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JULIE MARIE WOZNIAK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

BERNADETTE MADRONO, on behalf of
herself and all others similarly situated and
aggrieved,

Plaintiff,

v.

VITALE NURSING, INC., a California
corporation; JULIE MARIE WOZNIAK, an
individual; and DOES 1 through 100,
inclusive,

Defendants.

CASE NO.: 21STCV09845

[Assigned to the Hon. Lawrence P. Riff in
Dept. 7]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: March 12, 2021

Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Bernadette Madrono (“Plaintiff”), and defendants Vitale Nursing, Inc. and Julie
3 Marie Wozniak (“Defendants”). The Agreement refers to Plaintiff and Defendants collectively
4 as “Parties,” or individually as “Party.”

5 1. DEFINITIONS

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 Defendants captioned *Bernadette Madrono v. Vitale Nursing, Inc. et al.*, initiated on March 12,
8 2021 and pending in Superior Court of the State of California, County of Los Angeles.

9 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
10 appoint to administer the Settlement

11 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
12 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
13 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
14 Preliminary Approval of the Settlement.

15 1.4. “Aggrieved Employee” means Class Members working for Defendants during the PAGA
16 Period as non-exempt, hourly-paid employees in California.

17 1.5. “Class” means all current and former non-exempt, hourly-paid employees who worked
18 in California for Defendants at any time during the Class Period.

19 1.6. “Class Counsel” means David D. Bibiyan of Bibiyan Law Group, P.C.

20 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
21 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
22 expenses, respectively, incurred to prosecute the Action.

23 1.8. “Class Data” means Class Member identifying information in Defendants’ possession
24 including the Class Member’s (1) name; (2) last known address(es); (3) last known telephone
25 number(s); (4) last known Social Security Number(s); (5) the number of Workweeks worked
26 during the Class Period; and (5) the dates of employment (i.e., hire dates, and, if applicable, re-
27 hire date(s) and/or separation date(s)).

28 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either

1 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
2 Class Member who qualifies as an Aggrieved Employee).

3 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
4 current Class Member mailing addresses using all reasonably available sources, methods and
5 means including, but not limited to, the National Change of Address database, skip traces, and
6 direct contact by the Administrator with Class Members.

7 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
8 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
9 Class Members in English and in Spanish form, without material variation, attached as Exhibit
10 A and incorporated by reference into this Agreement.

11 1.12. “Class Period” means the period from March 12, 2017 through Preliminary Approval.

12 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the
13 Action seeking Court approval to serve as a Class Representative.

14 1.14. “Class Representative Service Payment” means the payment to the Class Representative
15 for initiating the Action and providing services in support of the Action.

16 1.15. “Court” means the Superior Court of California, County of Los Angeles.

17 1.16. “Defendants” means named Defendants Vitale Nursing, Inc. and Julie Marie Wosniak

18 1.17. “Defense Counsel” means Lindsay A. Ayers of CDF Labor Law LLP.

19 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting
20 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the
21 latest of the following occurrences: (a) if no Participating Class Member objects to the
22 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
23 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
24 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
25 affirms the Judgment and issues a remittitur.

26 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

27 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
28 of the Settlement.

1 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
2 Approval.

3 1.22. “Gross Settlement Amount” means \$1,050,00.00 (One Million Fifty Thousand Dollars
4 and Zero Cents) which is the total amount Defendants agree to pay under the Settlement and any
5 and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments.
6 The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA
7 Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class
8 Representative Service Payment and the Administrator’s Expenses.

9 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
10 Net Settlement Amount calculated according to the number of Workweeks worked during the
11 Class Period.

12 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
13 the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA
14 Period.

15 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

16 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
17 entitled, under Labor Code section 2699, subd. (i).

18 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
19 under Labor Code section 2699, subd. (i).

20 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
21 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
22 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
23 Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to
24 be paid to Participating Class Members as Individual Class Payments.

25 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
26 Settlement by sending the Administrator a valid and timely Request for Exclusion.

27 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
28 for Defendants during the PAGA Period.

1 1.31. "PAGA Period" means the period from July 27, 2019 through Preliminary Approval.

2 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

3 1.33. "PAGA Notice" means Plaintiff's July 27, 2020 letter to Defendants and the LWDA

4 providing notice pursuant to Labor Code section 2699.3 subd. (a).

5 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the

6 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,500.00) and the 75%

7 to the LWDA (\$37,500.00) in settlement of PAGA claims.

8 1.35. "Participating Class Member" means a Class Member who does not submit a valid and

9 timely Request for Exclusion from the Settlement.

10 1.36. "Plaintiff" means Bernadette Madrono, the named plaintiff in the Action.

11 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the

12 Settlement.

13 1.38. "Preliminary Approval Order" means the proposed Order granting Preliminary Approval

14 and Approval of PAGA Settlement.

15 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2

16 below.

17 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.2

18 below.

19 1.41. "Released Parties" means: Defendants and each of their former and present directors,

20 officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns,

21 subsidiaries, and affiliates.

22 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be

23 excluded from the Class Settlement signed by the Class Member.

24 1.43. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to

25 Class Members and Aggrieved Employees and shall be the last date on which Class Members

26 may: (a) email or mail Requests for Exclusion from the Settlement, or (b) email, or mail his or

27 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having

28 been returned undeliverable to the Administrator shall have an additional 15 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 in a non-exempt, hourly position during the Class Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

2. RECITALS

2.1. On March 12, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of actions against Defendants for: (1) failure to pay overtime; (2) failure to pay minimum wages; (3) failure to provide meal periods, or compensation in lieu thereof; (4) failure to provide rest periods, or compensation in lieu thereof; (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay due wages upon separation from employment; (8) failure to reimburse work expenses; and (9) unfair competition. On June 22, 2021, Plaintiff filed a First Amended Complaint, adding a cause of action for civil penalties under PAGA for the various alleged Labor Code violations specified in the PAGA Notice. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint”). Defendants deny the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA notice on July 27, 2020.

2.3. On July 21, 2021, the Parties participating in an all-day mediation presided over by the Nikki Tolt, Esq. The mediation was unsuccessful. Thereafter, the Parties attended a second mediation session on or around May 23, 2022 before Nikki Tolt, Esq., which led to this Agreement to settle the Action.

2.4. Prior to the first mediation Plaintiff obtained, through informal discovery: (1) a sampling of time and payroll records for 25 of 132 Class Members from March 12, 2017 to March of 2020; (2) hire dates for all Class Members and the termination date of one Class Member; (3) two pages of Defendants’ undated Employee Handbook; and (4) an undated standalone Meal and Rest

Break Waiver Agreement. 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 Court has not granted class certification.

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. Defendants promise to pay \$1,050,000.00 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 4.3 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 Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$7,500.00 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's 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, Plaintiff 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 Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the

Class Representative Service Payment using IRS Form 1099. Plaintiff assumes 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 35%, which is currently estimated to be \$367,500.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff 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 Plaintiff's 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 \$8,990.00 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 \$8,990.00, 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. 20% of each Participating

1 Class Member's Individual Class Payment will be allocated to settlement of
2 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
3 withholding and will be reported on an IRS W-2 Form. The 80% of each
4 Participating Class Member's Individual Class Payment will be allocated to
5 settlement of claims for interest and penalties (the "Non-Wage Portion"). The
6 Non-Wage Portions are not subject to wage withholdings and will be reported
7 on IRS 1099 Forms. Participating Class Members assume full responsibility
8 and liability for any employee taxes owed on their Individual Class Payment.

9 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
10 Class Payments. Non-Participating Class Members will not receive any
11 Individual Class Payments. The Administrator will retain amounts equal to
12 their Individual Class Payments in the Net Settlement Amount for distribution
13 to Participating Class Members on a pro rata basis.

14 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
15 \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00)
16 allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the
17 Individual PAGA Payments.

18 3.2.5.1. The Administrator will calculate each Individual PAGA
19 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
20 of PAGA Penalties (\$12,500.00) by the total number of PAGA Period Pay
21 Periods worked by all Aggrieved Employees during the PAGA Period and (b)
22 multiplying the result by each Aggrieved Employee's PAGA Period Pay
23 Periods. Aggrieved Employees assume full responsibility and liability for any
24 taxes owed on their Individual PAGA Payment.

25 3.2.5.2. If the Court approves PAGA Penalties of less than the
26 amount requested, the Administrator will allocate the remainder to the Net
27 Settlement Amount. The Administrator will report the Individual PAGA
28 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 there are 145 Class Members who collectively worked a total of 14,916 Workweeks, and 109 Aggrieved Employees who worked a total of 4,840 PAGA Pay Periods.

4.2. Class Data. Not later than 21 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 have already made a payment of \$500,000.00 (which was made within thirty (30) days of the full execution of the Memorandum of Understanding ("MOU") entered into between the Parties prior to the execution of this Agreement). Next, 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 full 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

1 Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative
2 Service Payment shall not precede disbursement of Individual Class Payments and Individual
3 PAGA Payments.

4 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
5 Individual PAGA Payments and send them to the Class Members via First Class U.S.
6 Mail, postage prepaid. The face of each check shall prominently state the date (not less
7 than 180 days after the date of mailing) when the check will be voided. The
8 Administrator will cancel all checks not cashed by the void date. The Administrator
9 will send checks for Individual Settlement Payments to all Participating Class Members
10 (including those for whom Class Notice was returned undelivered). The Administrator
11 will send checks for Individual PAGA Payments to all Aggrieved Employees including
12 Non-Participating Class Members who qualify as Aggrieved Employees (including
13 those for whom Class Notice was returned undelivered). The Administrator may send
14 Participating Class Members a single check combining the Individual Class Payment
15 and the Individual PAGA Payment. Before mailing any checks, the Settlement
16 Administrator must update the recipients' mailing addresses using the National Change
17 of Address Database.

18 4.4.2. The Administrator must conduct a Class Member Address Search for all other
19 Class Members whose checks are returned undelivered without USPS forwarding
20 address. Within 7 days of receiving a returned check the Administrator must re-mail
21 checks to the USPS forwarding address provided or to an address ascertained through
22 the Class Member Address Search. The Administrator need not take further steps to
23 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
24 The Administrator shall promptly send a replacement check to any Class Member whose
25 original check was lost or misplaced, requested by the Class Member prior to the void
26 date.

27 4.4.3. For any Class Member whose Individual Class Payment check or Individual
28 PAGA Payment check is uncashed and cancelled after the void date, the Administrator

1 shall transmit the funds represented by such checks to the California Controller's
2 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid
3 residue" subject to the requirements of California Code of Civil Procedure Section 384,
4 subd. (b).

5 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
6 not obligate Defendants to confer any additional benefits or make any additional
7 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
8 specified in this Agreement.

9 **5. RELEASE OF CLAIMS**

10 Effective on the date when Defendants fully fund the entire Gross Settlement Amount
11 and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments,
12 Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as
13 follows:

14 5.1. Plaintiff's Release. Plaintiff and his respective former and present spouses,
15 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
16 and discharge Released Parties from all claims, transactions, or occurrences including, but not
17 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
18 contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could
19 have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA
20 Notice, or ascertained during the Action, including, but not limited to, all claims and code
21 sections identified and released under 5.2, below. ("Plaintiff's Release.") Plaintiff's Release
22 does not extend to any claims or actions to enforce this Agreement, or to any claims for vested
23 benefits, unemployment benefits, disability benefits, social security benefits, workers'
24 compensation benefits that arose at any time, or based on occurrences outside the Class Period.
25 Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to,
26 the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
27 Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or
28 additional facts or Plaintiff's discovery of them.

1 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
2 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions,
3 rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

8 5.2. Release by Participating Class Members: For the duration of the Class Period, all
9 Participating Class Members, on behalf of themselves and their respective former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
11 Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the
12 Class Period facts stated in the Operative Complaint including: (1) all claims for failure to pay
13 overtime wages (Labor Code sections 510, 1194 and 1199, and applicable Wage Orders); (2) all
14 claims for failure to pay minimum wages (Labor Code sections 1197 and 1199, and applicable
15 Wage Orders); (3) all claims for failure to provide compliant meal periods, or compensation in
16 lieu thereof (Labor Code sections 226.7, and 512, and applicable Wage Orders); (4) all claims for
17 failure to provide compliant rest periods, or compensation in lieu thereof (Labor Code section
18 226.7, and applicable Wage Orders); (5) all claims for the failure to pay waiting time penalties;
19 (6) wages due upon termination or resignation (Labor Code sections 201, 202, and 203, and
20 applicable Wage Orders); (7) all claims for non-compliant wage statement violations (Labor Code
21 section 226, and applicable Wage Orders); (8) all claims for failure to indemnify or reimburse
22 employees for business expenses or losses; and (9) all claims asserted through California Business
23 & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in
24 the Operative Complaint.

25 5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not
26 release any other claims, including claims for vested benefits, wrongful termination, violation of
27 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
28 workers' compensation, or claims based on facts occurring outside the Class Period.

1 5.4. PAGA Release by Plaintiff, Aggrieved Employees, and the State of California:
2 Upon the Effective Date of this Agreement, Plaintiff, all Aggrieved Employees, and the State
3 of California are deemed to release, on behalf of themselves and their respective former and
4 present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the
5 Released Parties from all claims for PAGA penalties that occurred during the PAGA Period,
6 pursuant to Labor Code section 2698 et seq., were alleged, or reasonably could have been alleged,
7 based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice,
8 including but not limited to, claims for PAGA penalties pursuant to Labor Code sections 210,
9 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor Code sections
10 96, 98.6, 200, 201, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5, 246, *et seq.*, 432, 510, 512,
11 1102.5, 1174, 1174.5, 1194, 1197, 1197.5, 1198.5, 2699, 2802, and 2810.5.

12 **6. MOTION FOR PRELIMINARY APPROVAL**

13 The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion
14 for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary
15 Approvals.

16 6.1. Defendants’ Declaration in Support of Preliminary Approval. Within 14 days of the full
17 execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed
18 Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or
19 potential conflicts of interest with the Administrator. In their Declarations, Defense Counsel and
20 Defendants shall aver that they are not aware of any other pending matter or action asserting
21 claims that will be extinguished or adversely affected by the Settlement.

22 6.2. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel prior to
23 filing all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the
24 notice, and memorandum in support, of the Motion for Preliminary Approval that includes an
25 analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement
26 under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary
27 Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed
28 declaration from the Administrator attaching its “not to exceed” bid for administering the

1 Settlement and attesting to its willingness to serve; competency; operative procedures for
2 protecting the security of Class Data; amounts of insurance coverage for any data breach,
3 defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of
4 interest with Class Members; and the nature and extent of any financial relationship with
5 Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming
6 willingness and competency to serve and disclosing all facts relevant to any actual or potential
7 conflicts of interest with Class Members; (v) a signed declaration from each Class Counsel firm
8 attesting to its competency to represent the Class Members; its timely transmission to the LWDA
9 of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd.
10 (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code
11 section 2699, subd. (l)(2)); and (vi) all facts relevant to any actual or potential conflict of interest
12 with Class Members, and/or the Administrator. In their Declarations, Plaintiff and Class Counsel
13 Declaration shall aver that they are not aware of any other pending matter or action asserting
14 claims that will be extinguished or adversely affected by the Settlement.

15 6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
16 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
17 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
18 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
19 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
20 Administrator.

21 6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
22 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
23 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
24 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
25 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
26 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
27 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
28 Court's concerns.

7. SETTLEMENT ADMINISTRATION

7.1. 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.

7.2. 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.

7.3. 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.

7.4. Notice to Class Members

7.4.1. 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.

7.4.2. 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 with Spanish translation, 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.

7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice

1 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
2 using any forwarding address provided by the USPS. If the USPS does not provide a
3 forwarding address, the Administrator shall conduct a Class Member Address Search,
4 and re-mail the Class Notice to the most current address obtained. The Administrator
5 has no obligation to make further attempts to locate or send Class Notice to Class
6 Members whose Class Notice is returned by the USPS a second time.

7 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
8 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
9 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
10 notice is re-mailed. The Administrator will inform the Class Member of the extended
11 deadline with the re-mailed Class Notice.

12 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
13 discovers any persons who believe they should have been included in the Class Data
14 and should have received Class Notice, the Parties will expeditiously meet and confer
15 in person or by telephone, and in good faith, in an effort to agree on whether to include
16 them as Class Members. If the Parties agree, such persons will be Class Members
17 entitled to the same rights as other Class Members, and the Administrator will send, via
18 email or overnight delivery, a Class Notice requiring them to exercise options under this
19 Agreement not later than 15 days after receipt of Class Notice, or the deadline dates in
20 the Class Notice, which ever are later.

21 7.5. Requests for Exclusion (Opt-Outs).

22 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
23 must send the Administrator, by email or mail, a signed written Request for Exclusion
24 not later than 45 days after the Administrator mails the Class Notice (plus an additional
25 15 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion
26 is a letter from a Class Member or his/her representative that reasonably communicates
27 the Class Member's election to be excluded from the Settlement and includes the Class
28 Member's name, address and email address or telephone number. To be valid, a

Request for Exclusion must be timely emailed, or postmarked by the Response Deadline.

7.5.2. 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.

7.5.3. 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 5.2 and 5.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. 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 5.4 of this Agreement and are eligible for an Individual PAGA Payment.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 15 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

1 the allocation by communicating with the Administrator via email or mail. The Administrator
2 must encourage the challenging Class Member to submit supporting documentation. In the
3 absence of any contrary documentation, the Administrator is entitled to presume that the
4 Workweeks contained in the Class Notice are correct so long as they are consistent with the Class
5 Data. The Administrator's determination of each Class Member's allocation of Workweeks
6 and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The
7 Administrator shall promptly provide copies of all challenges to calculation of Workweeks
8 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
9 the challenges.

10 **7.7. Objections to Settlement**

11 7.7.1. Only Participating Class Members may object to the class action components of
12 the Settlement and/or this Agreement, including contesting the fairness of the
13 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
14 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

15 7.7.2. Participating Class Members may send written objections to the Administrator,
16 by email or mail. In the alternative, Participating Class Members may appear in Court
17 (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
18 Hearing. A Participating Class Member who elects to send a written objection to the
19 Administrator must do so not later than 45 days after the Administrator's mailing of the
20 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
21 mailed).

22 7.7.3. Non-Participating Class Members have no right to object to any of the class action
23 components of the Settlement.

24 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
25 performed or observed by the Administrator contained in this Agreement or otherwise.

26 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
27 and use an internet website to post information of interest to Class Members including
28 the date, time and location for the Final Approval Hearing and copies of the Settlement

1 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
2 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
3 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
4 the Final Approval and the Judgment. The Administrator will also maintain and monitor
5 an email address and a toll-free telephone number to receive Class Member calls and
6 emails.

7 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
8 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
9 Not later than 5 days after the expiration of the deadline for submitting Requests for
10 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
11 containing (a) the names and other identifying information of Class Members who have
12 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
13 other identifying information of Class Members who have submitted invalid Requests
14 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
15 (whether valid or invalid).

16 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
17 reports to Class Counsel and Defense Counsel that, among other things, tally the number
18 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
19 Exclusion (whether valid or invalid) received, objections received, challenges to
20 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
21 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
22 Weekly Reports must include provide the Administrator’s assessment of the validity of
23 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
24 received.

25 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
26 address and make final decisions consistent with the terms of this Agreement on all
27 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
28 Administrator’s decision shall be final and not appealable or otherwise susceptible to

challenge.

7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a 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.

7.8.6. 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 7 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.

8. CLASS SIZE ESTIMATES

Based on its records, Defendants estimate that: (1) there are 145 Class Members and 14,916 Total Workweeks during the Class period and (2) there were 109 Aggrieved Employees who worked 4,840 Pay Periods during the PAGA Period.

8.1. Increase in Workweeks. In the event the number of Workweeks worked by Class Members during the Class Period increases by more than 5%, or 746 Workweeks, Defendants would not owe any more than the Gross Settlement Amount, and the Class Period would end on the day before the 5% threshold was reached. In no event shall Defendants be required to pay more than the Gross Settlement Amount with the sole exception that it shall remit its share of the

1 employer's payroll taxes in addition to the Gross Settlement Amount.

2 **9. MOTION FOR FINAL APPROVAL**

3 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will
4 file in Court, a motion for final approval of the Settlement that includes a request for approval of
5 the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order
6 and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall endeavor to
7 provide drafts of these documents to Defense Counsel prior to filing the Motion for Final
8 Approval. Class Counsel and Defense Counsel will expeditiously meet and confer, and in good
9 faith, to resolve any disagreements concerning the Motion for Final Approval.

10 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
11 by a Participating Class Member, including the right to file responsive documents in Court no
12 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
13 by the Court.

14 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
15 Approval on any material change to the Settlement (including, but not limited to, the scope of
16 release to be granted by Class Members), the Parties will expeditiously work together in good
17 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
18 Approval. The Court's decision to award less than the amounts requested for the Class
19 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
20 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
21 modification to the Agreement within the meaning of this paragraph.

22 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
23 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
24 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
25 and (iii) addressing such post-Judgment matters as are permitted by law. The Court may award
26 reasonable attorneys' fees and costs to the prevailing party in any motion or action taken based
27 on an alleged violation of any material term of this Settlement Agreement.

28 9.4. 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.

9.5. 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

10. 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.

11. ADDITIONAL PROVISIONS

11.1. 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 Plaintiff 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 contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available 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).

11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, 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. Plaintiff, 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.

11.3. No Solicitation. The Parties separately agree that they and their respective counsel and

1 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
2 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
3 ability to communicate with Class Members in accordance with Class Counsel's ethical
4 obligations owed to Class Members.

5 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
6 together with its attached exhibits shall constitute the entire agreement between the Parties
7 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
8 inducements made to or by any Party.

9 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
10 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate
11 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
12 its terms, and to execute any other documents reasonably required to effectuate the terms of this
13 Agreement including any amendments to this Agreement.

14 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
15 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
16 Settlement Agreement, submitting supplemental evidence and supplementing points and
17 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
18 or content of any document necessary to implement the Settlement, or on any modification of the
19 Agreement that may become necessary to implement the Settlement, the Parties will seek the
20 assistance of a mediator and/or the Court for resolution.

21 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
22 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
23 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
24 action, or right released and discharged by the Party in this Settlement.

25 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
26 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
27 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
28 Part 10, as amended) or otherwise.

1 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
2 modified, changed, or waived only by an express written instrument signed by all Parties or their
3 representatives, and approved by the Court.

4 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
5 the benefit of, the successors of each of the Parties.

6 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
7 governed by and interpreted according to the internal laws of the state of California, without
8 regard to conflict of law principles

9 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
10 this Agreement. This Agreement will not be construed against any Party on the basis that the
11 Party was the drafter or participated in the drafting

12 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
13 during Action and in this Agreement relating to the confidentiality of information shall survive
14 the execution of this Agreement

15 11.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
16 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
17 Defendants in connection with the mediation, other settlement negotiations, or in connection with
18 the Settlement, may be used only with respect to this Settlement, and no other purpose, and may
19 not be used in any way that violates any existing contractual agreement, statute, or rule of court.

20 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
21 inserted for convenience of reference only and does not constitute a part of this Agreement.

22 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
23 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
24 weekend or federal legal holiday, such date or deadline shall be on the first business day
25 thereafter.

26 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
27 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall
28 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.

11.18. 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.

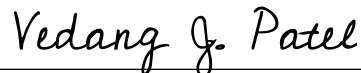
11.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:


Bernadette Madrono (Jan 18, 2023 11:24 PST)

For Plaintiff, Bernadette Madrono

For Defendants, Vitale Nursing, Inc. and Julie Marie Wozniak

1/18/2023 

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff Bernadette Madrono

Lindsay A. Ayers
Counsel for Defendants Vitale Nursing, Inc. and Julie Marie Wozniak

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12 Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to
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14 Agreement.

15
16 **IT IS SO AGREED:**

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18
19 For Plaintiff, Bernadette Madrono

20  1/18/2023
21 For Defendants, Vitale Nursing, Inc. and Julie
22 Marie Wozniak

23 David D. Bibiyan
24 Vedang J. Patel
25 Counsel for Plaintiff Bernadette Madrono

26 Lindsay A. Ayers
27 Counsel for Defendants Vitale Nursing, Inc. and
28 Julie Marie Wozniak

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15
16 **IT IS SO AGREED:**

17
18
19 _____
20 For Plaintiff, Bernadette Madrono

For Defendants, Vitale Nursing, Inc. and Julie Marie Wozniak

21
22
23 David D. Bibiyan
24 Vedang J. Patel
Counsel for Plaintiff Bernadette Madrono

25
26
27
28

Lindsay A. Ayers
Counsel for Defendants Vitale Nursing, Inc. and Julie Marie Wozniak

1/18/23