

JAMES HAWKINS APLC

James R. Hawkins (192925)
Christina Lucio (253677)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: christina@jameshawkinsaplc.com

Attorneys for Plaintiff KEVIN HARRIS,
on behalf of himself and all others similarly situated

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

KEVIN HARRIS, individually and on behalf
of himself and all others similarly situated,

Plaintiff,

v.

MCKESSON MEDICAL-SURGICAL INC., a
Delaware Corporation; and DOES 1-50,
inclusive,

Defendants.

Case No. S-CV-0044686

Assigned for All Purposes to:
Hon. Garen Horst
Dept.: 42

**DECLARATION OF JAMES R. HAWKINS
IN SUPPORT OF PLAINTIFF'S MOTION
FOR:**

- (1) PRELIMINARY APPROVAL OF JOINT
STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT;**
- (2) APPROVAL OF NOTICE TO CLASS
MEMBERS AND RELATED
MATERIALS;**
- (3) APPROVAL OF SETTLEMENT
ADMINISTRATOR; AND**
- (4) SETTING HEARING FOR FINAL
APPROVAL OF SETTLEMENT**

Date: December 7, 2023
Time: 8:30 a.m.

1 I, James R. Hawkins, declare as follows:

2 1. I am an individual over the age of 18. I am the founding partner at the Law Firm of
3 James Hawkins, APLC. We are the attorneys of record for Plaintiff KEVIN HARRIS (“Plaintiff”
4 or “Class Representative”), who has filed this Class and PAGA action on behalf of himself and the
5 proposed settlement class (the “Class”) and PAGA Employees in the above-captioned matter against
6 Defendant MCKESSON MEDICAL-SURGICAL, INC. (“Defendant” or “McKesson”) (collectively
7 with Plaintiff, the “Parties”). I have personal knowledge of the facts set forth below, and if called
8 to testify regarding them, I could and would do so competently.

9 2. I submit this Declaration in support of Plaintiff’s Motion for Preliminary Approval
10 of Joint Stipulation of Class Action and PAGA Settlement, Approval of Class Notice, Approval of
11 Settlement Administrator and Setting Hearing for Final Approval of Settlement (the “Preliminary
12 Approval Motion”), which is filed concurrently herewith, along with the Memorandum of Points
13 and Authorities. For the Court’s convenience, the Joint Stipulation of Class Action and PAGA
14 Settlement is attached hereto as **Exhibit 1**, and the Class Notice is attached hereto as **Exhibit 2**.

15 3. I have no knowledge of the existence of any conflicting interests between my firm
16 and any of its attorneys, and Plaintiff or any other Class Member.

17 4. Through mediation, the Plaintiff and Defendant have entered into a Joint Stipulation
18 of Class Action and PAGA Settlement (“Settlement”).

19 5. The Settlement seeks to fully release and discharge Defendant from the claims
20 brought against it in this matter in exchange for Defendant’s agreement to pay \$925,000.00 on a
21 non-reversionary, non-claims made basis (each Settlement Class Member will receive his/her share
22 of the Net Settlement Amount without having to submit a claim form or taking action, except for
23 those who opt-out). Plaintiff seeks to represent a settlement class of approximately 227 current and
24 former non-exempt hourly employees of Defendant in California who hold/held positions as delivery
25 drivers during the Class Period, based on allegations of (1) failure to accurately pay all wages,
26 including overtime; (2) failure to authorize and permit rest periods; (3) failure to timely pay wages
27 owed upon separation from employment; (4) failure to provide accurate itemized wage statements;
28 (5) failure to reimburse necessary expenses; (6) violation of the Unfair Competition Law; and (7)

1 penalties pursuant to PAGA. The claims are as follows:

- 2 a. Failure to Pay All Wages, Including Overtime: Plaintiff alleges that he and the Class
3 Members received productivity bonuses or incentives during pay periods in which
4 they had worked over eight hours in a day or over forty hours in a week. Defendant
5 failed to account for these bonuses when calculating Plaintiff's and Class Members'
6 overtime rate of pay, which resulted in Defendant paying its hourly non-exempt
7 employees less overtime than they were owed in violation of the Labor Code and
8 applicable Wage Orders. Defendant also required Plaintiff and the Class Members to
9 perform work off-the-clock each shift.
- 10 b. Failure to Authorize and Permit Rest Periods: Plaintiff alleges that Defendant failed
11 to authorize and permit rest periods. Specifically, Plaintiff and Class Members were
12 unable to take rest periods due to the volume of work assigned, unrealistic work
13 requirements, Defendant's refusal to permit overtime work, and frequent
14 interruptions of rest breaks. Defendant's policy put the onus on employees to provide
15 their own breaks. Defendant was aware that the demands imposed made it impossible
16 to take lawful rest periods because Defendant monitored drivers through real-time
17 GPS records. Further, Defendant's records solely monitored meal periods, not rest
18 periods, and there is no evidence that Defendant ever paid a rest period premium.
- 19 c. Failure to Timely Pay Wages Owed Upon Separation From Employment: Plaintiff
20 alleges that Defendant failed to pay Plaintiff and the Class Members whose
21 employment ended during the relevant time period rest period premiums, meal period
22 premiums, and all minimum wages and overtime wages owed at the time of their
23 termination/separation. By way of example, Plaintiff was terminated, and he was not
24 provided his final pay immediately, as required, but was instead paid via mail three
25 days later, and this pay did not include the missing overtime pay, or meal or rest
26 period premiums. In a similar fashion to Plaintiff, as result of Defendant's policies
27 described above, Class Members whose employment has ended during the relevant
28 time period were not paid for every hour worked at the appropriate rate.

- 1 d. Failure to Provide Accurate, Itemized Wage Statements: Plaintiff alleges that
2 Defendant intentionally and knowingly failed to provide Plaintiffs and employees
3 with accurate itemized wage statements as required by Labor Code § 226, as Plaintiff
4 and others have not been properly compensated by Defendant for all hours worked
5 and have not been paid all compensation due and owing, including all minimum and
6 overtime wages, and meal and rest period premiums. Accordingly, the wage
7 statements issued by Defendant allegedly do not include the correct amount of gross
8 and net wages earned, total hours worked by the employee, and all applicable hourly
9 rates in effect during the pay period and the corresponding number of hours worked
10 at each hourly rate by the employee as required under Labor Code section 226.
- 11 e. Failure to Reimburse Necessary Expenses: Plaintiff alleges that Defendant required
12 Class Members to use their personal cell phones for work purposes and not
13 reimbursed for this expense.
- 14 f. UCL Violations: Plaintiff alleges that by failing to provide compliant rest and meal
15 periods, rest and meal period premiums, minimum wages, overtime wages, accurate
16 itemized wage statements, reimbursement for business expenses, final pay, and other
17 statutory penalties to Class Members, and committing the above-described Labor
18 Code violations, Defendant engaged in unlawful, unfair, and/or fraudulent business
19 practices and is liable for restitution to the Class Members under the Unfair
20 Competition Law.
- 21 g. PAGA Penalties: Plaintiff further argues that he and the other PAGA Employees were
22 entitled to penalties under the Private Attorneys General Act of 2004, Labor Code §
23 2698 *et seq.* (“PAGA”).

24 6. Defendant argued that courts routinely significantly reduce PAGA penalties.
25 Additionally, a proposed initiative on the ballot in 2024 may effectively repeal PAGA by taking
26 away the ability to pursue civil penalties via a representative action. If this proposed initiative were
27 to pass, coupled with recent changes in the law regarding the arbitrability of PAGA claims, Plaintiff
28 may not be able to proceed with his representative PAGA claims at all. Defendant also contended

1 that Plaintiffs' PAGA claim is unmanageable.

2 7. With respect to Plaintiff's claims for rest period violations, Defendant argued that
3 there is no common policy or practice to deprive employees of rest periods and that Defendant's rest
4 period policies comply with California law.

5 8. With respect to Plaintiff's claims for unpaid minimum and overtime wages,
6 Defendant argued that they would defeat certification on Plaintiffs' claims for unpaid overtime
7 wages due to regular rate of pay miscalculations.

8 9. At the time of mediation and settlement, Defendant contended that Plaintiffs' wage
9 statement claim was meritless because it is derivative of Plaintiff's underlying claims.¹ Additionally,
10 Defendant contended that the Class suffered no actual "injury" as required under Labor Code section
11 226(e) and that any violation of the Labor Code was not "knowing and intentional".

12 10. Defendant also contended that Plaintiff and the Class were not entitled to waiting
13 time penalties under Labor Code section 203 because any Labor Code violations were not intentional
14 and as a result Plaintiffs would have difficulty proving the requisite willfulness. Further, in late 2019,
15 the California Court of Appeals held that there are no derivative section 203 penalties based on an
16 underlying claim that rest break premiums were not timely paid (*see Naranjo*, 40 Cal. App. 5th 444,
17 474 (2019). *Naranjo* has since been overturned by the California Supreme Court, but this risk was
18 significant at the time of mediation and settlement.

19 11. At the time of mediation, Defendant contended that Plaintiff would be unable to
20 certify his expense reimbursement claims since it will involve an individual inquiry as to each
21 specific situation during which the employee used his or her personal cell phone. Additionally,
22

23 ¹ See *Naranjo v. Spectrum Sec. Servs., Inc.*, 40 Cal. App. 5th 444, 474 (2019) (Finding that 226.7
24 actions do not entitle employees to pursue derivative penalties in sections 203 and 226); *see also*
25 *Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308 (Finding a derivative wage
26 statement claim not viable as a separate claim from an overtime claim upon which it is based);
27 *Bentancourt v. OS Restaurant Services, LLC*, 49 Cal. App. 5th 240, 247-48 (2020) (Finding that
28 actions for failure to provide meal or rest periods does not entitle employees to pursue the
derivative penalties under section 226). The California Supreme Court has since overturned the
decision in *Naranjo* but this was a risk that was present at the time of mediation. *See, Naranjo v.*
Spectrum Security Services, Inc., 2022 Cal. LEXIS 2878 (Cal. May 23, 2022).

1 Defendant contended that there was no uniform policy or practice requiring or expecting Class
2 Members to use their cell phones for business purposes.

3 12. Plaintiff estimated Defendant's maximum liability to be approximately
4 \$4,837,343.61 exclusive of PAGA, and \$9,278,743.61 inclusive of PAGA. However, in light of the
5 foregoing defenses and risks, despite Defendant's potentially massive maximum exposure, Plaintiff
6 calculated Defendant's realistic, risk-adjusted exposure at \$3,067,445.31, inclusive of PAGA, with
7 each claim separately valued as follows:

- 8 a. Plaintiffs calculated Defendant's realistic, risk-adjusted for rest period premiums at
9 \$555,785.21 after taking discounts for the likelihood that Plaintiffs' claim could fail
10 on the merits or not be certified.
- 11 b. Plaintiff calculated Defendant's realistic, risk-adjusted exposure for unpaid wages
12 due to off-the-clock work at \$63,668.76 based on seven minutes of unpaid overtime
13 wages per shift and discounts for Defendant's arguments on certification, including
14 that Defendant's policy was facially valid.
- 15 c. Plaintiff calculated Defendant's realistic, risk-adjusted exposure for unpaid wages
16 due to improper regular rate calculations at \$60,336.39 based on Defendant's
17 arguments on certification and that Defendant's conduct was not "knowing and
18 intentional".
- 19 d. Plaintiff calculated Defendant's realistic, risk-adjusted exposure for wage statement
20 penalties at \$18,100.92 based on discounts for risks associated with Plaintiffs'
21 underlying wage and premium claims and Defendant's arguments that their conduct
22 was not "knowing and intentional" and that Class Members suffered no "actual"
23 injury.
- 24 e. Plaintiff calculated Defendant's realistic, risk-adjusted exposure for waiting time
25 penalties at \$0.00 based on the risks of losing the underlying claims on the merits and
26 the difficulty in proving the requisite "willfulness".
- 27 f. Plaintiff calculated Defendant's realistic, risk-adjusted exposure for unreimbursed
28 business expenses at \$86,479.41 based on the risks on certification given that

1 Defendant's did not have a uniform policy requiring cell phone use.

2 g. Plaintiffs calculated Defendant's realistic, risk adjusted for PAGA penalties at
3 \$1,935,900.00 based on the Court's likely reduction of PAGA penalties, Defendant's
4 arguments on the merits, and Defendant's arguments that Plaintiff's PAGA claim is
5 unmanageable.

6 13. Under the terms of the Settlement, Defendant will not oppose Class Counsels'
7 application for a reasonable award of attorney's fees not to exceed 1/3 of the Settlement Amount,
8 totaling \$308,333.33, Class Counsels' litigation costs not to exceed \$20,000.00, Settlement
9 Administration Costs not to exceed \$12,000.00, PAGA penalties of \$64,750.00 (of which
10 \$48,562.50 or 75% will be paid to the LWDA and the remaining \$16,187.50 or 25% will be paid to
11 the Settlement Class Members), and Service Award to Plaintiff not to exceed \$10,000.00.

12 14. I fully support the Settlement on these terms, and respectfully submit that the
13 Settlement is fair, reasonable, and adequate in light of all known facts.

14 15. Given the realistic value of Plaintiff's claims as set forth above, the \$925,000.00
15 Settlement Amount amounts to approximately 30.16% of Defendant's realistic maximum liability,
16 is an excellent result for the Settlement Class.

17 16. Preliminary approval is appropriate since the Settlement will provide significant
18 monetary relief to the Settlement Class.

19 17. The Settlement was the product of extensive arm's length negotiations between
20 counsel and was facilitated by Hon. Ronald Sabraw (ret.), an experienced wage-and-hour class
21 action mediator, over the course of two full-day mediation sessions. In connection with the
22 anticipated mediation, the Parties exchanged extensive formal and informal discovery, including
23 production of time and pay records for a sizable sample of the Putative Class. In advance of
24 mediation, Defendant provided a sampling of class-wide redacted payroll and time data and relevant
25 policy documents. Though cordial and professional, the Settlement negotiations were adversarial
26 and non-collusive in nature. The Settlement reached is the product of substantial effort by the Parties
27 and their counsel. Although Plaintiff and Class Counsel believed that there was a possibility of
28 certifying the claims, they recognized the potential risk, expense, and complexity posed by litigation,

1 such as unfavorable decisions on class certification, summary judgment, at trial and/or on the
2 damages awarded, and/or on an appeal that can take several more years to litigate. In addition, if
3 Defendant prevailed on any of its defenses, the Settlement Class Members may not have received
4 any substantial monetary recovery.

5 18. Prior to the second mediation in this action, Defendant settled a related action entitled
6 *Torrez v. McKesson Medical-Surgical, Inc.*, San Bernardino Case No. CIVDS1917976. The *Torrez*
7 action released claims for Defendant's alleged failure to provide complete and accurate wage
8 statements to individuals who received an incentive payment under Defendant's incentive payment
9 plan, and statutory penalties for the forgoing violations and unfair competition.

10 19. The Settlement will result in a fair payment to each Settlement Class Member based
11 on the number of Weeks Worked during the Class Period. Plaintiff and his counsel have diligently
12 investigated the claims and defenses on behalf of the Settlement Class Members and worked to
13 achieve a resolution of the claims to maximize the recovery by avoiding further expenditure of
14 attorneys' fees and costs. After evaluating the significant risks attendant with further litigation
15 described above and weighing them against the benefits of a known compromise and settlement as
16 set forth in the Settlement Agreement, settlement on the terms agreed to is believed to be in the best
17 interest of Plaintiff and the Settlement Class, and is a fair and reasonable resolution of the claims
18 alleged.

19 20. Plaintiff's counsel brought to bear a great deal of collective experience in negotiating
20 the settlement of this case. Plaintiff's counsel engaged in necessary informal discovery,
21 investigation, sampling and expert evaluation, making it possible to exercise informed judgment
22 throughout the settlement process, including significant document review (e.g., documents
23 pertaining to Defendant's policies and procedures, personnel documents, wage statements, time
24 records, among others) and conducted an extensive analysis and extrapolation of the sampling of
25 class-wide data provided by Defendant.

26 21. Based on our experience in other cases, including wage and hour matters, I believe
27 my co-counsel and I are qualified to evaluate the class claims and viability of defenses in this class
28 action. In this case, the recovery for each Settlement Class Member is reasonable, fair and adequate,

1 and a settlement at this time is in the best interest of the Settlement Class. The Settlement provides
2 each Settlement Class Member with compensation for the alleged violations when viewed in relation
3 to the costs and risks inherent in obtaining class certification and proceeding to trial.

4 22. Plaintiff's counsel fully endorse the terms and conditions of the Settlement as set
5 forth in the abovementioned Settlement Agreement.

6 23. Of course, the Settlement Amount represents a compromise figure, taking into
7 account the various risks surrounding class certification and the merits of Defendant's asserted
8 defenses. Nevertheless, the Settlement provides for fair and adequate payments to the Settlement
9 Class Members, with no reversion to Defendant.

10 24. Plaintiff seeks a Service Award in an amount of \$10,000.00, which we believe is fair
11 and warranted. Plaintiff agreed to come forward in an effort to effectuate a policy and practice
12 change that benefitted all other Settlement Class Members, and to recover unpaid wages and
13 penalties. He assumed significant risk in bringing this litigation, namely, had he lost, he would have
14 been ordered to pay Defendant's costs.

15 25. Plaintiff provided invaluable assistance to the investigation and prosecution of this
16 case, including: providing factual background for the Complaints which were consolidated and gave
17 rise to this action; reviewing the litigation documents; providing information and documentation
18 about Defendant's policies and practices; participating in phone calls to discuss litigation and
19 settlement strategy; assisting with the litigation of this matter; locating witnesses and documents;
20 assisting attorneys in mediation and preparation for mediation; and reviewing the settlement
21 documents. Plaintiff agreed to participate in this case with no guarantee of personal benefit.
22 Plaintiff's comprehensive declaration setting forth all of the reasons why they believe that the
23 Service Awards should be approved has been filed herewith.

24 26. When this case was taken on a contingency fee basis, with our firm agreeing to
25 assume responsibility for all litigation costs, the ultimate result was far from certain. In the course
26 of this litigation, we paid all costs including the filing fees, court costs, research/database fees,
27 mediation costs, and expert costs. There was never a guarantee that our firms would recoup these
28 expenditures.

1 27. It is our experience that attorneys' fee awards of one-third of a common fund
2 settlement are the standard in California. Defendant does not oppose this fee request. The fee is
3 further warranted because it is within the range of reasonableness typically awarded in class actions.
4 Our collective costs as Class Counsel will not exceed \$20,000 and will be based on the actual amount
5 incurred at the time of final approval.

6 28. For the foregoing reasons, it is respectfully requested that the Court grant preliminary
7 approval of the Settlement as being fair, reasonable, and in the best interests of the Settlement Class,
8 as well as preliminarily approve the requested attorneys' fees and costs, and service awards to the
9 Class Representatives.

10 **Plaintiff's Counsel Is Experienced in Wage and Hour Litigation**

11 29. I am an attorney at law licensed to practice before the Courts of the State of
12 California and before this Court.

13 30. In 1993, I graduated from the University of California, Los Angeles with a Bachelor
14 of Arts Degree. Following graduation, I attended Whittier Law School. In 1996, while a full-time
15 law student, I was also a full-time Judicial Extern for the Honorable Consuelo B. Marshall, United
16 States District Court, Central District. After approximately five months of service for Judge
17 Marshall, I became a full-time extern for the United States Attorney's Office, Central District of
18 California. My externship lasted for approximately five months. Thereafter, in 1997, I graduated
19 from Whittier Law School. The same year, I was admitted to practice law in the State of California.

20 31. From 1997-2007, I was a named partner at Hawkins & Sofonio, a law firm based out
21 of Irvine, California. At Hawkins & Sofonio, I pioneered the employment department litigating
22 plaintiff related employment issues such as: Wrongful Termination, Age Discrimination, Disability,
23 Wage and Hour and Sexual Harassment claims. Through the success and experience I obtained
24 litigating employment related matters, I commenced the Wage and Hour division of our
25 employment department in 2002. Since then, I have spent the vast majority of my practice litigating
26 wage and hour class actions.

27 32. In 2007, I incorporated my wage and hour class action practice as James Hawkins
28 APLC. Since its inception, this law firm has been exclusively involved in class action and complex

1 litigation. In 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class
2 actions. I have been lead or co-lead counsel in all of the cases listed below.

3 33. I have a great deal of experience in wage and hour class action litigation. I have been
4 certified and approved as class counsel in many other wage/hour class actions, and I am currently
5 litigating numerous others before this Court and others. Although not an all-inclusive list, over the
6 years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which
7 implicated similar law and facts to those associated with this Action:

- 8 a. *Mojica v. Compass Group, Inc., et. al.* USDC Central District, Case No. 8:13-cv-
9 01754. Wage and Hour Class Action case seeking past wages for meal and rest
10 break violations for production workers in the State of California. Plaintiff's
11 Counsel preliminarily appointed as Class Counsel. Case settled. Final approval
12 granted, and funds fully disbursed.
- 13 b. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-
14 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
15 overtime and meal and rest break violations for production workers in the State of
16 California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final
17 Approval granted, no objections and funds fully distributed.
- 18 c. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
19 Wage and Hour Class Action case seeking past wages for meal and rest period
20 violations for retail employees in the State of California. Plaintiff's counsel
21 appointed co-lead counsel. Case settled, Final Approval granted, no objections and
22 funds fully distributed.
- 23 d. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No.
24 SACV08-00412. Wage and Hour Class Action case seeking past wages for meal
25 and rest period violations for retail employees in the State of California. Plaintiff's
26 Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no
27 objections and funds fully distributed.
- 28

- 1 e. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County
2 Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past
3 wages for overtime, meal and rest break violations for driver employees in the
4 State of California. Stipulation for “binding arbitration.” Arbitration Award for
5 Plaintiff Class. Arbitration Award confirmed. Plaintiff’s counsel lead trial counsel
6 and class counsel.
- 7 f. *Gonzalez v. Superior Industries International, Inc., et al.*, Los Angeles County
8 Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past
9 wages for overtime, meal and rest breaks violations for production employees in
10 the State of California. Plaintiff’s counsel appointed as lead counsel. Case settled,
11 Final Approval granted, no objections and funds fully distributed.
- 12 g. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County
13 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
14 wages for overtime, meal and rest break violations for production employees in the
15 State of California. Plaintiff’s counsel appointed as co-lead counsel. Case settled,
16 Final Approval granted, no objections and funds fully distributed.
- 17 h. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293.
18 Wage and Hour Class Action seeking past wages for unlawful deductions, meal
19 and rest break violations for restaurant employees in the State of California.
20 Plaintiff’s counsel appointed as lead counsel. Case settled. Final Approval granted
21 and funds fully distributed.
- 22 i. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case
23 No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime,
24 meal and rest break violations for security officers in the State of California.
25 Plaintiff’s counsel appointed as co-lead counsel. Case settled, Final Approval
26 granted, no objections and funds fully distributed.
- 27 j. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
28 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action

1 seeking past wages for meal and rest break violations for security officers
2 employed by defendant in the State of California. Plaintiff's counsel and co-
3 counsel. Case settled, Final Approval granted and funds fully distributed.

- 4 k. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
5 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for
6 overtime, meal and rest break violations for housekeepers employed by defendant
7 in the State of California. Plaintiff's counsel appointed as lead counsel. Case
8 settled, Final Approval granted, no objections and funds fully distributed.
- 9 l. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
10 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal
11 and rest period violations for non-exempt employees employed by defendant in the
12 state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff
13 has petitioned the Court for Lead Counsel.
- 14 m. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
15 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past
16 wages for field and branch employees of defendant in the State of California.
17 Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final
18 Approval.
- 19 n. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
20 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
21 employees of defendant in the State of California. Plaintiff's counsel appointed as
22 lead counsel. Case settled, Final Approval granted, no objections and funds fully
23 distributed.
- 24 o. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
25 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
26 break violations for security guards employed by defendant in the State of
27 California. Plaintiff's counsel appointed as lead counsel. Case settled, Final
28 Approval granted, no objections and funds fully distributed.

- 1 p. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
2 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal
3 and rest break violations for production employees employed by defendant in the
4 State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
5 Approval granted, no objections and funds fully distributed.
- 6 q. *McMurray v. Dave and Busters, Inc., et al.*, Orange County Superior Court, Case
7 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and
8 rest break violations for restaurant employees employed by defendant in the State
9 of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
10 Approval granted, no objections and funds fully distributed.
- 11 r. *Osuna v. DFG Restaurants, Inc., et al.*, Los Angeles Superior Court, Case No. BC
12 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
13 classification of managers employed by Defendant, DBA Carl's Jrs. in the State of
14 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
15 Approval granted, no objections and funds fully distributed.
- 16 s. *Burns v. Gymboree Operations, Inc., et al.*, San Francisco Superior Court, Case No.
17 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and
18 rest break violations for retail employees employed by defendant in the State of
19 California. Plaintiff's counsel appointed lead counsel. Case settled, Final
20 Approval granted, no objections and funds fully distributed.
- 21 t. *Willems v. Diedrich Coffee, Inc., et al.*, Orange County Superior Court, Case No.
22 07CC00015. Wage and Hour Class Action seeking past wages of overtime for
23 mis-classification of managers employed by Defendant in the State of California.
24 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted,
25 no objections and funds fully distributed.
- 26 u. *Davila, et al. v. Beckman Coulter, Inc., et al.*, Orange County Superior Court, Case
27 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime,
28 meal and rest break violations for production workers employed by defendant in

1 the State of California. Plaintiff's counsel appointed lead counsel. Case settled,
2 Final Approval granted, no objections and funds fully distributed.

- 3 v. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
4 Case No. BC387088. Wage and Hour Class Action seeking past wages for
5 overtime, meal and rest period violations for production employees employed by
6 defendant in the State of California. Plaintiff counsel appointed as lead counsel.
7 Case settled. Final Approval granted, no objections and funds fully distributed.
- 8 w. *Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour*
9 *Cases*, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour Class
10 Action seeking past wages for overtime, meal and rest period violations for security
11 guards employed by defendant in the State of California. Certification granted.
12 Plaintiff's counsel appointed as co-lead counsel. Writ taken. Court stays action
13 pending Appellate Court ruling. Court lifts stay.
- 14 x. *Placencia v. Amcor Packaging Distribution, Inc.*, Orange County Superior Court,
15 Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking
16 past wages for overtime, meal and rest period violations, and penalties on behalf of
17 non-exempt production, maintenance, shipping, and receiving employees employed
18 by Defendant in California. Plaintiff counsel appointed as lead counsel. Case
19 settled. Final Approval granted, no objections and funds fully distributed.
- 20 y. *Trani v. Lisi Aerospace, et al.*, Los Angeles Superior Court, Case No. BC495527.
21 Wage and Hour Class Action seeking past wages for overtime, meal and rest period
22 violations, and penalties on behalf of non-exempt manufacturing employees
23 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
24 Case settled. Final Approval granted, no objections and funds fully distributed.
- 25 z. *Galvan v. Goodwin Co.*, Orange County Superior Court, Case No. 30-2013-
26 00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for meal
27 period violations, and non-compliant wage statements on behalf of non-exempt
28 production employees employed by Defendant in California. Plaintiff counsel

1 appointed as lead counsel. Case settled. Final Approval granted, no objections and
2 funds fully distributed.

3 aa. *Reyes v. Bristol Fiberlite*, Orange County Superior Court, Case No. 30-2013-
4 00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for
5 overtime, meal and rest period violations, inaccurate wage statements, and
6 penalties on behalf of non-exempt employees employed by Defendant in
7 California. Plaintiff counsel appointed as lead counsel. Case settled. Final
8 Approval granted, no objections and funds fully distributed.

9 bb. *Gutierrez v. HMT Tank*, USDC Central Dist., Case No. CV14-1967-CAS(MANx).
10 Wage and Hour Class Action seeking past wages for meal and rest period
11 violations, failure to indemnify necessary expenses, inaccurate wage statements,
12 and penalties on behalf of non-exempt employees working in positions related to
13 servicing, refabricating and repairing storage tanks employed by Defendant in
14 California. Plaintiff counsel appointed as lead counsel. Case settled. Final
15 Approval granted, no objections and funds fully distributed.

16 cc. *Williams v. Il Fornaio America Corp.*, Sacramento County, Case No. 34-2011-
17 0009616. Wage and Hour Class Action seeking past wages for overtime, meal and
18 rest period violations, reimbursements, and penalties on behalf of non-exempt
19 restaurant employees employed by Defendant in California. Plaintiff counsel
20 appointed as lead counsel. Case settled. Final Approval granted, and funds fully
21 distributed.

22 dd. *Aguilar v. 7-Eleven, Inc.*, Orange County, Case No. 30-2009-002687141-CU-OE-
23 CXC. Wage and Hour Class Action seeking past wages for overtime, meal and rest
24 period violations, and penalties on behalf of non-exempt retail clerks employed by
25 Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled.
26 Final Approval granted, no objections and funds fully distributed.

27 ee. *Madrigal v. Huntington Beach Market Broiler, Inc.*, Orange County, Case No. 30-
28 2012-00611260. Wage and Hour Class Action seeking past wages for overtime,

meal and rest period violations, reimbursements, and penalties on behalf of non-exempt employees employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

ff. *Vang v. Jazz Semiconductor, Inc.*, Orange County, Case no. 30-2011-00460278. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations, reimbursements, and penalties on behalf of non-exempt production workers employed by Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled. Final Approval granted, no objections and funds fully distributed.

gg. *Cano v. Financial Statement Services, Inc.*, Orange County, Case No. 30-2013-00653349-CU-OE-CXC.

hh. *Gonzalez v. Quality Aluminum Force, LLC*, Orange County, Case No. 30-2015-00817941-CU-OE-CXC.

ii. *Smith v. Space Exploration Technologies Corp.*, Los Angeles County Case No. BC554258.

jj. *Madrigal v. Balda C Brewer, Inc.*, Orange County Case No. 30-2015-00820218-CU-OE-CXC.

kk. *Mendez v. Liberty Glass Fabricators, Inc.*, Riverside County Case No. RIC 1800119.

ll. *Attia v. Neiman Marcus Group, Inc.*, United States District Court for the Central District of California Case No. 8:16-cv-001504-DOC-FFM

mm. *Vigueras v. Red Robin*, United States District Court for the Central District of California Case No. 8:17-cv-1422-JVS-DFM.

nn. *Payne v. Marriott Ownership Resorts, Inc.*, San Diego County Case No. 37-2018-00015175-CU-OE-CTL.

1 34. In sum, my firm has been lead or co-lead counsel in hundreds of cases since its
2 inception. We have recovered hundreds of millions of dollars for employees in the State of
3 California and millions for the State as well through PAGA.

4 35. Our firm has served as class counsel in a number of significant wage and hour
5 settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest
6 wage and hour class action settlement in California history at \$130,000,000.00. During this case,
7 plaintiffs appealed a decertification order. This case involved several appeals. The appellate
8 record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-
9 volume reporters' transcript, five briefs, four letter briefs, two motions for judicial notice, a
10 motion to augment the record, and several additional letters informing the appellate court of new
11 legal authority issued after *Dukes*. The matter was argued to and submitted by the Court of
12 Appeal on September 15, 2016, and on November 21, 2016, the decertification order was
13 reversed and the case was remanded for further proceedings. (*Lubin v. The Wackenhut*
14 *Corporation* ("Lubin"), 5 Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of the
15 Court of Appeal decision to the California Supreme Court. The Supreme Court denied
16 Wackenhut's petition for review of *Lubin*. The Court of Appeal issued remittitur on April 10,
17 2017. Eventually through more litigation, the parties were able to secure the \$130 million
18 settlement that was approved on October 21, 2019 by Judge Highberger in the Los Angeles
19 Superior Court.

20 36. Additionally, in early 2020, our firm served as lead counsel in a class action jury
21 trial in the Central District of California involving the class and PAGA representative claims of
22 over 23,000 employees which successfully resolved in the midst of trial for \$8,500,000.00.

23 37. Our firm has settled many high-stakes class and representative actions. Hawkins'
24 settlements have directly compensated hundreds of thousands of California workers and
25 consumers. Hawkins' actions have also forced employers to modify their policies for the benefit
26 of employees including changing the compensation structure for certain employees and changing
27 practices to ensure that workers will be able to take timely rest and meal breaks. A leader in
28

1 prosecuting class and PAGA enforcement actions, Hawkins has secured millions of dollars for
2 workers and in civil penalties for the State of California.

3 38. Based on our experience, demonstrated competence, resources to prosecute the
4 claims at issue and reputation among our colleagues in the both the defense and plaintiffs' bar, I
5 respectfully submit our firm's experience in the field of wage and hour cases provides us the
6 ability to prosecute claims swiftly and often times without the need for protracted litigation.
7 Although, as demonstrated in the *Wackenhut* cases, we do not give up fighting for class members
8 when challenged and necessary.

9 39. Class certification will be vastly superior to litigation of numerous individual
10 claims because most of the claims are too small to litigate outside of the class context.

11 40. Further, based on our experience, we consider ourselves experienced and qualified
12 to evaluate the claims and viability of the defenses. Based on the history of this case and given our
13 firm's extensive experience as class and representative action employment and wage and hour
14 litigators, it is our view that the Settlement is fair, reasonable, and adequate, and in the best
15 interest of the Class.

16
17 I declare under penalty of perjury that the foregoing is true and correct.

18
19 Executed on this 9th day of November, 2023 at Irvine, California.

20
21 
22 _____
23 James R. Hawkins, Esq.

EXHIBIT 1

James R. Hawkins, Bar No. 192925
James@Jameshawkinsaplc.com
Christina M. Lucio, Bar No. 253677
Christina@Jameshawkinsaplc.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200/Facsimile: (949) 387-6676

Attorneys for Plaintiff KEVIN HARRIS,
on behalf of himself and all others similarly
situated

Tanja L. Darrow, Bar No. 175502
tdarrow@littler.com
LITTLER MENDELSON P.C.
633 West 5th Street, 63rd Floor
Los Angeles, California 90071
Telephone: (213) 443.4300/Facsimile: (213) 443.4299

Nathaniel H. Jenkins, Bar No. 312067
njenkins@littler.com
LITTLER MENDELSON P.C.
500 Capitol Mall, Suite 2000
Sacramento, California 95814
Telephone: (916) 830.7200/Facsimile: (916) 561.0828

Attorneys for Defendant
MCKESSON MEDICAL-SURGICAL INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF PLACER

KEVIN HARRIS, individually and on behalf of
himself and all others similarly
situated,

Plaintiff,

v.

MCKESSON MEDICAL-SURGICAL
INC., a Virginia Corporation; and DOES
1-50, inclusive,

Defendant.

Case No. S-CV-0044686

[Consolidated with Case No. S-CV-0045007]

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

1 IT IS HEREBY STIPULATED AND AGREED, between Plaintiff KEVIN HARRIS
2 (“Plaintiff” or “Harris”) and the Settlement Class (as defined below), on the one hand, and Defendant
3 MCKESSON MEDICAL-SURGICAL INC. (“Defendant” or “McKesson”) on the other, subject to
4 the approval of the Court, that the settlement of this action shall be effectuated upon and subject to the
5 following terms and conditions.

6 **A. DEFINITIONS**

7 As used in this Joint Stipulation of Settlement of Class Action (“Joint Stipulation”), the
8 following terms shall have the meanings specified below. To the extent terms or phrases used in this
9 Joint Stipulation are not specifically defined below, but are defined elsewhere in the Joint
10 Stipulation, they are incorporated by reference into this definition section.

11 “Action” or “Lawsuit” shall mean the above-entitled class and representative action, entitled
12 *Kevin Harris v. McKesson Medical-Surgical Inc.*, Placer County Superior Court, Case No. S-CV-
13 0045007.

14 “Joint Stipulation” or “Settlement” shall mean this Joint Stipulation, including any attached
15 exhibits.

16 “Class” shall mean “all current and former non-exempt employees of Defendant in the State
17 of California who hold/held delivery driver positions from April 3, 2016 to January 27, 2023 (“Class
18 Period”).

19 “Class Counsel” shall mean James Hawkins, Esq. and Christina Lucio, Esq., of James
20 Hawkins, APC, 9880 Research Drive, Suite 200, Irvine, CA 92618.

21 “Class Member,” “Settlement Class Member” or “Settlement Class” shall mean any person
22 who is a member of the Class or, if such person is incompetent or deceased, the person’s legal
23 guardian, executor, heir, or successor in interest.

24 “Class Notice” shall mean the Notice of Class Action Settlement, as set forth in the form of
25 **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
26 Members and PAGA Employees as part of the Notice Packet (defined below).

27 “Class Participant(s)” shall mean any and all Class Members except those who timely request
28

1 exclusion (i.e., who elect to “opt out”) as provided herein.

2 “Class Period” is April 3, 2016 to January 27, 2023.

3 “Class Representative” and “Plaintiff” shall mean Plaintiff KEVIN HARRIS.

4 “Class Settlement” or “Settlement” shall mean the settlement embodied in this Joint
5 Stipulation, which is subject to Court approval.

6 “Complaint” shall mean the operative First Amended Complaint filed in the above-entitled
7 case consistent with this Settlement. Plaintiff will amend the Complaint further if required by the
8 Court to effectuate the released claims stated herein.

9 “Court” shall mean the Placer County Superior Court.

10 “Defendant” shall mean Defendant MCKESSON MEDICAL-SURGICAL INC.

11 “Defense Counsel” or “Counsel for Defendants” shall mean the law firm of Littler Mendelson,
12 P.C. located at 500 Capitol Mall, Suite 2000, Sacramento, CA 95814.

13 “Effective Date” shall mean the date this Settlement is approved as provided herein and the
14 Court’s order granting Final Approval and entry of Judgment becomes final and is no longer
15 appealable. For purposes of this Settlement, “becomes final and is no longer appealable” shall mean
16 the later of: (a) the day after the last date by which a notice of appeal to the applicable Court of Appeal
17 of the order and judgment approving this Settlement may be timely filed and none is filed (*i.e.*, 61
18 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of
19 by ruling, dismissal, denial, or in a any other manner that confirms the validity of the order and
20 judgment, the day after the last date for filing a request for further review of the order and judgment
21 approving this Settlement passes, and no further review is requested; or (c) if an appeal is filed and
22 the order approving this Settlement is affirmed and further review of the order is requested, the day
23 after the review is finally resolved and the order and judgment approving this Settlement is affirmed.

24 “Final Approval Date” shall mean the date upon which the Court enters an Order approving
25 the Class Settlement, after having determined that the Class Settlement is fair, adequate, and
26 reasonable to the Class as a whole, following: (i) notice to the Class; (ii) an opportunity to submit
27 timely exclusion or objections to the non-PAGA portion of the Settlement; and (iii) a hearing on the
28

1 fairness of the terms of the Settlement.

2 “Final Approval Hearing” shall mean the final hearing held by the Court to ascertain the
3 fairness, reasonableness, and adequacy of the Class Settlement.

4 “Individual PAGA Payment” shall mean the pro-rata share of the PAGA penalties allocated
5 to the settlement of the PAGA Claims to which each PAGA Employee is entitled from the PAGA
6 Fund based on the number of pay periods they worked during the PAGA Period, as described in
7 Section D.5 below (PAGA Fund and Payment to Labor and Workforce Development Agency).

8 “Individual Class Settlement Payment” shall mean the amount to be distributed to any and
9 each Class Participant as described in Section D.6 below (Class Participant Distribution Formula).

10 “LWDA” means the California Labor and Workforce Development Agency.

11 “Net Settlement Amount” means the Total Settlement Amount less the Settlement
12 Administrator’s Expenses, the Class Representative’s Service Payment (up to \$10,000), the PAGA
13 Fund (up to \$64,750), and Class Counsel’s attorneys’ fees (not to exceed 1/3 of the Gross Settlement
14 Amount), and costs (up to \$35,000), subject to approval by the Court.

15 “Notice Packet” shall mean the Notice of Class Action Settlement and Opt-Out Form,
16 collectively, attached hereto as **Exhibits 1 and 2** respectively.

17 “Opt-Out(s)” shall mean any and all persons who timely and validly request exclusion from
18 the Settlement of the Released Class Claims in accordance with the terms of the Class Notice.
19 Notwithstanding the submission of a timely request for exclusion, PAGA Employees will still be
20 bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment
21 pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for exclusion do not apply to
22 the Released PAGA Claims, and will not be effective to preclude the release of the Released PAGA
23 Claims.

24 “Opt-Out Form” or “Exclusion Form” shall mean a document that the Class Member is
25 required to mail to the Settlement Administrator, as set forth in the form of **Exhibit 2** attached
26 hereto, postmarked no later than the date indicated on the Class Notice, to exclude himself or herself
27 from the non-PAGA portion of the Settlement.

1 “Parties” shall mean the Class Representative and Defendants.

2 “PAGA” means the California Labor Code Private Attorneys General Act, California Labor
3 Code §§ 2698 *et seq.*

4 “PAGA Employees” shall mean all current and former non-exempt employees of Defendant
5 in the State of California who hold/held delivery driver positions from April 3, 2019 to January 27,
6 2023 (“PAGA Period”).

7 “PAGA Claims” shall mean all claims for penalties under the PAGA that were actually
8 alleged or that could have been alleged in the Action by Plaintiff in the operative Complaint or in the
9 LWDA letters, based on the allegations in the Complaint and the LWDA letters, from April 3, 2019
10 through March 31, 2023.

11 “PAGA Fund” means the gross amount of \$64,750 which the parties have allocated for PAGA
12 penalties for alleged Labor Code violations. Seventy-five percent of the PAGA Fund (i.e., \$48,562.50)
13 shall be paid to the LWDA, and the remaining twenty-five percent (i.e., \$16,187.50) shall be paid to
14 PAGA Employees.

15 “PAGA Period” means the period from April 3, 2019 through January 27, 2023.

16 “Participating Settlement Employees” means all Class Participants and PAGA Employees.

17 “Preliminary Approval” means the Court Order preliminarily approving this Joint
18 Stipulation, authorizing the mailing of the Notice Packet by the Settlement Administrator, and
19 setting the date of the Final Approval Hearing.

20 “Preliminary Approval Date” means the date upon which the Court preliminarily approves
21 this Settlement, pending notice, an opportunity to submit objections, and a fairness hearing thereon.

22 “Preliminary Approval Hearing” shall mean the hearing held on the motion for preliminary
23 approval of the Class Settlement.

24 “Released Class Claims” means any and all claims, rights, demands, liabilities, and causes of
25 action, whether known or unknown, arising from the same set of operative facts as those set forth in
26 the operative Complaint, or in Plaintiff’s LWDA letters, including those claims which could have
27 been asserted based on the facts alleged in the operative Complaint or LWDA letters, through the
28

1 Release Period, including claims for: failure to provide rest periods; failure to pay minimum, regular,
2 and overtime wages; failure to timely pay wages during employment and/or upon termination;
3 improperly itemized wage statements; unreimbursed business expenses; unfair competition; and
4 violations of the California Labor Code Private Attorneys General Act, California Labor Code §§
5 2698 *et seq.*

6 “Released PAGA Claims” means all PAGA Claims that were actually alleged or could have
7 been alleged based upon the facts set forth in the operative Complaint or based upon the facts set
8 forth in the April 3, 2020 LWDA letter by the named Plaintiff on behalf of the State of California,
9 himself, and the PAGA Employees. The release of the Released PAGA Claims shall be effective
10 from April 3, 2019 to March 31, 2023.

11 “Released Parties” shall mean Defendant and any of its former and present parents,
12 subsidiaries, affiliates, insurers, insurance policies, and benefit plans; each of the former and present
13 officers, directors, employees, equity holders (partners, shareholders, holders of membership
14 interests, etc.), agents, representatives, administrators, fiduciaries, and attorneys of the entities
15 described in this sentence; and any other predecessors, successors, transferees, and assigns of each of
16 the persons and entities described in this sentence (“Released Parties”) through the Release Period.

17 “Release Period” means the period from April 3, 2016 through March 31, 2023.

18 “Service Payment” shall mean any additional monetary payment provided to the Class
19 Representative for his efforts on behalf of the Class.

20 “Settlement Administrator” shall mean the company known as ILYM Group, Inc., a
21 qualified, third-party settlement administrator which the Parties have agreed will be responsible for
22 administration of the Settlement and related matters.

23 “Settlement Administrator’s Expenses” means all costs and expenses relating to the
24 administration of the Settlement, including without limitation, address verification measures,
25 formatting, preparing, and mailing of Notice Packets, accounting for opt-outs and objections,
26 calculation and determination of payments to Participating Settlement Employees, accounting and
27 maintenance of Settlement Fund Account (defined below), posting the necessary information (i.e.,
28

1 regarding the judgment) on the administrator’s website, preparation of a report to the Court
2 indicating the total amount that was actually paid to Participating Settlement Employees,
3 administration and payment of unclaimed and/or uncashed checks pursuant to California Code of
4 Civil Procedure § 384 and Federal Rule of Civil Procedure Rule 23(e), preparation and issuance of
5 checks to Class Counsel for attorneys’ fees and costs, preparation and issuance of the checks to
6 Representative Plaintiff for his Service Payment, calculation and remitting of payroll taxes to the
7 appropriate federal and state tax authorities, and submission of all tax-related documents and any
8 other costs incidental to or associated with the claims administration of this Settlement, all pursuant
9 to the terms of this Settlement.

10 “Settlement Fund Account” shall mean the Qualified Settlement Fund, as defined by the
11 Internal Revenue Code, established pursuant to the terms of this Joint Stipulation from which all
12 monies payable under the terms of this Settlement shall be paid, as set forth herein.

13 “Settling Parties” shall mean the Class Representative, the Class, PAGA Employees, and
14 Defendant.

15 “Total Settlement Amount” or “Total Settlement Payment” shall mean the total amount that
16 Defendants will pay to resolve this Action, which is Nine Hundred Twenty-Five Thousand Dollars
17 (\$925,000.00) which includes the payments to the Class, the payments to the PAGA Employees, the
18 Settlement Administrator’s Expenses, the Class Representative Service Payment, the payment to
19 Labor and Workforce Development Agency for PAGA penalties, and Class Counsel’s attorneys’
20 fees and costs. In no event will Defendant be required to pay more than the Total Settlement
21 Amount as part of this Settlement.

22 **B. PRE-TRIAL PROCEEDINGS AND NEGOTIATIONS**

23 **1. Investigation, Discovery, and Research**

24 Class Counsel have conducted investigation, discovery, and research during the prosecution
25 of the Action. Such efforts included, among other things: (a) conducting a thorough pre-filing
26 investigation; (b) propounding a comprehensive set of written discovery requests; (c) inspecting and
27 analyzing data and documents produced by Defendant pertaining to Plaintiff and the putative class
28

1 members and PAGA Employees; (d) interviewing putative class members and PAGA Employees;
2 (e) analyzing the legal arguments made by Defendant; (f) preparing an analysis of potential class-
3 wide damages/PAGA penalties and constructing a damages model; and (g) researching the
4 applicable law with respect to the claims asserted in this Action and the potential defenses thereto.
5 Thus, the Parties have engaged in sufficient investigation, discovery, and research to assess the
6 relative merits of the claims of the Class and PAGA Employees and of Defendant's defenses.

7 **2. Allegations of the Class/PAGA Employees and Benefits of Settlement**

8 The investigation and discovery conducted in this matter were adequate to give the Plaintiff
9 and Class Counsel a sound understanding of the merits of their position and to evaluate the worth of
10 the claims of the Class/PAGA Employees. This Settlement was reached after arm's-length
11 bargaining by the Parties with the assistance of an experienced mediator, Hon. Ronald Sabraw (ret.),
12 and after Class Counsel thoroughly reviewed all relevant evidence. The information obtained from
13 investigation and discovery as well as information exchanged for mediation was sufficient to assess
14 reliably the merits of the respective Parties' positions and to compromise the issues on a fair and
15 equitable basis.

16 Plaintiff and Class Counsel believe that the causes, allegations, and contentions asserted in
17 the Action have merit. However, they recognize and acknowledge the expense and delay of
18 continued lengthy proceedings necessary to prosecute the Action against Defendant through trial and
19 through appeals. Class Counsel have taken into account the uncertain outcome and the risk of any
20 litigation, the risk of continued litigation in complex actions such as this, as well as the difficulties
21 and delays inherent in such litigation, and the potential difficulty maintaining the Action as a class
22 action. Class Counsel are also mindful of the inherent problems of proof under, and possible
23 defenses to, the claims alleged in the Action. Class Counsel believe that the Settlement set forth in
24 this Joint Stipulation confers substantial benefits upon the Class, LWDA and PAGA Employees, and
25 that an independent review of this Joint Stipulation of Settlement by the Court in the approval
26 process will confirm this conclusion. Based on their own independent investigation and evaluation,
27 Class Counsel have determined that the Settlement set forth in the Settlement is in the best interest of
28

the Class Representative the members of the Settlement Class, the State and PAGA Employees.

3. Defendant's Denial of Wrongdoing

Defendant has denied and continues to deny generally each and all of the claims and contentions alleged by the Plaintiff in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability against them arising out of any of the conduct, statements, acts, or omissions alleged in the Action. Nonetheless, Defendant has concluded that the further litigation of the Action would be protracted and expensive and determined that it is desirable that the Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Joint Stipulation in order to limit further expense, inconvenience, uncertainty, and distraction. This Settlement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties. This Settlement and the fact that Parties were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Settlement).

4. Intent of the Settlement

The Class Settlement set forth herein intends to achieve the following: (1) entry of an Order approving the terms of this Joint Stipulation and granting the monetary relief set forth herein to the Participating Settlement Employees; (2) entry of judgment; and (3) discharge of Released Parties from liability for any and all of the Released Class Claims and Released PAGA Claims.

C. PROCEDURAL ISSUES

1. Binding Settlement

This Settlement shall bind the Parties, all PAGA Employees as to the release of Released PAGA Claims, and all Class Participants as to Released Class Claims, subject to the terms and conditions herein and the Court's approval.

2. Preliminary Approval

Class Counsel will submit this Joint Stipulation to the Court along with the Motion for

1 Preliminary Approval of Class Action Settlement. Class Counsel will provide a draft of the Motion
2 to Defendant at least 3 business days in advance of filing for review and comment. In connection
3 with their filing of the Motion for Preliminary Approval, Plaintiff and Class Counsel shall notify the
4 LWDA of the existence of the Settlement.

5 **3. Qualified Stipulation to Class Certification**

6 The Parties stipulate to class certification for purposes of settlement only. Defendant
7 contends that the facts do not justify class certification under the governing legal standards. The
8 Court has not ruled on class certification in the underlying litigation. Consequently, a Settlement
9 Class will be established for purposes of administration and resolution of this matter only. It is not,
10 and it should not be construed as, any admission of fact or law in this matter or any other matter that
11 class certification is appropriate. If the Court does not grant either preliminary or final approval of
12 this Settlement, then the Parties will revert to their previous positions and Defendant will not
13 stipulate to class certification.

14 **4. Settlement Administrator**

15 Subject to Court approval, the third-party company known as ILYM Group, Inc. will act as
16 the Settlement Administrator. The Settlement Administrator will perform address verification
17 measures, formatting, preparing, translating and mailing of the Notice Packets; accounting for Opt-
18 Outs and objections; calculation and determination of payments to Participating Settlement
19 Employees; accounting and maintenance of Settlement Fund Account; posting of the necessary
20 information (i.e., regarding the judgment) on the Settlement Administrator's website; resolution of
21 any differences between Defendant's payroll records and information provided by Participating
22 Settlement Employees; distribution of payments to Participating Settlement Employees; preparation
23 of a report for the Court indicating the total amount that was actually paid to Participating Settlement
24 Employees; administration and payment of unclaimed and/or uncashed checks pursuant to California
25 Code of Civil Procedure § 384; preparation and issuance of checks to Class Counsel for attorneys'
26 fees and costs; preparation and issuance of the checks to the Class Representative for his Service
27 Payment; calculation and remitting of payroll taxes to the appropriate federal and state tax
28

1 authorities; administration and submission of all tax-related documents concerning the Settlement;
2 and any other issues related to the Settlement administration.

3 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
4 Defendant's Counsel to provide an update as to the number of Opt-Out Forms as well as any
5 disputes or objections submitted by Class Members or PAGA Employees. The Settlement
6 Administrator will serve on Class Counsel and Defendant's Counsel via e-mail date-stamped copies
7 of the original Opt-Out Forms, challenges, and objections no later than five (5) court days after their
8 receipt. The Settlement Administrator will provide the Parties with a declaration setting forth the
9 results of the settlement administration no later than five (5) court days after the end of the Opt-Out
10 period. The Settlement Administrator will provide a draft declaration for review and comment prior
11 to finalizing it.

12 All fees and costs of the Settlement Administrator for administration of the Settlement shall
13 be paid from the Total Settlement Amount. The costs of the settlement administration are estimated
14 to be \$12,000.

15 **5. Notice to Class Members and PAGA Employees**

16 Notice shall be provided to Class Members and PAGA Employees in the following manner:

17 Within twenty-one (21) calendar days of Preliminary Approval of the Settlement, Defendant
18 shall provide the Settlement Administrator with the names, last known mailing address, last known
19 telephone number (if available), social security number, and the respective Pay Periods that each
20 Class Member worked during the Class Period, and the number of pay periods worked by each
21 PAGA Employee in the PAGA Period in a readable MS Excel spreadsheet (collectively "Class List
22 and Data"). The Class List and Data will be used for settlement notification and settlement
23 administration only and shall not be used for any other purpose. The Settlement Administrator shall
24 provide reasonable and appropriate administrative, physical, and technical safeguards for any
25 personally identifiable information ("PII") that it receives from Defendant; and promptly provide
26 Defendant with notice if PII is subject to unauthorized access, use, disclosure, modification, or
27 destruction.

1 Within fourteen (14) calendar days after receipt of the Class List and Data, the Settlement
2 Administrator shall mail the Notice Packet to the Class Members and PAGA Employees via first-
3 class regular U.S. mail. Prior to mailing, the Settlement Administrator will perform a search based
4 on the National Change of Address Database information to update and correct for any known or
5 identifiable address changes. It will be presumed that, if an envelope containing the Class Notice
6 has not been returned before the end of the 45-day opt-out period, the Class Member and/or PAGA
7 Employee received the Notice. If a new address is obtained by a way of a returned Notice Packet,
8 then the Settlement Administrator shall promptly forward the original Notice Packet to the updated
9 address via first-class regular U.S. mail indicating on the original Notice Packet the date of such re-
10 mailing. Where a Notice Packet is returned as undeliverable, without a forwarding address, the
11 Settlement Administrator will perform a computer/SSN and “skiptrace” search to obtain an updated
12 address within three (3) court days of receiving the notice from the U.S. Post Office. If a new
13 address is obtained by a way of a returned Notice Packet or skiptrace, then the Settlement
14 Administrator shall promptly forward the original Notice Packet (no later than 3 court days of
15 receiving the undeliverable notice or obtaining the skiptrace results) to the new address via first-class
16 regular U.S. mail. Those Class Members and/or PAGA Employees who were re-mailed the Notice
17 Packet will be given additional ten (10) calendar days after the 45-day deadline. The parties will take
18 all reasonable steps to cooperate with the Settlement Administrator to locate a more recent address
19 for Class Members and/or PAGA Employees, where necessary.

20 The Notice will be approved by the Court at the time of Preliminary Approval. The notice
21 will include, but shall not be limited to: information regarding the nature of the Lawsuit and the
22 names and contact information for Class Counsel; a summary of the substance of the Settlement; the
23 Class definition; a description of the Settlement administration, procedure, and the deadline for
24 submitting Opt-Out Forms and objections; the date for the Final Approval Hearing; and the formula
25 used to calculate Individual Class Settlement Payments and Individual PAGA Payments. The Notice
26 shall also include the number of Pay Periods the Class Member and/or PAGA Employee worked
27 during the Class Period and/or PAGA Period (according to Defendant’s records) and the Class
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1 Member's and/or PAGA Employee's estimated Individual Class Settlement Payment and/or
2 Individual PAGA Payment, and shall afford the Class Member and/or PAGA Employee the
3 opportunity to challenge the number of Pay Periods at issue and/or payroll periods reflected in
4 Defendant's records, and to provide evidence supporting any such challenge. Any Class Participant
5 who fails to comply with the requirements in the Class Notice for submitting a timely challenge will
6 be deemed to have waived any right to challenge their Individual Class Settlement Payment and/or
7 Individual PAGA Payment.

8 An Opt-Out Form shall allow the Class Members to elect exclusion from the settlement of
9 the Released Class Claims, but does not exclude a PAGA Employee from the settlement of the
10 Released PAGA Claims. If a Class Member does not want to participate in the Class portion of this
11 Settlement and wants to avoid being bound by the non-PAGA Settlement terms, a Class Member
12 must sign his or her Opt-Out Form and submit it to the Settlement Administrator by not later than
13 forty-five (45) calendar days after the Notice Packet was first mailed. To be valid, an Opt-Out Form
14 must be timely and must comply with the instructions in the Class Notice. A Class Member who
15 does not complete and mail a timely Opt-Out Form in the manner and by the deadline specified in
16 the Class Notice will automatically become a Class Participant and will be bound by all terms and
17 conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is
18 approved by the Court, and by the Judgment, regardless of whether he or she has objected to the
19 Settlement. Persons who submit an Opt-Out Form shall not be permitted to file objections to the
20 Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.
21 Notwithstanding the submission of a timely request for exclusion, PAGA Employees will still be
22 bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment
23 pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for exclusion do not apply to
24 the PAGA Claims, and will not be effective to preclude the release of the PAGA Claims.

25 Class Members who wish to object to the Settlement should follow the instructions in the
26 Class Notice to timely submit their objection. In order to object to the Settlement, a Class Member
27 must file his or her written objection with the Court not later than forty-five (45) calendar days after
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1 the Notice Packet was first mailed. Any Class Member who wishes to appear at the Final Approval
2 Hearing should submit a Notice of Intention to Appear at the Final Approval Hearing by the deadline
3 stated in the Class Notice. Any Class Member who fails to comply with the requirements for
4 submitting a timely objection may be deemed by the Court to have waived any right to object to the
5 settlement and may not appeal any ruling in connection with the Settlement.

6 Compliance with the notice procedures specified in this Settlement shall constitute due and
7 sufficient notice to Class Members and PAGA Employees of this Settlement and shall satisfy the
8 requirements of due process. Nothing else shall be required of, or done by, the Parties, Class Counsel,
9 or Defense Counsel to provide notice of the proposed Settlement. In the event the procedures in this
10 Settlement are followed and the intended recipient of a Notice of Settlement still does not receive the
11 Notice of Settlement, the intended recipient shall remain a Class Participant and/or PAGA Employee
12 and will be bound by all terms of the Settlement and any Final Approval Order entered by the Court.

13 **6. Submission of Claim Form Unnecessary to Participate in Class Settlement**

14 Unless the Class Member submits a valid and timely Opt-Out Form to the Settlement
15 Administrator by not later than forty-five (45) calendar days after the Notice Packet was first mailed,
16 the Class Member will automatically be mailed a check for his or her pro rata share of the Net
17 Settlement Amount.

18 **7. Disputes Regarding Administration of Settlement**

19 Any dispute not resolved by the Settlement Administrator concerning the administration of
20 the Settlement shall be resolved by the Court. The Parties intend that any decision in this regard
21 shall be consistent with this Settlement and the exhibits hereto. Prior to any such involvement of the
22 Court, counsel for the Parties shall confer in good faith and make use of the services of the mediator,
23 the Honorable Ronald Sabraw (Ret.), if necessary, to resolve the dispute without the necessity of
24 involving the Court.

25 **8. Reminder of Opt-Out & Objection Deadlines**

26 Not more than 30 days, but not fewer than 25 days after mailing of the original Notice
27 Packet, the Settlement Administrator shall mail one reminder postcard, which shall include the
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1 estimated Individual Class Settlement Payment and/or Individual PAGA Payment, as well as contact
2 information for the Parties' Counsel and the Settlement Administrator, to all Class Members who
3 have not yet submitted an Opt-Out Form, to remind them of the deadline. The postcard shall be
4 mailed to such Class Members via first-class regular U.S. Mail, using the most current mailing
5 address information then available for the Class Members.

6 **D. SETTLEMENT TERMS**

7 **1. The Settlement Class**

8 For the purposes of this Joint Stipulation, the Settlement Class to be conditionally certified
9 for settlement purposes only shall consist of "all current and former non-exempt employees of
10 Defendant in the State of California who hold/held delivery driver positions" from April 3, 2016 to
11 January 27, 2023 ("Class Period").

12 The Parties also stipulate to the approval by the Court of a representative action, for
13 settlement purposes only, as to all claims asserted pursuant to PAGA on behalf of the State of
14 California to consist of "all current and former non-exempt employees of Defendant in the State of
15 California who hold/held delivery driver positions from April 3, 2019 to January 27, 2023 ("PAGA
16 Period"). Defendant's stipulation to the certification of a settlement class and to a representative
17 action shall not be construed as an admission or acknowledgment of any kind that any class should
18 be certified or that any claims should be given class or representative action treatment.

19 **2. Total Settlement Amount**

20 The Total Settlement Amount that Defendant will pay to resolve this Action is Nine Hundred
21 Twenty-Five Thousand Dollars (\$925,000.00), which includes the payment to the Class Participants,
22 the Settlement Administrator's expenses, the Class Representative's service payment, the PAGA
23 Fund, and Class Counsel's attorneys' fees and costs.

24 **3. Class Representative Service Payment**

25 Defendant will not oppose the Class Representative's application to the Court for a service
26 payment of \$10,000, to be paid out of the Total Settlement Amount. To the extent the Court
27 approves less than the requested amount of the Class Representative Service Payment, the difference
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1 between the requested and awarded amount will added to the amount to be distributed to the Class
2 Participants.

3 In consideration of the mutual covenants and promises set forth herein, as of the Final Approval
4 Date, the Class Representative fully releases and discharges Defendant and the other Released Parties
5 from any and all claims that Class Representative now has or claims to have or which Class
6 Representative at any time heretofore had or claimed to have, or which Class Representative at any
7 time hereafter may have or claim to have, known or unknown, arising out of or related to any act,
8 omission, event, fact, or other thing that existed or occurred on or before Preliminary Approval.

9 Without limiting the generality of the foregoing, and in addition to the foregoing, the Class
10 Representative specifically and expressly releases to the maximum extent permitted by law any and
11 all claims, rights, demands, liabilities, and causes of action, whether known or unknown, against
12 Defendant and the Released Parties, that arise from, or are related to Plaintiff's employment with or
13 separation from Defendant through the Release Period. The named Plaintiff also waives any and all
14 rights conferred upon him under Section 1542 of the California Civil Code, which provides as follows:

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

21 This release does not include any pending claims for workers' compensation benefits that the
22 Class Representative may have against Defendant, or any other claim that cannot be released by law.
23 Any Class Representative Service Payment approved by the Court shall be paid to the Class
24 Representative from the Total Settlement Amount, and shall be in addition to any distribution to
25 which she may otherwise be entitled as a Class Participant and PAGA Employee. The Class
26 Representative Service Payment shall not be considered wages, and the Settlement Administrator
27 shall issue the Class Representative a Form 1099 reflecting such payment.

28 **4. Class Counsel's Attorneys' Fees and Costs**

Defendant will not oppose the Class Counsel's application to the Court for attorneys' fees of

up to 1/3 of the Total Settlement Payment (\$308,333.33) and costs incurred of up to \$20,000. The Class Counsel's fees and costs approved by the Court shall encompass: (a) all work performed and costs incurred by Class Counsel in representing Plaintiff and the putative class/PAGA Employees through the date of this Joint Stipulation; (b) all work to be performed and costs to be incurred in connection with obtaining final approval from the Court of the terms of this Joint Stipulation; and (c) all work and costs, if any, incurred in connection with administering the Settlement through the conclusion of the Action. To the extent the Court approves less than the requested amount of Class Counsel's fees and costs, the difference between the requested and awarded amounts will be added to the amount to be distributed to the Class Participants. Defendant shall bear its own attorneys' fees and costs incurred for the Action.

5. PAGA Fund and Payment to Labor and Workforce Development Agency

The Parties agree to allocate \$64,750 of the Total Settlement Payment for settlement of claims for civil penalties under PAGA, Labor Code § 2699, *et seq.* Pursuant to Labor Code Section 2699(i), 75% of that amount (\$48,562.50) will be paid to the Labor and Workforce Development Agency. The remaining 25% (\$16,187.50) will be distributed to PAGA Employees on a pro rata basis based on the number of pay periods they worked during the PAGA Period as the Individual PAGA Payment. The PAGA Fund shall be treated as miscellaneous income which shall be reported on an IRS 1099 without withholdings.

6. Class Participant Distribution Formula

After deducting for the amounts for Settlement Administrator's Expenses, Plaintiff's awarded Class Representative Service Payment, the PAGA Fund, and Class Counsel's awarded attorneys' fees and costs, the balance of the Total Settlement Payment (the "Net Settlement Amount") will be distributed as follows:

- (a) "Total Pay Periods" will be the total number of Pay Periods worked by all Class Participants during the Class Period according to Defendant's records.
- "Individual Pay Periods" will be the total number of Pay Periods worked by each individual Class Participant during the Class Period, according to

Defendant's records. If Defendant's records reflect that a Class Participant worked any amount of time during a Pay Period, that Pay Period will be counted as a Pay Period for purposes of calculating the Total Pay Periods and the Individual Pay Periods for the particular Class Participant.

(b) Each Class Participant's "Individual Settlement Payment" will be based on a ratio of the Class Participant's Individual Pay Periods to the Total Pay Periods. The Individual Settlement Payment will be calculated by dividing the Class Participant's Individual Pay Periods by the Total Pay Periods and multiplying by the Net Settlement Amount. A portion of this resulting amount will be subject to tax withholdings, as described below.

7. Non-Reversionary Settlement

The Parties agree that no part of the Total Settlement Amount will revert back to Defendant. The Class Participants and PAGA Employees shall have one-hundred eighty (180) calendar days to deposit or otherwise cash their settlement checks. This 180-day period will be counted from the postmark date of the checks' mailing to Class Participants and PAGA Employees by the Settlement Administrator.

As to the funds that remain in the Settlement Fund Account after 180 days due to Class Participants' and PAGA Employees' failure to deposit or cash their settlement checks, those funds will be sent to State of California's Unclaimed Property Fund in the Class Participants' names.

8. No Credit Toward Benefit Plans

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

1 **9. Treatment of Class Settlement Payments and Payroll Tax Obligations**

2 All Individual Settlement Payments to Class Participants will be allocated as follows: 20%
3 to settlement of wage claims, and 80% to settlement of claims for penalties. The Settlement
4 Administrator shall calculate the payroll taxes, including, but not limited to, Medicare taxes, Social
5 Security taxes, federal unemployment taxes, state unemployment insurance taxes, and employment
6 training taxes associated with the wage portion of the Settlement Amount made to each Class
7 Participant. The employee's share of payroll taxes shall be withheld by the Settlement
8 Administrator and paid to the appropriate governmental agencies. The Settlement Administrator
9 will calculate the employer's share of payroll taxes, which shall be paid by Defendant separately
10 from the Total Settlement Amount, and pay those amounts to the appropriate governmental agencies.
11 For purposes of calculating payroll taxes, the Parties agree, for purposes of this Settlement only and
12 for no other purpose that twenty percent (20%) of each Individual Settlement Payment shall
13 constitute wages subject to standard withholdings.

14 The Parties make no representations as to the tax treatment or legal effect of the payments
15 specified herein, and the Class Participants and PAGA Employees are not relying on any statement
16 or representation by the Parties, Class Counsel, or Defendant's Counsel in this regard. Class
17 Participants and PAGA Employees will be responsible for the payment of all taxes and penalties
18 assessed on the payments specified herein.

19 The Parties acknowledge and agree that: (1) no provision of this Joint Stipulation, and no
20 written communication or disclosure between or among the Parties, Class Counsel, or Defendant's
21 Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure
22 constitute or be construed or be relied upon as, tax advice within the meaning of United States
23 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party:
24 (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice
25 (including tax advice) in connection with this Joint Stipulation, (b) has not entered into this Joint
26 Stipulation based upon the recommendation of any other party or any attorney or advisor to any
27 other party; and (c) is not entitled to rely upon any communication or disclosure by any attorney or
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1 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party;
2 and (3) no attorney or adviser to any other party has imposed any limitation that protects the
3 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
4 limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax
5 structure of any transaction, including any transaction contemplated by this Joint Stipulation.

6 **10. Deadline to Fund the Settlement Fund Account**

7 Defendant shall deliver or otherwise remit to Settlement Administrator the necessary funds to
8 fully fund the Settlement Fund Account within fourteen (14) calendar days from the Effective Date
9 (unless that date falls on a weekend or holiday, in which case, payment shall be delivered the next
10 business day). This deadline is contingent on the Settlement Administrator providing to the
11 Defendant: the amounts to be paid (including the employer's share of payroll taxes with a
12 spreadsheet showing the amount for each Class Participant's Individual Settlement Payment), W-9
13 form for the Qualified Settlement Fund, and payment instructions within 14 calendar days of the
14 order granting final approval of the Settlement. Settlement checks will be mailed within fourteen
15 (14) calendar days of funding unless otherwise provided herein.

16 **11. Release of Claims by Class Participants**

17 Upon entry of the Judgment, all Participating Class Members shall release Defendant and the
18 Released Parties from all class claims which were pled or could have been pled based on the factual
19 allegations contained in the operative complaint or any amendments thereto which occurred during
20 the Class Period, and expressly excluding claims for vested benefits, wrongful termination,
21 unemployment insurance, disability, social security, and workers' compensation, and class claims
22 outside of the Class Period ("Released Class Claims"). The Released Class Claims include any
23 claims, demands, lawsuits, administrative actions, arbitrations, and participation to any extent in any
24 pending or future class, collective, or representative actions, or other action of any kind based on the
25 Released Class Claims. Participating Class Member releases include known and unknown claims as
26 described in this paragraph.

1 **12. Release of Claims by PAGA Employees**

2 Upon approval of the terms of this Joint Stipulation at the Final Approval Hearing, all PAGA
3 Employees shall release and discharge Defendants and the other Released Parties from Released
4 PAGA Claims, irrespective of whether that PAGA Employee validly requests exclusion from the
5 settlement of Released Class Claims. An opt-out does not affect the release of PAGA Claims under
6 this Settlement.

7 The PAGA Employees shall also waive unknown claims pursuant to California Civil Code §
8 1542 with regard to the Released PAGA Claims only. The PAGA release shall become effective
9 upon Final Approval.

10 **13. Number of Class Members and Pay Periods at Issue**

11 Defendant represents that there are a total of approximately 227 Class Members, and that the
12 total number of class Pay Periods is approximately 19,913 during the Class Period. If the total
13 number of Pay Periods during the Class Period is more than 7.5% greater than 19,913, Defendant
14 agrees to either, at Defendant's sole option, cut off the class membership as of the date that the
15 number of Pay Periods reaches 7.5% more than the total above, or the Total Settlement Amount will
16 be increased on a proportional basis.

17 **E. NULLIFICATION OF THE JOINT STIPULATION**

18 **1. Non-Approval of the Joint Stipulation**

19 If (a) the Court should for any reason fail to approve any material term of this Settlement in
20 the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a judgment in
21 the Action, or (c) the judgment is reversed, modified, or declared or rendered void, then this
22 Settlement shall be considered null and void, and neither this Settlement, nor any of the related
23 negotiations or proceedings, shall be of any force or effect, and all Parties to this Settlement shall
24 stand in the same position, without prejudice, as if the Settlement had been neither entered into nor
25 filed with the Court. Invalidation of any material portion of this Settlement shall invalidate this
26 Settlement in its entirety, unless the Parties shall subsequently agree in writing that the remaining
27 provisions of the Settlement are to remain in full force and effect. The Court's failure to approve
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1 Class Counsel's attorneys' fees and costs or the Class Representative's Service Payment in the
2 amounts stated herein, or any procedural change to the settlement administration procedures set out
3 herein required by the Court shall not be considered an invalidation of a material portion of the
4 settlement under this section. Moreover, a reallocation of the Settlement allocations between the
5 Class Members and the PAGA Employees required by the Court shall not be considered an
6 invalidation of a material portion of the settlement under this section.

7 **2. Defendant's Right to Withdraw Based on Opt-Outs**

8 If 5% or more of the Class Members validly opt out, Defendant will have the right to rescind
9 the Settlement and all actions taken in its furtherance of the Settlement will be null and void.
10 Defendant must exercise this right in writing to Class Counsel within ten (10) calendar days after the
11 latest Opt-Out deadline. If Defendant exercises this right, it shall be solely responsible for all costs
12 of the settlement administration incurred to date.

13 **F. FINAL APPROVAL HEARING**

14 At the Final Approval Hearing, Plaintiff shall move the Court for an order finally approving
15 the terms of the Joint Stipulation, certifying the Class for settlement purposes, finding the terms of
16 the Joint Stipulation as being fair, reasonable, and adequate to the Class Participants, and approving
17 the settlement and release of the Released PAGA Claims by PAGA Employees. Class Counsel will
18 provide a draft of the Motion to Defendants at least 3 business days in advance of filing for review
19 and comment. The Parties do not anticipate that a separate submission will be required for
20 Defendant, but Defendant's Counsel agree to submit to the Court such pleading and/or evidence as
21 may be required for the Court's determination if it is ordered by the Court.

22 **G. DUTIES OF THE PARTIES**

23 **1. Mutual Full Cooperation**

24 The Parties agree to cooperate fully with each other to accomplish and implement the terms
25 of this Joint Stipulation. Such cooperation shall include, but not be limited to, execution of such
26 other documents and the taking of such other actions as may reasonably be necessary to fulfill the
27 terms of this Joint Stipulation. The Parties shall use their best efforts, including all efforts
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1 contemplated by this Joint Stipulation and any other efforts that may become necessary by Court
2 Order, or otherwise, to effectuate this Joint Stipulation and the terms set forth herein. As soon as
3 practicable after execution of this Joint Stipulation, Class Counsel, with the cooperation of
4 Defendants and its counsel, shall take all necessary and reasonable steps to secure the Court's Final
5 Approval of the terms of this Joint Stipulation.

6 **2. Duty to Support and Defend the Settlement**

7 The Parties agree that the terms of the Joint Stipulation are fair and reasonable and will so
8 represent to the Court. In addition, the mediator may, at his discretion, execute a declaration
9 supporting the Settlement and the reasonableness of this Settlement, and the Court may, in its
10 discretion, contact the mediator to discuss the Settlement and whether or not the Settlement is fair
11 and reasonable. The Parties agree to abide by all of the terms of the Joint Stipulation in good faith
12 and to support the Settlement fully, and to use their best efforts to defend this Settlement from any
13 legal challenge, whether by appeal or collateral attack.

14 **H. MISCELLANEOUS PROVISIONS**

15 **1. Construction**

16 The Parties agree that the terms and conditions of this Joint Stipulation are the result of
17 lengthy, intensive, arm's length negotiations between the Parties and that this Joint Stipulation is not
18 to be construed in favor of or against any party by reason of the extent to which any party or its
19 counsel participated in its drafting.

20 **2. Choice of Law**

21 This Joint Stipulation is intended to and shall be governed by the laws of the State of
22 California, without regard to conflicts of law principles.

23 **3. Captions and Interpretations**

24 Paragraph titles or captions contained herein are inserted as a matter of convenience and for
25 reference only, and in no way define, limit, extend, or describe the scope of this Joint Stipulation or
26 any provision thereof.
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1 **4. Modification**

2 This Joint Stipulation may not be changed, altered, or modified, except in writing signed by
3 the Parties, and approved by the Court if required. This Joint Stipulation may not be discharged
4 except by performance in accordance with its terms or by a writing signed by the Parties.

5 **5. Integration Clause**

6 This Joint Stipulation contains the entire agreement between the Parties relating to the
7 Settlement of the Action and the transactions contemplated thereby, and all prior or
8 contemporaneous agreements, understandings, representations, and statements, whether oral or
9 written, and whether by a party or such party's legal counsel, are merged herein. No rights under
10 this Joint Stipulation may be waived except in writing.

11 **6. Interim Stay of Proceedings**

12 The Parties agree to stay all proceedings in the Action, subject to necessary compliance with
13 the Court's orders, except such proceedings necessary to implement and complete the Settlement, in
14 abeyance pending the Final Approval Hearing to be conducted by the Court. The Parties further
15 agree that, pursuant to Code of Civil Procedure § 583.330(a), the five-year period specified in Code
16 of Civil Procedure § 583.310 shall be tolled for the time period beginning on December 14, 2022
17 (the date on which the Parties conducted the mediation during which the settlement was reached)
18 and ending on the Effective Date of this Settlement or the date of a final order denying approval of
19 this Settlement.

20 **7. Jurisdiction of the Court**

21 Following entry of the Final Approval, the Court shall retain jurisdiction with respect to the
22 interpretation, implementation, and enforcement of the terms of this Joint Stipulation and all orders
23 and judgments entered in connection therewith, and the Parties, Class Counsel, and Defense Counsel
24 submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the
25 Settlement embodied in this Joint Stipulation and all orders and judgments entered in connection
26 therewith.

1 **8. Invalidity of Any Provision**

2 Before declaring any term or provision of this Joint Stipulation invalid, the Parties request
3 that the Court first attempt to construe the terms or provisions valid to the fullest extent possible
4 consistent with applicable precedents so as to define all provisions of this Joint Stipulation as valid
5 and enforceable.

6 **9. Successors and Assigns**

7 This Joint Stipulation shall be binding upon and inure to the benefit of the Parties and their
8 respective heirs, trustees, executors, administrators, successors, and assigns.

9 **10. Confidentiality**

10 All Parties agree that this Settlement is strictly confidential until the Preliminary Approval
11 Motion is filed. Nothing in this provision is intended to either (a) interfere with the ability of Class
12 Counsel to communicate with Class Members in connection with the action, or (b) restrict Class
13 Counsel's right to practice law under CRPC Rule 1-500. Class Counsel will maintain as Confidential
14 any information about the Class Members provided in connection with this Settlement in accordance
15 with the Stipulated Protective Order entered in the action on December 8, 2020.

16 **11. No Prior Assignments**

17 Parties separately represent and warrant that they have not directly or indirectly assigned,
18 transferred, or encumbered, or purported to assign, transfer or encumber, to any person or entity any
19 portion of any liability, claim, demand, action, cause of action or right released and discharged by the
20 Party in this Settlement.

21 **12. Class Counsel Signatories**

22 Because the Members of the Class are so numerous, the Parties agree that it is impossible or
23 impractical to have each Class Participant and PAGA Employee sign this Joint Stipulation. Thus, it
24 is agreed that, for purposes of seeking approval of the Class Settlement, this Joint Stipulation may be
25 executed on behalf of the Class by the Class Representative and Class Counsel.

26 **13. Corporate Signatories**

27 Any person executing this Joint Stipulation or any such related document on behalf of a
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corporate signatory hereby warrants and promises, for the benefit of all Parties hereto, that such person has been duly authorized by such corporation to execute this Joint Stipulation or any such related document.

14. Execution in Counterparts

This Joint Stipulation shall become effective upon its execution by all of the undersigned Parties. The Parties may execute this Joint Stipulation in counterparts, and execution of counterparts shall have the same force and effect as if all Parties had signed the same instrument.

SIGNATURES

PLAINTIFF/CLASS REPRESENTATIVE

Dated: August 14, 2023

By:

DocuSigned by:

Kevin Harris

F4613E47D6BF4FD...

KEVIN HARRIS

DEFENDANT

Dated: August 11, 2023

By:

DocuSigned by:

Kevin DeBorde

BC0F087A260E4D0...

Print Name: *3+- %*#. /)*

Title: "00+01(-1 &*-* / (, \$.2-0*,
McKesson Medical-Surgical Inc.

APPROVED AS TO FORM

Dated: August 3, 2023

JAMES HAWKINS APLC



JAMES R. HAWKINS
CHRISTINA M. LUCIO
Attorney for Plaintiff
KEVIN HARRIS

Dated: August 23 2023

LITTLER MENDELSON P.C.



TANJA L. DARROW
NATHANIEL H. JENKINS
Attorneys for Defendant
MCKESSON MEDICAL-SURGICAL INC.

EXHIBIT 2

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

Harris v. McKesson Medical-Surgical, Inc., Case No. S-CV-0044686

The Superior Court for the State of California authorized this Notice. Read it carefully!

It is not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against MCKESSON MEDICAL-SURGICAL, INC. (“Defendant”) for alleged violations of the California Labor Code. The Action was filed by a former employee of Defendant, Kevin Harris, (“Plaintiff”) and seeks (1) payment unpaid wages, penalties, liquidated damages, attorneys’ fees and costs, and interest for a class of all current and former non-exempt employees of Defendant in the State of California who hold/held delivery driver positions during the Class Period (the “Class”) and PAGA Period (the “PAGA Employees”). The Class Period is the period from April 3, 2016 to January 27, 2023. The PAGA Period is the period from April 3, 2019 to January 27, 2023.

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Settlement Payments based on the number of Pay Periods worked during the Class Period and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments to PAGA Employees based on the number of Pay Periods worked during the PAGA Period.

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

The above estimate is based on Defendant’s records showing that **you worked _____ Pay Periods during the Class Period**. If you believe that you worked more Pay Periods than indicated, you can submit a challenge to the administrator by the deadline date. See Section 4 of this Notice.

The Court has preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert claims against Defendant for the claims released in the Settlement.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims against Defendant.

PAGA Employees cannot opt-out of the PAGA portion of this settlement. All PAGA Employees will receive Individual PAGA Payments based on the number of Pay Periods worked during the PAGA Period.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement The Opt-out Deadline is [REDACTED]	If you don't want to participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. If you are a PAGA Employee, you cannot opt out of the PAGA portion of the Settlement.
Participating Class Members Can Object to the Class Settlement. Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement, including how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Challenge the Calculation of Your Pay Periods/Pay Periods Written Challenges Must be Submitted by [REDACTED]	The amount of your Individual Class Payment depends on how many Pay Periods you worked at least one day during the Class Period. The number of Class Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by [REDACTED] . See Section 4 of this Notice.

1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former delivery driver employee of Defendant who brought this action alleging that Defendant (1) failed to accurately pay all wages earned, including overtime; (2) failed to authorize and permit rest periods; (3) failed to timely pay wages owed upon separation from employment; 4) failed to provide accurate itemized wage statement provisions; (5) failed to reimburse necessary expenses; and (6) violated the unfair competition law. Plaintiff is represented by James Hawkins APLC in the Action ("Class Counsel").

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

The Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator, retired Judge Ronald Sabraw, in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. After a full day of mediation and continued negotiations over the next months with the assistance of the mediator, the parties reached a settlement. By signing a lengthy written settlement agreement (“Settlement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Settlement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$925,000.00 as the Gross Settlement Amount (GSA). Defendant has agreed to deposit the GSA into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Settlement Payments, Individual PAGA Settlement Payments, a Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, and the Administrator’s expenses. Assuming the Court grants Final Approval, Defendant will fund the GSA not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$308,333.33 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys’ fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff’s Individual FCRA and Manager Class Payments.

C. Up to \$12,000.00 to the Administrator for services administering the Settlement.

D. \$64,750.00 for settlement of claims for civil penalties under PAGA (“PAGA Fund”), 75% of which shall be paid to the California Labor and Workforce Development Agency, and 25% paid to the PAGA Employees.

3. Net Settlement Amount and PAGA Fund Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement Amount” or “NSA”) by making Individual Class Payments to

Participating Class Members based on their Class Period Pay Periods. The portion of the PAGA Fund allocated to the PAGA Employees shall be paid based on their PAGA Period Pay Periods.

4. Taxes Owed on Payments to Class Members. For the Individual Class Payments, Plaintiff and Defendant are asking the Court to approve an allocation of 80% statutory penalties and interest, and 20% as wages for tax purposes. The Individual PAGA Payments shall be considered 100% statutory penalties for tax purposes. The Administrator will report Individual Class Payments on IRS 1099 and W-2 Forms, and the Individual PAGA Payments on IRS 1099 Forms.

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

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

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

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to fill out the Request for Exclusion form and return it to the Administrator by the [REDACTED] Response Deadline. The Request for Exclusion must include the Class Member's name, present address, telephone number, last four digits of the Class Member's Social Security Number, and include a simple statement electing to be excluded from the Settlement. The Request for Exclusion must be signed by the Class Member. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

If you are a PAGA Employee, you cannot opt-out of the PAGA portion of this settlement. All PAGA Employees will receive a portion of the PAGA Fund based on their PAGA Period Pay Periods even if they opt out of the Class Settlement.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release and PAGA Employees' Release. After the Judgment is final and Defendant has fully funded the Gross Settlement, Participating Class Members will be legally barred

from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or related entities for wages based on the Class Period facts, as alleged in the Action and resolved by this Settlement.

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

Upon entry of the Judgment, all Participating Class Members shall release Defendant and the Released Parties from all class claims which were pled or could have been pled based on the factual allegations contained in the operative complaint or any amendments thereto which occurred during the Class Period, and expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, and workers' compensation, and class claims outside of the Class Period ("Released Class Claims"). The Released Class Claims include any claims, demands, lawsuits, administrative actions, arbitrations, and participation to any extent in any pending or future class, collective, or representative actions, or other action of any kind based on the Released Class Claims. Participating Class Member releases include known and unknown claims as described in this paragraph.

The "Released Class Claims" are defined as: any and all claims, rights, demands, liabilities, and causes of action, whether known or unknown, arising from the same set of operative facts as those set forth in the operative Complaint, or in Plaintiff's LWDA letters, including those claims which could have been asserted based on the facts alleged in the operative Complaint or LWDA letters, through the Release Period, including claims for: failure to provide rest periods; failure to pay minimum, regular, and overtime wages; failure to timely pay wages during employment and/or upon termination; improperly itemized wage statements; unreimbursed business expenses; unfair competition; and violations of the California Labor Code Private Attorneys General Act, California Labor Code §§ 2698 et seq.

All PAGA Employees will be bound by the following release:

Upon approval of the terms of this Joint Stipulation at the Final Approval Hearing, all PAGA Employees shall release and discharge Defendants and the other Released Parties from Released PAGA Claims, irrespective of whether that PAGA Employee validly requests exclusion from the settlement of Released Class Claims. An opt-out does not affect the release of PAGA Claims under this Settlement.

The PAGA Employees shall also waive unknown claims pursuant to California Civil Code § 1542 with regard to the Released PAGA Claims only. The PAGA release shall become effective upon Final Approval.

The "Released PAGA Claims" means all PAGA Claims that were actually alleged or could have been alleged based upon the facts set forth in the operative Complaint or based upon the facts set forth in the April 3, 2020 LWDA letter by the named Plaintiff on behalf of the State of California, himself, and the PAGA Employees. The release of the Released PAGA Claims shall be effective from April 3, 2019 to March 31, 2023.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount (The remaining Amount after deducting from the GSA the PAGA Fund, Attorneys' Fees and Costs, the Class Representative Service Award, and the Administrator's Fees) by the total number of Class Period Pay Periods worked by all Class Members and (b) multiplying the result by the number of Class Period Pay Periods worked by each individual Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing the 25% portion of the PAGA Fund to be paid to PAGA Employees by the total number of PAGA Period Pay Periods worked by all PAGA Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual PAGA Employee.

3. Pay Period Challenges. The number of Pay Periods you worked during the Class Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

1. Participating Class Members and All PAGA Employees. The Administrator will send, by U.S. mail, a single check to every Participating Class Member and PAGA Employee (i.e., every Class Member who doesn't opt-out and all PAGA Employees). The single check will combine the Individual Class Payment and/or the Individual PAGA Payment.

2. Non-Participating Class Members. Non-participating Class Members (i.e. Class Members who opt out of the settlement) will not be eligible for any payment under the Settlement. PAGA Employees cannot opt out of the PAGA portion of this settlement.

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

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

You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to fill out the Request for Exclusion form and return it to the Administrator by the [REDACTED] Response Deadline. The Request for Exclusion must include the Class Member's name, present address, telephone number, last four digits of the Class Member's Social Security Number, and include a simple statement electing to be excluded from the Settlement. The Request for Exclusion must be signed by the Class Member.

Instead of using the form, you may submit a written and signed letter with your name, present address, telephone number, approximate dates of employment, last four digits of your Social Security Number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as ***Harris v. McKesson Medical-Surgical, Inc., Case No. S-CV-0045007*** and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes).

You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. A Participating Class Member who disagrees with any aspect of the Settlement Agreement, or feels that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low may choose to submit a written objection to the Administrator. **The deadline for sending written objections to the Administrator is [REDACTED].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Include any documents which you believe support your position. Make sure you identify the Action as ***Harris v. McKesson Medical-Surgical, Inc., Case No. S-CV-0045007*** and include your name, current address, telephone number, last four digits of the Social Security Number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

If you submit a written objection, you may also choose to attend (or personally retain a lawyer to object at your own cost) the Final Approval Hearing. You are not required to attend the hearing, however, to have the Court consider your written objection. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] (time) in Department [REDACTED] of the Placer County Superior Court, located at [REDACTED]. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

It is possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website, [REDACTED], beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to

go to ILYM Group, Inc. website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to [REDACTED] and entering the Case Number for the Action, Case No. S-CV-0044686. You can also make an appointment to personally review court documents in the Clerk's Office at the [REDACTED] Courthouse by calling [REDACTED].

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

Class Counsel:

James R. Hawkins
Christina M. Lucio
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
james@jameshawkinsaplc.com
christina@jameshawkinsaplc.com

Settlement Administrator:

ILYM GROUP, INC.

Email Address: [REDACTED]

Mailing Address: [REDACTED]

Telephone: [REDACTED]

Fax Number: [REDACTED]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

REQUEST FOR EXCLUSION FROM SETTLEMENT (OPT-OUT)

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

Harris v. McKesson Medical-Surgical, Inc., Case No. S-CV-0044686

I am requesting to OPT OUT OF THE SETTLEMENT of the action known as *Harris v. McKesson Medical-Surgical, Inc.* pending in the Superior Court of the State of California, County of Placer, Case No. S-CV-0044686. I want to be excluded from the Class and the Settlement.

I do not wish to receive compensation under the terms of the proposed settlement of the *Harris* action or to otherwise participate in the proposed settlement.

Date: _____, _____
Signature

**PLEASE PRINT OR TYPE THE FOLLOWING
IDENTIFYING INFORMATION:**

Full Name: _____

Mailing Address: _____

Approximate Dates of Employment: _____

Last four digits of your Social Security Number: _____

Daytime telephone number: _____

NOTICE OF OBJECTION FORM

Harris v. McKesson Medical-Surgical, Inc.
Superior Court of California, County of Placer
Case No. S-CV-0044686

You should fill out this Notice of Objection Form *only if you wish to object to the Settlement.* Please note, *you cannot submit this Notice of Objection Form, if you submit a Request for Exclusion.* Objecting to the Settlement is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be a part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

This form is to be used only if you wish to object to the Settlement. Settlement Class Members who do not timely make an objection will have waived their right to object to the Settlement.

If you wish to object to the Settlement, you must fill out this Notice of Objection Form in its entirety, sign it, and return it to the Settlement Administrator at the address listed below by First Class U.S. Mail postmarked no later than [**Response Deadline**]. All information must be provided below and it must be signed. State all facts which you believe support your objection. Settlement Class Members who wish to object to the Settlement may appear at the Final Approval Hearing to have your objection heard by the Court. You do not have to appear to have your objection heard.

Harris v. McKesson Medical-Surgical, Inc.
ILYM Group, Inc.
[ADDRESS]
[ADDRESS]

Objection:

[Please write legibly in print]

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone Number: _____

The Reasons for the Objection: _____

Date: _____

Signature