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individually and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

THOMAS HARDWICK AND CARA
NOONE, on behalf of themselves and all
others similarly situated,

Plaintiff,

v.

HOOVESTOL, INC., a Minnesota
corporation; 10 ROADS EXPRESS, LLC,
a Delaware Limited Liability Company;
and DOES 1through 10, inclusive,

Defendants.

Case No. 20STCV19610

Assigned for All Purposes to:
Hon. William F. Highberger

**DECLARATION OF JAMES R. HAWKINS
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT**

Date: April 12, 2024
Time: 10:30 a.m.
Dept: 10

Complaint Filed: May 21, 2020
FAC Filed: November 15, 2023

1 I, James Hawkins, declare as follows:

2 1. I am an individual over the age of 18. I am a partner at the law firm of James
3 Hawkins, APLC. I am one of the attorneys of record for Plaintiffs Thomas Hardick and Cara Noone
4 (“Plaintiffs”). II have personal knowledge of the facts set forth below, and if called to testify
5 regarding them, I could and would do so competently.

6 2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval
7 of Class Action and PAGA Settlement.

8 3. Attached hereto as **Exhibit 1** is a true and correct copy of the parties Class Action
9 and PAGA Settlement Agreement (“Settlement Agreement” which the Parties ask the Court to
10 approve. Attached as **Exhibit A** to the Settlement Agreement is a true and correct copy of the
11 proposed Notice of Class Action Settlement which the Parties have requested the Court approve
12 for distribution to the Settlement Class Members.

13
14 **Summary of the Litigation**

15 4. On May 21, 2020, Plaintiff Hardick submitted a letter to the Labor and Workforce
16 Development Agency (“LWDA”) for the purpose of complying with Labor Code § 2699.3’s notice
17 requirement, giving notice of Plaintiffs’ allegations based upon the legal claims set forth in the
18 Plaintiff Hardwick’s PAGA Action (defined below).

19 5. On May 22, 2020, Plaintiff Hardwick commenced this action by filing a Complaint
20 alleging causes of action based on violation of multiple California Labor Code violations including,
21 but not limited to sections 201-204, 226.2, 510, 1194, 1197, 1998, 226.7, 512, 2802, 2803, Business
22 and Professions Code sections 17200-17208 and sections 11 and 12 of the applicable IWC Wage
23 Order.

24 6. On July 28, 2020, Plaintiff Hardwick commenced a PAGA action by filing a
25 Complaint alleging causes of action based on claimed violations enumerated under Labor Code
26 section 2699.5 including the following sections: 201-203, 226, 226.3, 226.7, 510, 512, 558, 1174,
27 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2699, 2800, 2802 and 2803. Pursuant to Labor
28 Code section 2699.3, subd. (a).

1 7. On August 18, 2020, Defendants filed a Notice of Removal of the class action to the
2 Central District Court.

3 8. On September 18, 2020, Defendants filed an Answer to Plaintiff Hardwick's Class
4 Complaint. In its Answer, Defendants denied all allegations in the Complaint.

5 9. On October 22, 2020, Defendants filed a Notice of Removal of the PAGA action to
6 the Central District Court.

7 10. On October 29, 2020, Defendants filed a Motion to Dismiss Plaintiff Hardwick's
8 PAGA action.

9 11. On November 23, 202, Plaintiff Hardwick filed a Motion to Remand the PAGA
10 action to the Los Angeles Superior Court.

11 12. On January 1, 2021, the Central District Court Granted Plaintiff Hardwicks' Motion
12 for Remand and denied Defendants' Motion to Dismiss as moot.

13 13. On December 1, 2021, Plaintiff Noone commenced a PAGA action by filing a
14 Complaint alleging causes of action based on claimed violations enumerated under Labor Code
15 sections 2699.5 including, but not limited to the following sections: 201-203, 2802 and 2803.

16 14. On February 5, 2021, Defendant filed an Answer to the Plaintiff Noone's Complaint.
17 In its Answer, Defendants denied all allegations in the Plaintiffs' Complaint.

18 15. On December 16, 2021, the parties participated in an all-day mediation presided
19 over by Steven G. Pearl, which did not resolve these actions.

20 16. On February 25, 2022, Defendant filed an Answer to Plaintiff Hardwick's PAGA
21 Complaint. In its Answer, Defendants denied all allegations in the Complaint.

22 17. On September 12, 2022, the District Court granted, in part, Plaintiff Hardwick's
23 Motion for Class Certification. The District Court certified the following class: all current and
24 former hourly drivers employed by Defendants in the State of California at any time from May 22,
25 2017 through the present, who are not members of the *Terry* class or who performed worked after
26 December 7, 2018. The District Court also certified a Wage Statement Subclass and Waiting Time
27 Penalty Subclass.
28

1 18. On November 25, 2022, Notice of Class Certification was mailed to the certified
2 Class Members.

3 19. On October 10, 2022, the parties participated in a second an all-day mediation
4 presided over by experienced wage and hour mediator, Gig Kyriacou, however the matter again did
5 not resolve at mediation.

6 20. On February 10, 2023, Defendants filed a Motion to Compel Arbitration and Motion
7 for Summary Judgment.

8 21. On February 10, 2023, Plaintiff Hardwick filed his own Motion for Partial Summary
9 Judgment.

10 22. On April 14, 2023, the District Court denied Defendants' Motion to Compel
11 Arbitration, finding that the overwhelming weight of evidence submitted indicates that Defendants
12 took actions in the litigation inconsistent with their right to arbitrate and therefore waived their right
13 to arbitration.

14 23. On April 14, 2023, the District Court heard oral argument on Defendant's Motion
15 for Summary Judgment and Plaintiffs' Motion for Partial Summary Judgment and requested
16 supplemental briefs.

17 24. In May 2023, prior the Courts' ruling on the cross-motions for summary judgment,
18 the Parties agreed, subject to approval by the Court, to the Settlement of this case, with Plaintiffs
19 agreeing to amend the Complaint and PAGA notice to consolidate Plaintiff Hardwick's Class and
20 PAGA actions with Plaintiff Noone's PAGA action.

21 25. Each side, represented by its respective counsel, recognized the risk of an adverse
22 result in the Action and agreed to settle the Action pursuant to the terms and conditions of the
23 Settlement Agreement.

24 26. As detailed in the extensive procedural history of these cases, the Parties extensively
25 investigated the relevant facts and applicable law, potential defenses, and damages claims by
26 Plaintiffs on behalf of themselves and the Settlement Class.

1 27. Defendants denied and continue to deny each and every material allegation, dispute,
2 and claim raised in the underlying actions. Defendants have at all times denied, and continue to
3 deny, all of the allegations, and deny any and all liability for Plaintiffs' claims.

4 28. Plaintiffs' Counsel conducted an extensive and thorough investigation into the
5 factual and legal issues implicated by Plaintiffs' claims and were able to objectively assess the
6 settlement's reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiffs'
7 Counsel to discuss the factual bases for pursuing their actions against Defendants for Labor Code
8 violations. Plaintiffs were intimately familiar with Defendants' labor policies and practices, and
9 over the course of multiple interviews, knowledgeably summarized those policies and practices to
10 Plaintiffs' Counsel. During those conversations, Plaintiffs explained how the policies and practices
11 were instituted and provided valuable insight into how they gave rise to the alleged Labor Code
12 violations. Based on these interviews with Plaintiffs, Plaintiffs' Counsel determined that there were
13 legally sufficient grounds for pursuing the Actions against Defendants. And in preparation for
14 drafting the complaints, Plaintiffs' Counsel conducted their own independent preliminary
15 investigations into the factual bases for Plaintiffs' claims, which entailed, inter alia, a careful
16 examination of Plaintiffs' personnel files and associated records.

17 29. In response to written discovery requests and depositions, Plaintiffs' Counsel
18 received a considerable amount of documents and data, including time and pay records for
19 Plaintiffs, the Class, and Aggrieved Employees, Defendants' written policies and employee
20 handbooks which covered a broad range of topics including, inter alia, employee clock-in policies
21 and procedures, attendance policies, meal periods/rest periods, overtime & premium pay, etc..
22 Defendants also provided substantial information concerning the total number of potential class
23 members, the payroll data at issue, and the applicable hourly rates, workweeks and pay periods,
24 and other summary data related to the Class. The Parties have conducted themselves in informed,
25 good faith arms-length negotiations after conducting discovery and exchanging extensive evidence
26 and information about the claims and defenses of this lawsuit through discovery, motion practice,
27 and engaging in numerous telephone conferences, and correspondence all aimed at settling their
28 dispute. The extensive litigation history allowed the Parties to fully assess the nature and magnitude

1 of the claims being settled, as well as the impediments to recovery, and ultimately enabled
2 Plaintiffs' Counsel so as to make an independent assessment of the reasonableness of the
3 settlement's terms.

4 30. In summary, Plaintiffs' Counsel performed a thorough investigation into the claims
5 at issue, which included: (1) determining Plaintiffs' suitability as private attorney general and class
6 representative through interviews and analyses of their employment files and related records; (2)
7 evaluating all of Plaintiffs' potential representative claims; (3) engaging in formal and informal
8 discovery, which included special interrogatories, production of Defendants' timekeeping, meal
9 period and rest break policies; documents evidencing Defendants' handbooks, policies and
10 procedures for managing payment for all hours worked, meal periods and rest breaks; and other
11 relevant information, including Plaintiffs' personnel and payroll file; (4) exchanging documents,
12 data, and information based on time and pay records for the Class Members to determine the
13 number of class members who worked during the relevant time period, the total number of
14 workweeks at issue, the average hourly rate for the class and aggrieved employees; (5) researching
15 similar wage and hour class actions as to the claims brought, the nature of the positions, and the
16 type of employer; (6) analyzing employees' time, pay, and wage records; (7) reviewing Defendants'
17 employment policies and practices; (8) researching settlements in similar cases; (9) evaluating
18 Plaintiffs' claims and estimating Defendants' liability for purposes of settlement; (10) drafting the
19 motion for class certification; (11) opposing Defendants' motion to compel arbitration and motion
20 for summary judgment; and (12) participating in two full-day mediations and extensive settlement
21 negotiations.

22 31. By engaging in such a thorough investigation and evaluation of Plaintiffs' claims,
23 Class Counsel can opine that the Settlement, for the consideration and on the terms set forth in the
24 Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class

25 32. In light of all known facts and circumstances, including the risk of significant delay
26 and uncertainty associated with litigation, and various defenses asserted by Defendants.

27 33. Defendants categorically denies all of the above-mentioned assertions and
28 allegations raised in and in support of the claims in the Class and PAGA Actions. To that end,

1 Defendants have denied and continue to deny each, and all of the allegations, claims, and
2 contentions alleged by Plaintiffs in the Class and PAGA Actions. Defendants have expressly denied
3 and continue to deny all charges of wrongdoing or liability against them arising out of any of the
4 conduct, statements, acts or omissions alleged in the Class and PAGA Actions. Defendants contend
5 that they complied in good faith with wage and hour laws and have dealt legally and fairly with
6 Plaintiffs and Class Members. To date, no court has made any findings that Defendants engaged in
7 any wrongdoing or in any wrongful conduct, or otherwise acted improperly or in violation of any
8 law, rule or regulation with respect to any of the issues presented in this action. Nonetheless, the
9 Parties have concluded that further proceedings in the Class and PAGA Actions would be
10 protracted and expensive and that it is desirable that the Class and PAGA Actions be fully and
11 finally settled in the manner and upon the terms and conditions set forth in this Settlement in order
12 to dispose of burdensome and protracted litigation, to permit the operation of Defendants' business
13 without further expensive litigation and the distraction and diversion of its personnel with respect
14 to matters at issue in the Class and PAGA Actions. Defendants have also taken into account the
15 uncertainty and risks inherent in any litigation, especially in complex cases such as the Class and
16 PAGA Actions. Defendants have, therefore, determined that it is desirable and beneficial to it that
17 the Class and PAGA Actions be settled in the manner and upon the terms and conditions set forth
18 in Settlement.

19 34. In connection with this Settlement, Plaintiff seeks to represent the Aggrieved
20 Employees and the Settlement Class Members. The "Aggrieved Employees" are defined as all
21 persons employed by Defendants in California who worked during the PAGA Period (May 24,
22 2019 to December 15, 2022.) The "Settlement Class Members" are defined as all current and
23 former nonexempt, hourly-paid employees employed by Defendants, or either of them, in
24 California at any time from May 22, 2016, to December 15, 2022, for Labor Code § 2802 claims
25 and December 8, 2018 to December 15, 2022 for all other Released Class Claims.

26 35. Our firm employs experienced class action attorneys who regularly litigate wage
27 and hour claims through certification and on the merits and have considerable experience trying
28 and resolving wage and hour class actions.

1 36. In preparation for both mediations, Plaintiffs' counsel reviewed the entirety of the
2 documents and information produced with the assistance of an expert. The information had to be
3 extrapolated and processed to create a damages model. The evidence and information gathered and
4 reviewed by counsel provided a factual framework for a comprehensible and reliable damage model
5 pertaining to all Settlement Class Members. The mediations included discussions and examination
6 of the Class and the Parties' respective positions on the legal and factual issues raised in the
7 Complaint.

8 37. After two mediations and protracted settlement discussions, the Parties agreed to
9 settle this matter for a Gross Settlement Amount of \$495,000. This is a non-reversionary settlement.
10 No portion of the Gross Settlement Amount will revert to Defendants.

11 38. Counsel for the Parties investigated the applicable law as applied to the facts
12 discovered regarding the claims of Plaintiffs' and Defendants' defenses thereto and the damages
13 claimed by Plaintiff on behalf of the Settlement Class. Plaintiffs' counsel balanced the terms of the
14 proposed Settlement against the risk of litigation and probable outcome at the summary judgment
15 stage and at trial. Based on their own respective independent investigations and evaluations, and
16 after taking into account the sharply disputed factual and legal issues involved in this matter, the
17 risks attending further prosecution of the case, Defendants' defenses, and the monetary benefits
18 received under the Settlement, Plaintiffs' counsel is of the opinion that Settlement for the
19 consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and
20 adequate and is in the best interests of Plaintiffs, the Class, the Aggrieved Employees and the State
21 of California.

22 39. I believe that the consideration and terms set forth in the Settlement Agreement are
23 fair, reasonable, and adequate and are in the best interests of the Settlement Class in light of all
24 known facts and circumstances, including the various defenses asserted by Defendants, and
25 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
26 judgment ruling, the difficulties of complex litigation, the lengthy process of establishing specific
27 damages and various possible delays and appeals, were also carefully considered in agreeing to the
28 proposed Settlement.

1 40. The Gross Settlement Amount includes, without limitation, attorneys' fees of one-
2 third of the Maximum Gross Settlement Amount (estimated at \$165,000.00 ("Attorneys' Fees")
3 plus litigation costs according to proof not to exceed \$35,000.00; (3) class representative service
4 payments not to exceed \$15,000 to Plaintiff Hardwick and 7,500 to Plaintiff Noone ("Service
5 Payments"); (4) all settlement administration fees and costs, including those of the Settlement
6 Administrator not to exceed \$7,650.00 ("Claims Administration Fees"); (5) Penalties paid pursuant
7 to PAGA in the amount of \$25,000.00 of which seventy five percent (75%) or \$18,750.00 will be
8 paid the LWDA and twenty five percent (25%) or \$6,250 will be distributed pro rata to all PAGA
9 Releasees and (5) all payroll taxes and all other applicable taxes, excluding the employer's portion
10 of the payroll taxes ("Payroll Taxes"). This is a non-reversionary settlement. After deductions, the
11 Net Settlement Amount is estimated to be approximately \$239,850.00.

12 41. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiffs
13 involved both in not prevailing on one or more of the causes of action or theories alleged in the
14 Complaint, and Plaintiffs ability to maintain certification in this case. Defendants also argued it
15 maintained lawful written policies that were provided to the class members. Defendants have many
16 strong arguments, which could render the Class Members' claims worthless at either summary
17 judgment or trial. Yet, despite the defenses proffered by Defendants, the proposed Settlement
18 commits Defendants to pay a significant settlement to the Class. The amount to be paid to the Class
19 is fair, adequate and reasonable given the significant risk to Plaintiffs and the Class in continuing
20 with the litigation and not prevailing on their claims at class certification or at trial or not being
21 paid anything even if trial was successful.

22 42. The predominant claims in this action arise from Defendants' payment of cash
23 payments in lieu of health in welfare benefits. Specifically, for their claim under Cal. Labor Code
24 § 226 ("Section 226"), Plaintiffs allege that for the period of May 22, 2019 to October 4, 2019,
25 Defendants' wage statements were deficient because they did not contain a specific line item
26 providing that H&W Benefits were paid at the rate of \$5.03 per hour. For their Cal. Labor Code §
27 203 ("Section 203") claim, Plaintiffs contend that they are owed sick pay and entitled to waiting
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1 time penalties for the same because Defendants did not include the H&W Benefits in the calculation
2 of their regular rate of pay for sick pay under Cal. Labor Code § 246(l) (“Section 246”).

3 43. Defendants’ argued that their wage statements at all times complied with California law
4 because Plaintiffs could promptly and easily determine the H&W Benefits rate using only simple
5 math and the information provided on the face of the wage statements. Additionally, Defendants
6 argued that at all times correctly paid Plaintiffs sick pay at the same rate as Plaintiffs’ other forms
7 of paid leave, which is all that is required of Defendants under Section 246. Regardless, at the end
8 of the day, Defendants contend they paid Plaintiffs the additional amounts in H&W Benefits for
9 every hour paid to Plaintiffs as sick pay. Thus, Defendants argued that they provided compliant
10 wage statements and did not owe sick pay at the time of any Plaintiff’s termination. Finally,
11 Defendants argued that even if they did not comply with Sections 203 and 226, Defendants
12 presented reasonable, good faith defenses based in law or fact that preclude any recovery on
13 Plaintiffs’ claims. Accordingly, Defendants argued that they were entitled to summary judgment.

14 44. Further, beyond the risk of an adverse ruling on the merits, Class Counsel considered the
15 fact that continued litigation would likely take years and would be extremely expensive given the
16 breadth and complexity of the claims. In this case, post-trial and appellate proceedings are likely to
17 occur, which will surely drag the case far into the future even with a positive trial result. When
18 facing a distant and unsure resolution of the allegations in this action, the sure and substantial
19 Settlement is all the more reasonable. Avoiding such costly litigation in favor of more immediate
20 benefits to the Class was a consideration favoring settlement. Given these realities, it is highly
21 likely that the future expense of this litigation, and its likely duration if the settlement is not
22 approved, would be significant and weigh heavily in favor of approval of this settlement.

23 ***Kullar Analysis: Claims and Defenses***

24 **Failure to Provide Accurate Wage Statements**

25 45. Plaintiffs assert that Defendants have not provided accurate wage statements, essentially
26 not adhering to the statutory requirements. Defendants, however, present a counterargument
27 grounded in their established payment structure, which includes both an hourly base rate and an
28 hourly fringe rate as dictated by U.S. Postal Service contract stipulations.

1 46. Hoovestol has been compensating employees through a blend of these rates, with fringe pay
2 issued as a direct cash benefit. Moreover, wage statements are disseminated bi-weekly via ADP,
3 which include notations such as "Hlt & Welfare" for fringe pay and "Sick" for sick pay.
4 Notwithstanding, Plaintiffs pinpoint an omission in the statements — the failure to itemize hours
5 and rates for fringe pay and inaccuracies in sick pay calculations.

6 47. Defendants contend that the wage statement format, reformed in October 2019, now
7 explicitly delineates the fringe pay rates and hours, thereby diminishing the liability period for the
8 claims presented. They further argue that, despite the absence of explicit rates for certain payments
9 like the Health & Welfare rate, the wage statements still satisfy legal requirements, positing that
10 the necessary calculations are within the grasp of a reasonable person, thus not constituting a
11 statutory violation under Section 226(a).

12 48. Defendants bolster their defense by aligning with legal precedents, asserting that
13 straightforward arithmetic based on the wage statement information does not equate to an
14 infringement of statutory duties. Given that Defendants have rectified the sick pay rate reporting
15 and have amended their wage statements to explicitly include rates and hours for fringe pay, it
16 suggests a dedication to legal compliance that may substantially weaken the Plaintiffs' accusations
17 regarding wage statement inaccuracies.

18 49. Defendants have made a persuasive case that their wage statements conform to legal
19 standards, supported by the argument that a reasonable person could compute the required rates
20 from the available information. This adherence to statutory interpretations, coupled with corrective
21 measure, presents a substantial challenge to Plaintiffs' claims and favors Defendants' position in
22 this dispute.

23 **Failure to Accurately Pay Sick Pay Wages**

24 50. Plaintiffs allege that Defendants have not adhered to California's mandate for timely
25 payment of wages upon termination. The crux of their argument rests on the claim that Hoovestol
26 improperly calculated sick pay by omitting hourly fringe pay from the regular rate of pay, leading
27 to systematic underpayment. The classification of drivers as non-exempt employees under Labor
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1 Code section 246(l) is central to Plaintiffs' argument, which predicates that sick pay must be
2 computed to include all forms of remuneration, including hourly fringe benefits.

3 51. However, Defendants maintain that their compensation practices are in full compliance with
4 the law. They argue that all Health & Welfare (H&W) premiums were accounted for during sick
5 pay calculations, thus negating any underpayment claims. Their argument extends to the legal
6 interpretation of the term "regular rate" of pay, particularly in relation to sick leave, where they
7 challenge the assumption that the regular rate should encompass cash-in-lieu of H&W benefits.
8 Citing the Fair Labor Standards Act and the McNamara-O'Hara Service Contract Act, Defendants
9 assert that their calculations of the regular rate are legally substantiated and exclude the need to
10 factor in H&W benefits. Moreover, they dismiss the persuasive authority of DLSE opinion letters,
11 reinforcing their stance with evidence of proper H&W premium payments for each hour of sick
12 leave.

13 52. Defendants' legal reasoning seeks to diminish Plaintiffs' claims by arguing that the wage
14 statements accurately recorded hours worked and pay received, which does not warrant statutory
15 penalties under § 226. They emphasize the avoidance of 'double recovery' for alleged wage
16 violations.

17 53. In light of Defendants' arguments, and given the legal framework of the FLSA and SCA
18 which Defendants rely upon, the argument that sick pay calculations should have included H&W
19 benefits is diminished. This defense by Defendants thus challenges the Plaintiffs' assertions and
20 may significantly affect the outcome of the wage and termination payment dispute.

21 **Failure to Reimburse Necessary Business Expenses**

22 54. Plaintiffs contend that Defendants neglected to reimburse them for essential business
23 expenditures, particularly the use of personal cell phones for work-related functions. The crux of
24 the allegation lies in the absence of a formal reimbursement policy from Defendants, despite the
25 purported operational requirements that necessitate the use of cell phones. Plaintiffs argue that
26 Defendants, while ostensibly denying the necessity for cell phones, implicitly mandate their use
27 through job descriptions and protocols that require drivers to perform tasks evidently reliant on
28 mobile communication.

1 55. Specifically, Defendants' operational procedures imply that drivers must use cell phones for
2 timely communication with the Post Office and other drivers, especially when unforeseen
3 circumstances such as delays or route deviations occur. The expectation for drivers to manage
4 minor repairs independently and the requirement to hold crucial contact numbers suggest an
5 inherent need for personal cell phones. In the event of accidents, the procedures stipulate that
6 drivers must promptly communicate with police and the operations center and document the
7 incident with photographs—tasks feasibly executed via a cell phone.

8 56. Defendants' attempt to dismiss the necessity for cell phones was somewhat undermined by
9 the testimony of their Rule 30(b)(6) witness, Mr. Newsom, who suggested that drivers could utilize
10 the Electronic Logging Device (ELD) for messaging dispatch. However, the limited functionality
11 of the ELD, which does not extend communication to the Post Office, police, or other drivers,
12 contradicts this claim.

13 57. The integral role of cell phones in Defendants' trucking operations is further corroborated
14 by class member testimonies. These declarations attest to the requirement of using personal cell
15 phones for a variety of operational communications, including notifying of delays, coordinating
16 with other drivers, and navigating to ensure adherence to schedules.

17 58. However, the strength of the Plaintiffs' claim is potentially weakened by the suggestion that
18 the issue of cell phone reimbursement may not be uniform across the class. This individualized
19 nature of the claim could impact its suitability for class treatment. Plaintiffs must therefore navigate
20 the challenge of demonstrating that the need for cell phone use—and consequently the entitlement
21 to reimbursement—is a common attribute shared by all Aggrieved Employees, rather than a
22 disparate collection of individual instances.

23 **Failure to Provide Meal and Rest Periods**

24 59. Plaintiffs alleged that Defendants neglected to provide legally required meal and rest
25 periods. This contention was met with a significant judicial development: the Ninth Circuit upheld
26 the Federal Motor Carrier Safety Administration's (FMCSA) 2018 determination. This ruling
27 asserts that California's meal and rest break laws are preempted by federal law regarding interstate
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1 commerce drivers under federal regulation, as elucidated in the case of *Int'l Brotherhood of*
2 *Teamsters, et al. v. FMCSA* and supported by *Espinoza v. Hepta Run, Inc.*

3 60. Consequently, Plaintiffs refrained from moving to certify these claims, acknowledging the
4 preemptive force of the FMCSA's decision. However, the debate persists over whether this
5 preemption has retroactive effect—that is, if it nullifies obligations before December 2018. It is this
6 legal ambiguity that underpins Plaintiffs' stance: while they may forego current and future claims
7 on meal and rest periods due to federal preemption, they reserve the right to seek redress for past
8 noncompliance unless Defendants provide appropriate consideration for a release.

9 61. Defendants, faced with the necessity of addressing potential retrospective claims, are
10 positioned to offer concessions to secure a comprehensive release. This release would cover any
11 liabilities arising from the period before the FMCSA's preemption became unequivocally
12 established.

13 **Wage Statement and Waiting Penalties**

14 62. Plaintiffs argue that Defendants violated California Labor Code § 226 regarding wage
15 statements and § 203 concerning waiting time penalties. These claims rest on the premise that
16 Defendants' alleged failures were willful or knowing and intentional, which would entitle Plaintiffs
17 to recover penalties under the relevant statutes. Plaintiffs must demonstrate that Defendants' actions
18 were not mere oversights but carried out with a cognizant disregard for legal obligations.

19 63. Defendants argued that any violations were neither willful nor knowing and intentional,
20 thus invoking the defense of good faith. They argue that the wage statement claims under § 226
21 and waiting time claims under § 203 require a heightened standard of culpability that Plaintiffs
22 cannot satisfy. Citing case law, Defendants maintain that a violation must be more than gross
23 negligence or recklessness—it must be an intentional failure to comply with the statutes.

24 64. Defendants have presented defenses to each of the Plaintiffs' claims, suggesting that simple
25 mathematical computations could rectify the alleged wage statement inaccuracies and that any sick
26 pay rate discrepancies do not support a derivative § 226 claim since the wage statements accurately
27 reflected the pay received. For the waiting time claims under § 203, Defendants posit that they
28 believed Plaintiffs to be exempt employees, and even if not, the payments in question are excluded

1 from the regular rate of pay for sick pay compensation under the Service Contract Act (SCA). They
2 assert that they have indeed paid the additional Health & Welfare Benefits rate for every hour of
3 sick pay.

4 65. Plaintiffs' claims are significantly undermined by Defendants' good faith defenses. Given
5 the complexity of the legal standards required to prove willfulness and intentional misconduct,
6 along with the Defendants' reliance on established case law and statutory interpretations, the
7 Plaintiffs' ability to secure penalties could be seen as uncertain.

8 **PAGA Claims**

9 66. Plaintiffs allege that Defendants systematically failed to compensate drivers for all hours
10 worked, citing a policy that required drivers to complete routes within a predefined "standard" time.
11 Drivers were reportedly compelled to justify any time overages, with Defendants purportedly
12 adjusting time records to conform to these standards unilaterally. This practice, Plaintiffs claim,
13 effectively discouraged drivers from logging hours beyond the estimated times and led to routine
14 underpayment for actual hours worked.

15 67. The allegations extend to periods where drivers were mandated to remain with their vehicles
16 to secure the mail, without due compensation for this on-call time. Additionally, instances of
17 unremunerated layovers and overnight stays, as exemplified by the Bakersfield to Sacramento
18 route, were highlighted as a failure to pay for all work hours.

19 68. Plaintiffs also contest the Defendants' rounding policy for timekeeping and claim that
20 Defendants altered time records to meet regulatory standards, further contributing to wage
21 discrepancies. The underpayment extended to sick pay, where Plaintiffs argue Defendants failed to
22 include hourly fringe pay when calculating the regular rate, contravening specific Labor Code
23 sections.

24 69. Defendants counter that their policies comply with applicable labor laws and regulations.
25 They may argue that the "standard" time policy is a common industry practice aimed at promoting
26 efficiency and that any necessary adjustments to time records are within legal bounds. Defendants
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1 might also contend that staying with the truck does not always constitute "work" time under the
2 law, and thus does not automatically warrant compensation.

3 70. Regarding the rounding policy, Defendants could assert that it is both legal and neutral,
4 designed to simplify payroll processing while fairly compensating employees over time. Any
5 discrepancies in time records, they might argue, were inadvertent and not indicative of a systematic
6 issue.

7 71. Plaintiffs' claims are potentially undermined by legal complexities and factual disputes. The
8 "standard" time policy, while contested, may be deemed reasonable and lawful in the context of
9 industry practices and operational efficiency. The compensability of on-call time is a nuanced legal
10 issue, subject to interpretation and potentially unfavorable precedent for Plaintiffs.

11 72. The allegations of wage discrepancies due to rounding policies and record adjustments may
12 not stand up to scrutiny if Defendants can demonstrate that their practices are consistent with legal
13 standards and that any errors were promptly addressed upon discovery.

14 73. Moreover, the sick pay calculation claims hinge on legal interpretations that may not
15 necessarily favor Plaintiffs, especially given the variations in state and federal law regarding the
16 inclusion of fringe benefits in the regular rate of pay.

17 74. Additionally, Defendants could argue that PAGA penalties cannot and should not be
18 stacked and that, even if they could, very few Courts have ever exercised discretion to stack them.
19 See Labor Code section 2699 (f)(2) (authorizing awardable PAGA penalties to be measure by "each
20 "each aggrieved employee per pay period"); Smith v. Lux Retail North America, Inc., 2013 WL
21 2932243, at *1, *4 (N.D. Cal. 2013) (rejecting a pleading that sought the "stacking of penalties";
22 "[f]or the single mistake of failing to include commissions in the overtime base, plaintiff has
23 asserted five (count them, five) separate labor code violations that could lead to statutory penalties;"
24 "is it plausible that we would really pile one penalty on another for a single substantive wrong?";
25 noting that "no actual holding in any judicial decision has ever blessed such stacking"). As such,
26 and for this initial reason, Defendants could justifiably contend that the maximum potential
27 recovery in this action is significantly lower than as stated by Plaintiff.
28

1 75. Also, Defendants could argue that even were liability established, one does not reach the
2 second-tier penalty for that violation unless and until the employer is first cited for the violation,
3 and that Defendants had never been cited. See Amalgamated Transit Union Local 1309, AFL-CIO
4 v. Laidlaw Transit Servs., Inc., 2009 WL 2448430 *1, *9 (S.D. Cal. 2009) (“For the purposes of
5 subsequent violation penalties, the issue is not whether [Defendants] willfully violated the Labor
6 Code, but rather whether a court or commissioner had notified it of any violation.”); Amaral v.
7 Cintas Corp. No. 2, 163 Cal. App. 4th 1157, 1209 (2008) (“[u]ntil the employer has been notified
8 that it is violating a Labor Code provision (whether or not the Commissioner or court chooses to
9 impose penalties), the employer cannot be presumed to be aware that its continuing underpayment
10 of employees is a ‘violation’ subject to penalties” at a second tier); Robinson v. Open Top
11 Sightseeing San Francisco, LLC, No. 14-CV-00852-PJH, 2018 WL 895572, at *20 (N.D. Cal. Feb.
12 14, 2018) (applying “initial” penalty to each violation of § 226 and § 2699(f)(2) because there was
13 no evidence showing Defendants was previously notified its practice violated § 226); Willis v.
14 Xerox Bus. Servs., LLC, 2013 WL 605383, at *1, *6 (E.D. Cal. 2013) (“for a plaintiff to recover
15 for a ‘subsequent violation,’ an employer must have notice that it has violated the Labor Code”).
16 As such, Defendants may contend that Plaintiffs’ calculations are inflated not only because they
17 “stack” penalties for a single person during a single pay period, but because the penalties Plaintiff
18 would be awarded in each instances are at an inapplicable (doubled) rate.

19
20 76. Further, Defendants may deny that a violation for each pay period can be established.
21 Defendants state that because the PAGA Action heavily relies on the same allegations made in the
22 Class Action, they are subject to the same defenses, and, thus, for the same reason Defendants may
23 believe there will be no damages collectible in the class action, no PAGA penalties would be
24 awarded, either.

25 77. Also, Defendants may assert that individualized issues predominate the PAGA claims,
26 making the claims unmanageable for trial (despite Plaintiffs’ contentions that there is no
27 manageability requirement for trial).
28

1 78. Lastly, Defendants may assert that Plaintiff could not obtain penalties under Labor Code
2 section 226.3, because Defendants maintained they did not violate Labor Code section 226, and, to
3 the extent there was any violation, it was inadvertent.

4 **The Settlement is Justified**

5 79. Plaintiffs estimated the maximum exposure for the claims asserted to be approximately
6 \$9,682,397. Plaintiff estimated the realistic exposure for the claims asserted to be approximately
7 \$2,311,490. Accordingly, the \$495,000.000 settlement is approximately 21% of the realistic
8 exposure for the claims. Thus, I respectfully submit that the settlement is well within the ballpark
9 of reasonableness. Even though Plaintiffs dispute the merits of Defendants' defenses to liability,
10 Plaintiffs cannot ignore the fact that if those defenses were successful, they would eliminate or
11 substantially reduce any recovery on behalf of the Settlement Class.

12 80. As a result, the GSA of \$495,000.00 represents a reasonable recovery. The proposed GSA
13 is within the "ballpark of reasonableness" and should be approved. Counsel for Plaintiff believe
14 that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the
15 law and uncertainties of class certification and litigation, the policies and practices Defendants have
16 had in place or implemented during the purported liability period, and the benefit to be recovered
17 for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable
18 and is in the best interests of the Settlement Class, and should be preliminarily approved. The risk
19 of further litigation is substantial, while the benefit of the Settlement is immediate and real.

20 81. To the extent any amount for Attorneys' Fees, Costs, Claims Administration Costs or
21 Enhancements are not awarded, the difference in those amounts will be added to the NSA. This is
22 a guaranteed amount of money paid to Settlement Class Members now, rather than the continued
23 risk of further litigation and receiving no money sometime in the far future and after trial and
24 appeals.

25 82. Plaintiffs have provided extensive supporting documents and assisted counsel in developing
26 information necessary to litigate and settle the cases. Plaintiffs also conducted record review and
27 consultation with counsel in preparation for discovery and eventual mediation, and to assist in
28

1 evaluating and proving the claims. The settlement provides for a Payment to be paid to the Class
2 Representatives in the amount of \$15,000.00 to Plaintiff Hardwick and \$7,500 to Plaintiff Noone,
3 subject to Court approval. The purpose is to compensate the Class Representatives an additional
4 enhanced payment, taking into consideration the risks, time, effort and expenses incurred in coming
5 forward to provide invaluable information and negotiate and litigate this matter on behalf of all
6 Settlement Class Members who otherwise, would probably not file their own individual claims to
7 recover what may be relatively low damages. The hundreds of remaining Settlement Class
8 Members have little incentive to litigate their claims that were worth a relatively small amount on
9 an individual basis where the out-of-pocket expense and personal commitment necessary to litigate
10 each claim potentially outweighs the recovery.
11

12 83. Further, the Service Payment to the Class Representatives is a fair and justified as part of
13 the Settlement based on the risks Plaintiffs have taken and benefits conferred upon the Settlement
14 Class and Aggrieved Employees. Plaintiffs provided additional data and information to counsel,
15 relayed their experiences to counsel, and analyzed the Settlement and determined that it was in the
16 best interests of the Settlement Class and Aggrieved Employees. Their consultation with counsel
17 to assist in evaluating the Settlement was vital in bringing this matter to a resolution.

18 **Class Notice**

19 84. No Later than thirty (30) calendar days from the Order granting preliminary approval,
20 Defendant shall provide a database containing the following information for each Settlement Class
21 Member ("Class Data"): (1) the full name, last known address, and full social security number of
22 all Settlement Class Members; and (2) the information necessary to determine the estimated
23 settlement allocation to each Settlement Class Member, including without limitation, the total
24 number of work weeks in which each Settlement Class Member worked any regular hours in the
25 Settlement Class Period and the total number of pay periods in which each PAGA Employee
26 worked any regular hours during the PAGA Period. This database shall be based on Defendants'
27 payroll and other business records and shall be provided in a format acceptable to the Settlement
28 Administrator.

1 85. Within three (3) business days of receiving the Class Data, the Administrator is to notify
2 Class Counsel about the receipt and provide details about the number of Class Members, PAGA
3 Members, Workweeks, and Pay Periods in the Class Data. At that time, the Parties will determine
4 whether the Escalator Provision has been triggered.

5 86. The Administrator is required to use their best efforts to send the Class Notice to all Class
6 Members identified in the Class Data via first-class United States Postal Service (USPS) mail as
7 soon as possible and no later than fourteen (14) days after receiving the Class Data.

8 87. The first page of the Class Notice will prominently estimate the dollar amounts of any
9 Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, along
10 with the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before
11 mailing Class Notices, the Administrator will update Class Member addresses using the National
12 Change of Address database.

13 88. If any Class Notice is returned by the USPS as undelivered, the Administrator must re-mail
14 the Class Notice using any forwarding address provided by the USPS within three (3) business days
15 of receipt. If there is no forwarding address, the Administrator must conduct a Class Member
16 Address Search and re-mail the Class Notice to the most current address obtained. The
17 Administrator is not obligated to make further attempts to locate or send Class Notice to Class
18 Members whose Class Notice is returned a second time by the USPS.

19 89. Each Class Member will be paid a pro-rata share of the Net Settlement Amount, as
20 calculated by the Settlement Administrator. The pro-rata share will be determined by multiplying
21 the Net Settlement Amount by the fraction that results from dividing the number of work weeks
22 the Class Member worked during the Class Period divided by the total of all work weeks in which
23 the Class Members worked during the Settlement Class Period. If a Class Member disputes the
24 number of Workweeks, any evidence to support that dispute may be presented to the Settlement
25 Administrator in accordance with the procedures set forth in the Class Notice.

26 90. The notice is consistent with the class certification notices approved by numerous state and
27 federal courts, and is the best notice practicable under circumstances of this case. The proposed
28

1 Settlement Class Members are ascertainable because all of the Settlement Class Members have
2 worked for Defendants during the Class Period and can be identified through Defendants' records.

3 91. The Parties have selected ILYM Group, Inc. to serve as the settlement administrator. To the
4 best of my knowledge, neither party or its counsel owns or is affiliated with ILYM. Attached as
5 **Exhibit 2** is a true and correct copy of the estimate provided by ILYM for the administration of the
6 settlement.

7 92. The Notice also fulfills the neutrality requirement. It summarizes the proceedings to date
8 and the terms and conditions of the Settlement in an informative and coherent manner, and is
9 accurate, objective, and understandable to Settlement Class Members, as is required under
10 prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of
11 liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final
12 settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement
13 Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement
14 Class Members will have the option to participate or exclude themselves simply by following the
15 instructions in the notice. The Settlement Class consists of primarily of non-exempt employees who
16 speak English and worked for Defendants during the relevant time period. Thus, the Notice of Class
17 Action Settlement is drafted in a manner that is likely to be readily understood by the Settlement
18 Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality
19 required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and
20 understandable.

21 **Plaintiffs' Counsel's Experience**

22 93. I have a great deal of experience in wage and hour class action litigation. I have obtained
23 certification of several classes, I have been approved as class counsel in many other wage/hour
24 class actions, and I am currently litigating numerous others. Although not an all- inclusive list, over
25 the years I have prosecuted the following class action matters as lead and/or co- lead counsel, all
26 of which implicated similar law and facts to those associated with this action:
27
28

1 a. Aguilar v. 7-Eleven, Inc., et. al., Orange County Superior Court- Case No.: 30- 2009-
2 00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal
3 period and rest periods and resultant penalties.

4 b. b. Carey, et. al. v. Arthur J. Gallagher, et. al., USDC, SOUTHERN DISTRICT- Case No.:
5 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis- classification of
6 insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the
7 State of California. Certification granted. Plaintiff counsel co-lead counsel. Case settled, Final
8 Approval granted, no objections and funds fully distributed.

9 c. Dao v. 3M Company, et al. USDC, CENTRAL DISTRICT, Case No. CV-08- 04554. Wage
10 and Hour Class Action case seeking past wages for “off the clock”, overtime and meal and rest
11 break violations for production workers in the State of California. Plaintiff Counsel appointed as
12 Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

13 d. Ortiz v. Kmart, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and
14 Hour Class Action case seeking past wages for meal and rest period violations for retail employees
15 in the State of California. Plaintiff counsel appointed co-lead counsel. Case settled, Final Approval
16 granted, no objections and funds fully distributed.

17 e. Morgan v. Aramark Campus, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-
18 00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations
19 for retail employees in the State of California. Plaintiff Counsel appointed as Lead Counsel. Case
20 settled, Final Approval granted, no objections and funds fully distributed.

21 f. West v Iron Mountain Information Management, Inc, et. al.; Los Angeles County Superior
22 Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal
23 and rest break violations for driver employees in the State of California. Settlement for “binding
24 arbitration.” Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff counsel,
25 lead trial counsel and class counsel.

26 g. Gonzalez v. Superior Industries Inter, Inc., et al., Los Angeles County Superior Court, Case
27 No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest
28

1 breaks violations for production employees in the State of California. Plaintiff counsel appointed
2 as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

3 h. Acosta v. Fleetwood Travel Trailers of California, Inc., et al., Riverside County Superior
4 Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal
5 and rest break violations for production employees in the State of California. Plaintiff counsel
6 appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
7 distributed.

8 i. Walker v. Sharkeez, et al., Orange County Superior Court, Case No. 05CC00293. Wage
9 and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations
10 for restaurant employees in the State of California. Plaintiff counsel appointed as lead counsel.
11 Case settled, Final Approval granted and funds fully distributed.

12 j. Padron v. Universal Protection Service, et al, Orange County Superior Court, Case No.
13 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal nd rest break
14 violations for security officers in the State of California. Plaintiff counsel appointed as co-lead
15 counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

16 k. Martinez v. Securitas Security Services USA, et al., Santa Clara Superior Court, Case No.
17 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal
18 and rest break violations for security officers employed by Defendants in the State of California.
19 Plaintiff counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

20 l. Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al., Riverside Superior Court, Case No.
21 RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break
22 violations for housekeepers employed by Defendants in the State of California. Plaintiff counsel
23 appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully
24 distributed.

25 m. Ruiz, et al. v. Unisourse Worldwide, Inc., et al., USDC, CENTRAL DISTRICT, Case No.
26 CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations
27
28

1 for non-exempt employees employed by Defendants in the state of California. Case settled.
2 Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

3 n. Herrador v. Culligan International Company, et al., USDC, CENTRAL DISTRICT, Case
4 No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch
5 employees of Defendants in the State of California. Plaintiff counsel appointed as lead counsel.
6 Case settled and awaiting Final Approval.

7 o. Defries v. Domain Restaurants, et al., Orange County Superior Court, Case No.
8 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of
9 Defendants in the State of California. Plaintiff counsel appointed as lead counsel. Case settled,
10 Final Approval granted, no objections and funds fully distributed.

11 p. Denton v. BLB Enterprises, Inc., et al., Orange County Superior Court, Case No.
12 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations
13 for security guards employed by Defendants in the State of California. Plaintiff counsel appointed
14 as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

15 q. Rios v. Sandberg Furniture Manufacturing Co., Inc, et al., Los Angeles Superior Court,
16 Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations
17 for production employees employed by Defendants in the State of California. Plaintiff counsel
18 appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully
19 distributed.

20 r. McMurray v. Dave and Busters, Inc., et al., Orange County Superior Court, Case No.
21 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations
22 for restaurant employees employed by Defendants in the State of California. Plaintiff counsel
23 appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully
24 distributed.

25 s. Osuna v. DFG Restaurants, Inc., et al., Los Angeles Superior Court, Case No. BC 330145.
26 Wage and Hour Class Action seeking past wages of overtime for mis- classification of managers
27
28

1 employed by Defendants, DBA Carl's Jrs. in the State of California. Plaintiff counsel appointed
2 as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

3 t. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No. CGC-
4 07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for
5 retail employees employed by Defendants in the State of California. Plaintiff counsel appointed
6 lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

7 u. Willems v. Diedrich Coffee, Inc., et al., Orange County Superior Court, Case No.
8 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis- classification
9 of managers employed by Defendants in the State of California. Plaintiff counsel appointed lead
10 counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

11 v. Davila, et al. v. Beckman Coulter, Inc., et al., Orange County Superior Court, Case No.
12 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break
13 violations for production workers employed by Defendants in the State of California. Plaintiff
14 counsel appointed lead counsel. Case settled; final approval granted; no objections and funds fully
15 distributed.

16 w. Perez v. Naked Juice Company of Glendora, Inc., Los Angeles Superior Court, Case No.
17 BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period
18 violations for production employees employed by Defendants in the State of California. Plaintiff
19 counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds
20 fully distributed.

21
22 **Reasonable Attorney's Fees**

23 94. Here, the Parties' agreement to pay Class Counsel Fees of 33.33% of the GSA is reasonable.
24 My firm and I have been the only counsel to represent Plaintiff the Settlement Class in this matter,
25 and we have borne the entire risk and cost of this litigation on a pure contingency fee basis. The
26 legal issues raised drew significantly upon our experience and the extensive review and analysis of
27 documents and information by me and others at my firm. In a complex action such as this, the
28

1 proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency
2 fees.

3 95. Additional hours will be required due to the administration of the Settlement by Class
4 Counsel, administration of the Settlement, and preparation for final approval, the attorneys' fees
5 exceed the requested amounts. To the extent the Court would like to receive detail regarding the
6 hours our firm has invested in this matter as Class Counsel, we will provide this information to the
7 Court in advance of the final approval hearing. Plaintiffs' counsel will file a motion for attorneys'
8 fees and costs to be heard concurrently with the motion for final approval in accordance with the
9 terms of the settlement agreement.
10

11 96. Despite the complexity of the case, Class Counsel has, through the investment of substantial
12 effort and the resources of my law firm been able to secure an outstanding settlement on behalf of
13 the Settlement Class.

14 97. Defendants vigorously contested liability, the amount of claimed damages, and would have
15 continued to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and
16 adequate and in the best interests of the Settlement Class. The fairness and adequacy of the
17 Settlement is confirmed by all known facts and circumstances, including the risk of significant
18 delay and uncertainty associated with litigation, the various defenses asserted by Defendants, and
19 numerous potential appellate issues.
20

21 I declare under penalty of perjury that the foregoing is true and correct. Executed on December
22 1, 2023 at Irvine, California.

23
24
25
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27
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James R. Hawkins

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs THOMAS HARDWICK and CARA NOONE (“Plaintiffs”) and defendants HOOVESTOL, INC. and 10 ROADS EXPRESS, LLC (“Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

1.1. “Actions” mean the respective Plaintiffs’ lawsuits as follows:

a. Thomas Hardwick v. Hoovestol, Inc., et al. which is currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV16910 which was remanded by stipulation from the United States District Court for the Central District of California bearing the name Thomas Hardwick v. Hoovestol, Inc., et al. Case No. CV20-7505-DMG(MAAx) (“Hardwick Class Action”).

b. Thomas Hardwick v. Hoovestol, Inc., et al. which is currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV28709 (“Hardwick PAGA Action”).

c. Cara J. Noone v. 10 Roads Express LLC which is currently pending in the Superior Court for the State of California for the County of Alameda, Case No. 21CV003417 (“Noone PAGA Action”).

1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.

1.4. “Aggrieved Employee” means all persons employed by Defendants in California who worked during the PAGA Period.

1.5. “Class” means all persons employed by Defendants in California and classified as a non-exempt employee who worked as a truck driver during the Class Period.

1.6. “Class Counsel” means James Hawkins, Christina Lucio and Mitchell Murray of James Hawkins APLC.

1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Actions.

1.8. “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the time period from May 22, 2016 to December 15, 2022 for Labor Code § 2802 claims and December 8, 2018 to May 5, 2023 for all other Released Class Claims.

1.13. "Class Representatives" means the named Plaintiffs in the operative complaint in the respective Actions seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Los Angeles.

1.16. "Defendants" means HOOVESTOL, INC. and 10 ROADS EXPRESS, LLC.

1.17. "Defense Counsel" means Raymond A. Greene, III, Burnham Brown.

1.18. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.22. "Gross Settlement Amount" means \$495,000.00 which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payments and the Administrator's Expenses.

1.23. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.24. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

1.25. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from May 24, 2019 to December 15, 2022.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.33. "PAGA Notice" means:

- a. Hardwick PAGA Action: Plaintiff counsel's letter of May 21, 2020 to Defendants and the LWDA.
- b. Noone PAGA Action: Plaintiff counsel's letter of September 1, 2021 to the Defendants and the LWDA.

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties of \$25,000.00 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the 75% to LWDA (\$18,750.00) in settlement of PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiffs" means Thomas Hardwick and Cara Noone, the named Plaintiffs in the respective actions.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.39. "Released Class Claims" means the claims being released as described in Paragraph 6.2 below.

1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 6.2 below.

1.41. "Released Parties" means: Defendants and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.45. "Workweek" means any week during which a Class Member worked for Defendants for at least one day, during the Class Period.

2. RECITALS.

2.1. a. Hardwick Class Action:

1. On May 22, 2020, the Plaintiff commenced this action by filing a Complaint alleging causes of action based on violation of multiple California Labor Code violations including, but not limited to sections 201-204, 226.2, 510, 1194, 1197, 1998, 226.7, 512, 2802, 2803, Business and Professions Code sections 17200-17208 and sections 11 and 12 of the applicable IWC Wage Order.

2. On August 18, 2020, Defendants filed a Notice of Removal to the United States District Court.

3. On September 18, 2020, Defendants filed an Answer to Plaintiff's Complaint. In its Answer, Defendants denied all allegations in the Complaint.

4. Plaintiff propounded multiple rounds of written discovery to Defendants whose responses included the production of hundreds of pages of documents. Defendant also propounded discovery on Plaintiff. The parties also engaged in deposition discovery including the depositions of the Plaintiff and Defendants' person most qualified witnesses on various subject areas related to the allegations in the Complaint.

5. On September 12, 2022, the District Court granted, in part, Plaintiff's motion for class certification.

6. In February 2023, the Parties filed cross motions for summary judgment.

b. Hardwick PAGA Action:

1. On July 28, 202, the Plaintiff commenced this action by filing a Complaint alleging causes of action based on claimed violations enumerated under Labor Code section 2699.5 including the following sections: 201-203, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2699, 2800, 2802 and 2803.

2. On February 25, 2022, Defendant filed an Answer to Plaintiff's Complaint. In its Answer, Defendants denied all allegations in the Complaint.

c. Noone PAGA Action:

1. On December 1, 2021, the Plaintiff commenced this action by filing a Complaint alleging causes of action based on claimed violations enumerated under Labor Code sections 2699.5 including, but not limited to the following sections: 201-203, 2802 and 2803.

2. On February 5, 2021, Defendant filed an Answer to the Plaintiff's Complaint. In its Answer, Defendants denied all allegations in the Plaintiff's Complaint.

2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiffs gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.3. On December 16, 2021, the parties participated in an all-day mediation presided over by Steven G. Pearl, which did not resolve these actions. On October 10, 2022, all parties participated in an all-day mediation presided over by Gig Kyriacou which led to this Agreement to settle these actions.

2.4. Prior to mediation, Plaintiffs obtained, through formal discovery and investigation, policy documents, memoranda, time keeping and payroll data, handbooks, job descriptions, personnel file, and employee contact information. Plaintiffs' counsel also engaged in extensive research and investigation, as well as interviews and discussions with class members. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*"). Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The District Court has granted class certification. The District Court certified the following class: all current and former hourly drivers employed by Defendants in the State of California at any time from May 22, 2017 through the present, who are not members of the *Terry* class or who performed worked after December 7, 2018. The District Court also certified a Wage Statement Subclass and Waiting Time Penalty Subclass.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promises to pay \$495,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants

have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiffs: Class Representative Service Payments to Plaintiff Hardwick of not more than \$15,000.00 and to Plaintiff Noone of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third (33.33%), which is currently estimated to be \$165,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$35,000.00. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,650.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$7,650.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty (20) % of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. Eighty (80) % of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to

wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750) allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$6,250.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate that Class and PAGA Members collectively worked a total of 18,669 Workweeks.

4.2. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

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

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

6. RELEASES OF CLAIMS. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, and Class Counsel will release claims against all Released Parties as follows:

6.1 Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences arising from the employment relationship with Defendants or any Released Party including, but not limited to claims for wrongful termination, discrimination, harassment, or retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the California Fair Employment and Housing Act, Cal. Gov't Code Section 12900 *et seq.*, or the California Labor Code ("Plaintiffs' Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. However, Plaintiffs' Release specifically

excludes Plaintiff Noone's claims in the pending lawsuit entitled *Cara Noone v. 10 Roads Express, LLC, et al.*, Alameda Superior Court Case No. 23CV029324.

6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

6.2 Release by Participating Class Members Who Are Not Aggrieved Employees: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Actions including, any and all claims involving any alleged failure to pay minimum wage, overtime and sick pay; alleged failure to provide meal periods; alleged failure to authorize and permit rest periods; alleged failure to reimburse necessary business expenses; alleged failure to timely pay wages at the time of termination; alleged failure to provide accurate itemized wage statements, and unfair competition based on these claims. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notices, and ascertained in the course of the Action, including, any and all claims involving any alleged failure to pay minimum wage, overtime and sick pay; alleged failure to provide meal periods; alleged failure to authorize and permit rest periods; alleged failure to reimburse necessary business expenses; alleged failure to timely pay wages at the time of termination; alleged failure to provide accurate itemized wage statements.

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

7.1 Defendants' Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2 Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under

Dunk/Kullar and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court’s concerns.

8. SETTLEMENT ADMINISTRATION.

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

8.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.

8.4 Notice to Class Members.

8.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.

8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

8.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

8.4.5 If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5 Requests for Exclusion (Opt-Outs).

8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

8.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member’s desire to be excluded. The Administrator’s determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class

Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

8.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

8.7.3 Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

8.8 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

8.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

8.8.5 Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

9. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE] Based on its records, Defendants estimate that there are 18,669 Total Workweeks during the Class Period. If the actual number of

workweeks exceeds 20,000, the Gross Settlement Amount shall increase by the percentage beyond the 20,000 (e.g., if the Total Workweeks is determined to be 22,000 workweeks, the Gross Settlement Amount will increase by 10%), and the Class Counsel Fees shall be calculated as a percentage of the increased Gross Settlement Amount.

10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five (5) % of the total of all Class Members, Defendants may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not later than 15 (fifteen) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

11. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (I), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

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

13. ADDITIONAL PROVISIONS.

13.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants reserve the right to move for decertification, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to oppose any motion for decertification and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

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

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

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

13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

13.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

13.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

13.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

13.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

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

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

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

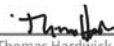
To Plaintiff: James Hawkins, Christina Lucio and Mitchell Murray
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irving, CA 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
James@jameshawkinsaplc.com
Christina@jameshawkinsaplc.com
Mitchell@jameshawkinsaplc.com

To Defendants: Raymond A. Greene, III
Burnham Brown
2125 Oak Grove Road, Suite 105
Walnut Creek, CA 94598
Telephone: (510) 444-6800
Facsimile: (510) 835-6666
rgreene@burnhambrown.com

13.18 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

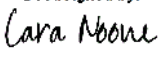
13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DATED: 27/10/2023


Thomas Hardwick (Oct 27, 2023 15:49 PDT)

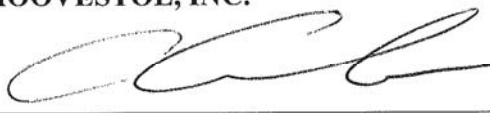
THOMAS HARDWICK

DATED: 11/5/2023

DocuSigned by:

4AEE974ACC8C45A...
CARA J. NOONE

HOOVESTOL, INC.

DATED: 10/25/2023

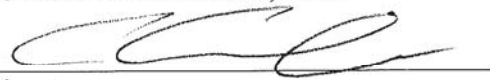

Signature

By: Aaron Gunderson

Title: Chief legal officer

10 ROADS EXPRESS, LLC

DATED: 10/25/2023


Signature

By: Aaron Gunderson

Title: Chief legal officer

Approved as to form:

DATED: November 6, 2023

JAMES HAWKINS APLC


JAMES R. HAWKINS
Attorneys for Plaintiffs Thomas Hardwick and
Cara J. Noone

DATED: October 25, 2023

BURNHAM BROWN

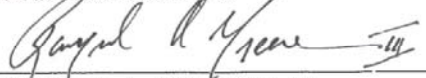

RAYMOND A. GREENE, III
Attorneys for Defendants Hoovestol, Inc. and
10 Roads Express, LLC

Exhibit A

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

Thomas Hardwick and Cara Noone

v.

Hoovestol, Inc. and 10 Roads Express, LLC

Case No. 20STCV16910

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendants Hoovestol, Inc. and 10 Roads Express, LLC ("Defendants" is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by former employees of Defendants Thomas Hardwick and Cara Noone ("Plaintiffs") and seeks payment of unpaid wages, premiums, penalties, and attorneys' fees and costs for a class of all persons employed by Defendants in California and classified as non-exempt employees who worked as a truck driver ("Class Members") during the Class Period from May 22, 2016 to December 15, 2022 for Labor Code § 2802 claims and December 8, 2018 to May 5, 2023 for all Release Class Claims (defined below); and (2) penalties under the California Private Attorney General Act ("PAGA") for all persons who worked for Defendants during the PAGA Period from May 24, 2019 to December 15, 2022 ("Aggrieved Employees").

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

Based on Defendants' records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants' records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on Defendants' records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ pay periods** during the PAGA Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Defendants 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 Class Period wage claims and PAGA Period penalty claims against Defendants.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendants, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is 60 days from the date this Class Notice was mailed (plus an additional 14 days if this notice was remailed)	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted within 60 days from the date this Class Notice was mailed (plus an additional 14 days if this notice was remailed)	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally

	object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted within 60 days from the date this Class Notice was mailed (plus an additional 14 days if this notice was remailed)	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 4 of this Notice.

1.WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay minimum wage, overtime, and sick pay, failing to provide meal period rest breaks, failing to timely pay wages at termination, failing to reimburse for necessary business expenses, and failing to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiffs are represented by attorneys in the Action: James Hawkins, Christina Lucio, and Mitchell Murray of James Hawkins APLC ("Class Counsel").

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

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

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and 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. Defendants Will Pay \$ 495,000 as the Gross Settlement Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

- A. Up to \$165,000 (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$35,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$15,000 for Plaintiff Hardwick and up to \$7,5000 for Plaintiff Noone as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class and Aggrieved Employees. A Class Representative Service Payment will be the only monies Plaintiffs will receive other than their Individual Class Payment and/or Individual PAGA Payment.
- C. Up to \$7,650 to the Administrator for services administering the Settlement.
- D. \$25,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If

you 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, 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 **60 days from the date this Class Notice was mailed (plus an additional 14 days if this notice was remailed)** that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

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

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

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

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement, and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Actions including, any and all claims involving any alleged failure to pay minimum wage, overtime and sick pay; alleged failure to provide meal periods; alleged failure to authorize and permit rest periods; alleged failure to reimburse necessary business expenses; alleged failure to timely pay wages at the time of

termination; alleged failure to provide accurate itemized wage statements, and unfair competition based on these claims. Except as set forth in Section 6.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendants has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases and Non-Participating Class Members are as follows:

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notices, and ascertained in the course of the Action, including, any and all claims involving any alleged failure to pay minimum wage, overtime and sick pay; alleged failure to provide meal periods; alleged failure to authorize and permit rest periods; alleged failure to reimburse necessary business expenses; alleged failure to timely pay wages at the time of termination; alleged failure to provide accurate itemized wage statements.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$6,250 (25% x \$25,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until 60 days after this Class Notice is mailed to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel

(who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Thomas Hardwick, et al. v. Hoovestol, Inc. et al.*, 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 _____, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is _____.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Thomas Hardwick, et al. v. Hoovestol, Inc. et al.*, and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at (time) in Department 10 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LA Court Connect (<https://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and 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 the Administrator's website at _____ (url) _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) and entering the Case Number for the Action, Case No. 20STCV16910. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

Name of Attorney: James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray

Email Address: info@jameshawkinsaplc.com

Name of Firm: James Hawkins APLC

Mailing Address: 9880 Research Drive, Suite 200, Irvine, California 92618

Telephone: Telephone: (949) 387-7200

Settlement Administrator:

Name of Company: _____

Email Address: _____

Mailing Address: _____

Telephone: _____

Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

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

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 2

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: TBDv8423

Friday, August 4, 2023

Requesting Attorneys Name:

Mitchell J. Murray

E-Mail:

mitchell@jameshawkinsaplc.com

ILYM Contact

Lisa Mullins

E-Mail

Lisa@ilymgroup.com

Contact Number

714.878.8836

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS

Total Number of Class Members	360
Estimated Mail Returned as Undeliverable	20%
NCOA	Yes
Certified Spanish Translation	No
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	2	\$350.00

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

Subtotal \$650.00

PROJECT MANAGEMENT & NOTICING

Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	2	\$140.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	2	\$140.00
NCOA	Flat Rate	\$75.00	1	\$75.00
Toll Free Customer Service Representative	Flat Rate	\$85.00	1	\$85.00
Status Reports	Flat Rate	\$500.00	1	Waived

Subtotal \$800.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice, English only	Per Piece	\$1.50	360	\$540.00
USPS First Class Postage	Per Piece	\$0.63	360	\$226.80
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	22	\$43.20
Storage, Photocopies, Deliveries	Flat Fee	\$285.80	1	\$285.80

Subtotal **\$1,095.80**

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	3	\$450.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	3	\$375.00
Check, Stub & Release - Print & Mail (W-2/1099)	Per Check	\$1.00	360	\$360.00
USPS First Class Postage	Per Piece	\$0.63	360	\$226.80
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	22	\$32.40
Preparation of Taxes	Hourly	\$120.00	6	\$720.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal **\$3,664.20**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	2	\$200.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Process Uncashed Funds	Flat Rate	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	2	\$250.00

Subtotal **\$1,440.00**

TOTAL CASE ESTIMATE: **\$7,650.00**

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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