class Representative enhancement award. This payment is meant to compensate Plaintiff for his service and extra work provided on behalf of the Settlement Class members.

PAGA Payment to the State of California. The parties have agreed to allocate \$50,000.00 of the Total Settlement Amount as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties (\$37,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$12,500.00) will be payable to the Settlement Class as the "PAGA Amount."

Calculation of Settlement Class Members' Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Total Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) Wage Statement Amount: 5% of the Net Settlement Amount shall be designated as the "Wage Statement Amount." Each participating Settlement Class member who was employed by No Ordinary Moments at any time between May 26, 2019 and July 16, 2021, shall receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
- (ii) Waiting Time Amount: 10% of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class member who separated their employment from No Ordinary Moments at any time between May 26, 2017 and the end of the Class Period.
- (iii) The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class member based on their proportionate number of workweeks worked during the Class Period.

Payment from PAGA Amount: In addition to the Net Settlement Amount, \$12,500.00 of the Total Settlement Amount has been designated as the "PAGA Amount" as described above, and will be allocated to all Settlement Class members (including those who submit a valid and timely Request for Exclusion from the class action settlement) who worked for No Ordinary Moments in California at any time between March 10, 2019 and July 16, 2021 (the "PAGA Period"), in proportion to the number of pay periods that each Settlement Class member worked for No Ordinary Moments in California during that time period.

Individual Settlement Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Payments will be mailed to Settlement Class members who did not opt out of the settlement by submitting a valid and timely Request for Exclusion. Settlement Class members may not opt-out of the release of PAGA claims (as described in the "Release" paragraph on page 4) and will thus receive payment for their share of the PAGA Amount even if they opt out of the Settlement and do not receive a class portion of their Settlement Payments.

Each participating Settlement Class member who receives a Settlement Payment must cash that check within 180 calendar days from the date the Settlement Administrator mails it. Any funds payable to participating Settlement Class members whose checks are not cashed within 180 calendar days after mailing will be distributed by the Settlement Administrator to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be allocated as 20% wages and 80% penalties and interest. The Settlement Administrator will be responsible for issuing to Settlement Class members an IRS Form W-2 (for amounts paid as wages) and an IRS Form 1099 (for amounts paid as penalties and interest). Settlement Class members are responsible for the proper income tax treatment of the Settlement Payments. The Settlement Administrator, No Ordinary Moments and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release by Settlement Class members. If the Court approves the Settlement, each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will fully release and discharge No Ordinary Moments and all of its current and former parent companies, subsidiaries, divisions, related or and affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (collectively the “Released Parties”) from all claims under state, or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint or Plaintiff’s March 10, 2020 PAGA Notice to the Labor & Workforce Development Agency (“LWDA”), including but not limited to: failure to pay overtime wages; failure to pay minimum wages; failure to pay reimbursement for business expenses; meal period violations; rest period violations; itemized wage statement violations; failure to pay wages when due; unfair competition, including but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or that could have been made based on the allegations in the Action, with the exception of the PAGA claims addressed separately below, from May 26, 2016 through July 16, 2021 (collectively, “Released Claims”).

Regardless of whether Settlement Class members submit a valid and timely Request for Exclusion from the class action settlement, Settlement Class members who worked for No Ordinary Moments during the PAGA Period will release and discharge the Released Parties from any and all claims under the PAGA premised on the facts and/or allegations in Plaintiff’s letter to the LWDA dated March 10, 2020 that arose during the PAGA Period.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate, and in the best interests of the Settlement Class, and the entry of a Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment which has been calculated for you based on the formula set forth above, and as stated in the accompanying Notice of Settlement Award. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, as well as your eligibility to receive a share of the Wage Statement Amount, the Waiting Time Amount, and the PAGA Amount. The information contained in No Ordinary Moments’ records regarding this information, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than **<<RESPONSE DEADLINE>>**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. Should a consensus among the Parties not be reached, any outstanding disputes will be submitted to the Court for a final determination.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written Request for Exclusion Form no later than **<<RESPONSE**

DEADLINE>>, with your name, address, telephone number, and last four digits of your social security number. A Request for Exclusion Form is included with this Notice.

A Request for Exclusion Form must be sent directly to the Settlement Administrator at **<<ADMINISTRATOR CONTACT INFO>>**. Any person who submits a timely Request for Exclusion Form from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member, and shall be barred from participating in any portion of the class action settlement. However, Settlement Class members who were employed by No Ordinary Moments at any time during the PAGA Period shall still be entitled to their portion of the PAGA Amount described above. **Do not submit both a Dispute and a Request for Exclusion Form.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator at **<<INSERT ADMINISTRATOR CONTACT INFO>>**. All objections and correspondence must be sent directly to the Settlement Administrator, please do not send objections or correspondence to the Court. Any objections will be provided to the Court by Plaintiff in connection with the Final Approval Hearing. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Objections should be in writing and must be postmarked on or before **<<RESPONSE DEADLINE>>**.

You may also appear at the Final Approval Hearing scheduled for **<<FINAL APPROVAL HEARING DATE/TIME>>** in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701. You have the right to appear either in person or through your own attorney at this hearing. All objections or other correspondence must state the name and number of the case, which is *Alvin N. Williams III v. No Ordinary Moments, Inc.*, Orange County Superior Court, Case No. 30-2020-01140925-CU-OE-CXC.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **<<FINAL APPROVAL HEARING DATE/TIME>>**, in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the enhancement award to the Class Representative, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.** To appear at the Final Approval Hearing remotely, please visit the Court's website at www.occourts.org/media-relations/civil.html, click on "click here to appear/check-in for civil limited/unlimited/complex remote proceedings," select Complex Civil – Department CXC104 – Judge William D. Claster, and then select Williams v. No Ordinary Moments, Inc., Case Number 30-2020-01140925-CU-OE-CXC.

How can I get additional information?

This Notice is only a summary of the Action and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Orange County Superior Court, located at 751 W. Santa Ana Blvd, Santa Ana, California 92701, during regular court hours. You may also visit the Orange County Superior Court website at www.occourts.org to inspect the Court's files by going to the "Online Case Access" tab,

selecting “Civil Case & Document Access,” and entering the case number information. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, NO ORDINARY MOMENTS OR IT’S ATTORNEYS FOR
INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is <<**RESPONSE DEADLINE**>>. These deadlines will be strictly enforced.