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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **IN AND FOR THE COUNTY OF YOLO**

15 **HILARY CEARLY and YEKATERINA**
16 **KUCHEROVA, *et al.*,**

17 Plaintiff,

18 vs.

19 **UNIVERSITY RETIREMENT**
20 **COMMUNITY AT DAVIS, INC., a**
21 **Corporation; PACIFIC RETIREMENT**
22 **SERVICES, INC., a Corporation; and DOES**
23 **1 through 50, inclusive,**

24 Defendants.

Case No. CV2021-0524

[Consolidated with Case No. CV2021-0531]

DECLARATION OF KYLE
NORDREHAUG IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT

Hearing Date: September 27, 2022
Hearing Time: 9:00 a.m.

Judge: Hon. Samuel T. McAdam
Dept: 10

Action Filed: March 26, 2021
Trial Date: Not Set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiffs Hilary Cearley and Yekaterina Kucherova ("Plaintiffs") in this
4 matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The
5 following facts are within my own personal knowledge, and if called as a witness, I could testify
6 competently to the matters stated herein.

7 2. This declaration is being submitted in support of the motion for preliminary approval
8 of the proposed class action settlement with Defendants University Retirement Community at
9 Davis, Inc., and Pacific Retirement Services, Inc. ("Defendants"), and seeks entry of an order:
10 (1) preliminarily approving the proposed settlement of this class action with Defendants; (2) for
11 settlement purposes only, conditionally certifying the Class, which is comprised of "all
12 individuals who are or previously were employed by Defendants in California who were
13 classified as hourly, non-exempt employees at any time during the Class Period" of March
14 26, 2017 through May 1, 2022; (3) provisionally appointing Plaintiffs as the representatives
15 of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R. Nordrehaug,
16 Aparajit Bhowmik, Nicholas J. De Blouw, and Jeffrey S. Herman of Blumenthal
17 Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class; (5) approving the
18 form and method for providing class-wide notice; (6) directing that notice of the proposed
19 settlement be given to the class; (7) appointing ILYM Group as Settlement Administrator,
20 and (8) scheduling a final approval hearing date to consider Plaintiffs' motion for final
21 approval of the settlement and entry of the Judgment, and Plaintiffs' motion for approval of
22 attorneys' fees and expenses. Attached hereto as Exhibit #1 is a copy of the fully executed Class
23 Action Settlement Agreement ("Agreement") along with exhibits thereto. This Declaration
24 incorporates by reference the definitions in the Agreement, and all terms defined therein shall have
25 the same meaning as set forth in the Agreement.

26
27 Fairness of Settlement

28 3. As consideration for this Settlement, the Gross Settlement Amount is Seven Hundred

1 Thousand Dollars (\$700,000.00) to be paid by Defendants, as set forth in the Agreement. The
2 Gross Settlement Amount will settle all issues pending in the Action between the Parties and will be
3 made in full and final settlement of the Released Class Claims. The Gross Settlement Amount
4 includes all payments of Settlement Shares to the Participating Class Members, Settlement
5 Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses
6 Payment, Class Representative Service Payments, and the PAGA Payment. The Gross Settlement
7 Amount does not include the employer's share of payroll taxes which will be separately paid by
8 Defendant. The Settlement is all-in with no reversion to Defendant and no need to submit a claim
9 form.

10 4. The relief provided in the Settlement will benefit all members of the Class. The
11 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
12 Payments to the Class Members are all determined under a neutral methodology. Each
13 Participating Class Member will receive the same opportunity to participate in and receive payment
14 through a neutral formula that is based upon the weeks worked by that individual.

15 5. On January 26, 2022, the Parties participated in an all-day mediation session
16 presided over by Tripper Ortman, Esq., a respected and experienced mediator of wage and hour
17 class actions. In preparation for the mediation, Defendants provided Class Counsel with necessary
18 information for the members of the Class, including time data, payroll data and data concerning the
19 composition of the Class. Plaintiffs analyzed the data with the assistance of damages expert, Berger
20 Consulting, and prepared and submitted a mediation brief and damage valuation to the Mediator.
21 Following this all-day mediation, the Parties agreed to this Settlement. The final settlement terms
22 were negotiated and set forth in the Agreement now presented for this Court's approval.
23 Importantly, Plaintiffs and Class Counsel believe that this Settlement is fair, reasonable and
24 adequate.

25 6. For the 461 Class members who worked 52,000 work weeks, the Gross Settlement |
26 Amount provides an average value of \$1,518 per Class Member and \$13 per work week, and after
27 deductions, the Net Settlement Amount provides an average recovery of \$860 per Class Member
28 and \$7.62 per work week. The calculations to compensate for the amount due to the Class

1 Members at the time this Settlement was negotiated were calculated by Plaintiffs' expert, Berger
2 Consulting, in advance of mediation. For the individuals whose claims are at issue in this Actions,
3 Plaintiffs analyzed the data for putative class members and determined the potential maximum
4 damages for the class claims. For the Class, Plaintiffs evaluated that the claim for unpaid wages
5 due to the alleged miscalculation of the regular rate was potentially \$6,861, the maximum potential
6 meal period damages, after deducting meal premiums paid by Defendant, wages were estimated to
7 be \$221,841, the maximum potential rest period damages, after deducting rest period premiums
8 paid by Defendant, were estimated to be \$3,310,842 based upon a 100% violation predicated on a
9 premise restriction theory, the maximum potential damages for off the clock work for Covid testing
10 were estimated to be \$11,610, and the maximum potential damages for failure to provide expense
11 reimbursement for cell-phones was calculated to be \$123,029. In total, the damages for the Class
12 were calculated to have a maximum potential total value of \$3,674,184. In addition, Plaintiffs
13 calculated that the maximum value of the potential waiting time penalties were between \$293,085
14 and \$1,069,365, depending on the predicate violation, and the maximum value of the potential wage
15 statement penalties were \$879,800. These wage statement and waiting time penalties claims
16 potentially have a much smaller value or no value, even if damages were awarded, to the extent that
17 they are only derivative of the rest break claims.¹ Consequently, the Gross Settlement Amount
18 represents more than 19% of the value of the potential maximum damages at issue for the Class in
19
20

21
22 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203
23 and 226, at mediation Plaintiffs recognized that these claims were subject to various defenses
24 asserted by Defendants, including, but not limited to, a good faith dispute defense as to whether any
25 premium wages for meal or rest periods or other wages were owed given Defendants' position that
26 Plaintiffs were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576,
27 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good
28 faith dispute as to whether and when the wages were due."). Additionally, at the time of mediation,
Courts had held that violations of the meal and rest period regulations, which require payment of a
"premium wage" for each improper meal period, do **not** give rise to claims under sections 203 and
226. *See e.g. Ling v. P.F. Chang's China Bisto, Inc.*, 245 Cal. App. 4th 1242, 1261 (2016) and
Maldonado v. Epsilon Plastics, Inc., 22 Cal. App. 5th 1308, 1336 (2018). As a result, the viability
of Plaintiffs' claims on these theories was uncertain at the time the settlement was negotiated.

1 this case, assuming these amounts could all be proven in full at trial.² The above maximum
2 calculations should then be adjusted in consideration for both the risk of class certification and the
3 risk of establishing class-wide liability on all claims. In addition, because a prior class settlement
4 resolved one year of the five years in Plaintiffs' valuation, the above valuations could be overstated
5 by 20% across the board. Given the amount of the Settlement as compared to the potential value of
6 the claims, the Settlement is most certainly fair and reasonable.

7
8 Procedural History of the Litigation

9 7. On March 26, 2021, Plaintiffs filed a Complaint against Defendants in the Superior
10 Court of the State of California, County of Yolo. Plaintiffs asserted claims against Defendants for:
11 (1) unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay
12 overtime wages in violation of Cal. Labor Code § 510; (3) failure to pay minimum wages in
13 violation of California Labor Code §§ 1194, 1197 & 1197.1; (4) failure to provide required meal
14 periods in violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide required rest
15 periods in violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to provide accurate itemized
16 wage statements in violation of California Labor Code § 226; (7) failure to reimburse employees for
17 required expenses in violation of Cal. Labor Code § 2802; and, (8) failure to provide wages at
18 termination in violation of Cal. Lab. Code § 201, 202, and 203.

19 8. On March 26, 2021, Plaintiffs also filed a separate Representative PAGA Action
20 Complaint against Defendants for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the
21 Private Attorneys General Act ("PAGA") for violations of Labor Code §§ 201, 202, 203, 204 et
22 seq., 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California
23 Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and the applicable Industrial
24 Wage Order(s).

25 9. As part of the Settlement, the Parties stipulated to consolidate the PAGA Action with
26

27 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiffs have not included
28 the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed
below at ¶ 33.

1 the Class Action, and Plaintiffs are filing a Consolidated Complaint that adds Plaintiffs' Class
2 Action claims into Plaintiffs' PAGA Action.

3 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
4 including production of documents, class data, and other information, allowing for the full and
5 complete analysis of liabilities and defenses to the claims in the Action. The information for
6 mediation obtained by Plaintiffs included: (1) a class list and time punch data showing employees'
7 meal periods and their time worked; (2) Payroll data for employees; (3) Defendant's employee
8 wage and hour policies; (5) the employment files for the Plaintiffs; and, (7) samples of wage
9 statements provided by Defendants. The time punch data covered 94,834 shifts, which was then
10 extrapolated to the entire Class of 201,860 shifts worked. As such, Class Counsel received the
11 actual data for more than 45% of the shifts worked by the Class, which was sufficient for Plaintiffs'
12 expert to prepare the valuations and extrapolate to the entire Class.

13 11. Plaintiffs and Defendants agreed to discuss resolution of the Action through a
14 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
15 documents and information in connection with the Action. On January 26, 2022, the Parties
16 participated in an all-day mediation presided over by Tripper Ortman, Esq., a respected mediator of
17 wage and hour representative and class actions. Following the mediation, each side, represented by
18 its respective counsel, were able to agree to settle the Action based on a mediator's proposal which
19 was memorialized in the form of a Memorandum of Understanding. At all times, the negotiations
20 were arm's length and contentious.

21 12. The Parties continued to negotiate the terms of the settlement and prepared the long
22 form Agreement. Accordingly, for purposes of this Settlement, the "Class" is defined as "all
23 individuals who are or previously were employed by Defendants in California who were classified
24 as hourly, non-exempt employees at any time during the Class Period." (Agreement at ¶ I(3).) The
25 Class Period is from March 26, 2017 through May 1, 2022. (Agreement at ¶ I(10).) The Class
26 consists of 461 Class Members who worked 52,000 weeks during the Class Period. (Agreement at
27 ¶ III(37)(e).)

28 13. Although a settlement has been reached, Defendants deny any liability or

1 wrongdoing of any kind associated with the claims alleged in the Action and further denies that, for
2 any purpose other than settlement, the Action are appropriate for class treatment. Defendants
3 contend, among other things, that they has correctly compensated the Class Members and complied
4 at all times with the California Labor Code, applicable Wage Order, and all other laws and
5 regulations. Further, Defendants contend that class certification would be inappropriate for any
6 reason other than for settlement. Plaintiffs contend that Defendants violated California wage and
7 hour laws. Plaintiffs further contend that the Action is appropriate for class certification on the
8 basis that the claims meet the requisites for class certification. Without admitting that class
9 certification is proper, Defendants have stipulated that the above Class may be certified for
10 settlement purposes only. (Agreement at ¶ II(33).) The Parties agree that certification for
11 settlement purposes is not an admission that class certification would be proper if the class
12 certification issue were litigated. Further, the Agreement is not admissible in this or any other
13 proceeding as evidence that the Class could be certified absent a settlement. Solely for purposes of
14 settling the Action, the Parties stipulate and agree that the requisites for establishing class
15 certification with respect to the Class are satisfied.

16 14. Class Counsel has conducted a thorough investigation into the facts of the class
17 action. Over the course of more than a year, Class Counsel diligently evaluated the Class
18 Members' claims against the Defendants. Prior to the settlement negotiations, counsel for
19 Defendants provided Class Counsel with access to necessary information for the Class. In addition,
20 Class Counsel previously negotiated settlements with other employers in actions involving nearly
21 identical issues and analogous defenses. Based on the foregoing data and their own independent
22 investigation, evaluation and experience, Class Counsel believes that the settlement with
23 Defendants on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the
24 best interest of the Class in light of all known facts and circumstances, including the risk of
25 significant delay, defenses asserted by Defendants, and potential appellate issues.

26
27 Settlement Terms and Plan of Allocation

28 15. The Gross Settlement Amount is Seven Hundred Thousand Dollars (\$700,000.00).

(Agreement at ¶ I(19).) Under the Settlement, the Gross Settlement Amount consists of the following elements: (1) payment of the Settlement Shares to the Class; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Settlement Administration Expenses; (4) Class Representative Service Payments to the Plaintiffs; and (5) the PAGA Payment.

(Agreement at ¶ I(19).) The Gross Settlement Amount does not include Defendants' share of payroll taxes. (Agreement at ¶ III(35).) The Gross Settlement Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ III(35).)

16. Defendant shall fund the Gross Settlement Amount within fifteen (15) days of the Effective Date. (Agreement at ¶ III(42).) The Settlement Shares to Participating Class Members will be mailed by the Settlement Administrator fifteen (15) days after Defendant fully funds the Gross Settlement Amount. (Agreement at ¶ III(42).)

17. The Net Settlement Amount shall equal the net amount available for payment to the Class after deducting the Court-approved amounts for the Class Representative Service Payments, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses. (Agreement at ¶ I(21).) The Net Settlement Amount will be distributed as the Settlement Shares to the Class Members who do not timely request exclusion ("Participating Class Members"). (Agreement at ¶¶ I(24), III(37).) The Settlement Share will be calculated as follows: (a) the Settlement Administrator shall divide the Net Settlement Amount by the total number of weeks included in the dates of employment to determine a dollar amount per week ("Weekly Rate"); and (iii) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share. (Agreement at ¶ III(37)(b).) Workweeks will be based on Defendants' records, however Class Members will have the right to challenge the number of workweeks.

18. Class Members may choose to opt-out of the Settlement by following the directions in the Class Notice. (Agreement at ¶ III(39)(d), Ex. A.) All Class Members who do not "opt out" will be deemed Participating Class Members who will be bound by the Settlement and will be entitled to receive a Settlement Share. Aggrieved Employees who opt out the Settlement will still

1 be paid their allocation of the PAGA Payment, respectively, and will remain bound by the release of
2 the Released PAGA Claims, regardless of their request for exclusion. (Agreement at ¶
3 III(39)(d)(iii).) Finally, the Class Notice will also advise the Class Members of their right to object
4 to the Settlement and/or dispute their workweeks. (Agreement at ¶ III(39)(d), Ex. A.)

5 19. A Participating Class Member must cash his or her Settlement Share check within
6 180 days after it is mailed. (Agreement at ¶ III(43).) The Settlement Administrator will send a
7 reminder to Participating Class Members who have not cashed their checks 60 days before the
8 expiration date. (Agreement at ¶ III(43).) Any settlement checks not cashed within 180 days will
9 be voided and any funds from such uncashed checks will be paid to the California State Controller's
10 Unclaimed Property Fund in the name of the individual who failed to cash their check. (Agreement
11 at ¶ III(43).)

12 20. The Parties have agreed to use ILYM Group as the Settlement Administrator.
13 (Agreement at ¶ III(38).) From the Gross Settlement Amount, the Settlement Administrator shall be
14 paid for the expenses of administering the Settlement in an amount not to exceed \$15,000.
15 (Agreement at ¶ III(36)(d).)

16 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
17 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
18 (Agreement at ¶ III(36)(b).) Class Counsel will also be allowed to apply separately for an award of
19 Class Counsel Litigation Expenses Payment in an amount not to exceed \$20,000. (Agreement at ¶
20 III(36)(b).) Subject to Court approval, the Agreement provides for a payment of no more than
21 \$10,000 to each of the Plaintiffs as the Class Representative Service Payments. (Agreement at ¶
22 III(36)(a).)

23 22. The Parties will seek approval from the Court for the PAGA Payment of \$15,000 out
24 of the Gross Settlement Amount, which shall be allocated 75% (\$11,250) to the LWDA as the
25 LWDA's share of the PAGA Payment pursuant to PAGA and 25% (\$3,750) will be distributed to
26 the Aggrieved Employees based on their respective pay periods worked during the PAGA Period.
27 (Agreement at ¶ III(36)(c).) All Aggrieved Employees will be sent their share of the PAGA
28 Payment and will be subject to the release of the Released PAGA Claims, whether or not they opt

1 out of the Settlement. (Agreement at ¶ III(36)(c).) As set forth in the accompany proof of service,
2 the LWDA has been served with this motion and the Agreement.

3
4 Risks of Continued Litigation and Standards for Approval

5 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to
6 litigate and trying these Action against Defendant through possible appeals which could take
7 several years. Class Counsel has also taken into account the uncertain outcome and risk of
8 litigation, especially in complex class actions such as these Action. Class Counsel is also mindful
9 of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted
10 in the Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
11 Settlement set forth in the Agreement is in the best interest of the Class Members.

12 24. Here, a number of defenses asserted by Defendants present serious threats to the
13 claims of the Plaintiffs and the other Class Members. Defendants asserted that Defendants'
14 practices complied with all applicable Labor laws. Defendant argued that all work time was paid
15 for and that the regular rate was properly calculated when paying wages. Defendant contend that
16 their meal and rest period policies fully complied with California law and that Defendants'
17 timekeeping system recorded meal periods, and was not required to record rest periods. Defendants
18 argued that the fact they paid significant meal and rest period premiums establishes that their
19 practices were compliant when a meal or rest was missed. Plaintiffs' theory of liability for rest
20 breaks was based upon an on premise restriction, which Defendant disputed and argued that this
21 theory has been rejected by Courts as sufficient alone to establish liability for on-duty rest breaks.
22 *See, e.g., Ritenour v. Carrington Mortg. Servs., LLC*, 2018 WL 5858658, at *7 (C.D. Cal. 2018)
23 (holding that defendant's on-premises rest period policy was facially valid and legal); *Hubbs v. Big*
24 *Lots Stores, Inc.*, 2018 WL 5264141, at *5 (C.D. Cal. 2018) (citing *Augustus* and dismissing
25 on-premises rest period claims for failure to state a claim); *Bell v. Home Depot U.S.A., Inc.*, 2017
26 WL 1353779, at *2 (E.D. Cal. 2017) (declaring defendant's argument that *Augustus* implied
27 on-premises rest periods were legal as "more persuasive and accurate" than plaintiff's argument to
28 the contrary). As to expenses reimbursement, Defendant contended that it did not fail to pay for

1 business expenses and any cell phone usage was merely convenient and voluntary such that
2 reimbursement was not legally required. Finally, Defendants could argue that the Supreme Court
3 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on
4 liability, value, and class certifiability as to the meal and rest period claims. Defendants also argue
5 that based on their facially lawful practices, they acted in good faith and without willfulness, which
6 if accepted would negate the claims for waiting time penalties and/or inaccurate wage statements.
7 If successful, Defendants' defenses could eliminate or substantially reduce any recovery to the
8 Class. While Plaintiffs believe that these defenses could be overcome, Defendants maintain these
9 defenses have merit and therefore present a serious risk to recovery by the Class.

10 25. There was also a significant risk that, if the Actions were not settled, Plaintiffs would
11 be unable to obtain class certification and thereby not recover on behalf of any employees other
12 than themselves. Defendants argued that the individual experience of each putative class member
13 varied with respect to the claims. Defendants could also contest class certification by arguing injury
14 and good faith were case by case determinations that precluded class certification. Plaintiffs are
15 aware of other cases where class certification of similar claims was denied. *See e.g. Cacho v.*
16 *Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019) (denying certification of rest break claims). Finally,
17 even if class certification was successful, as demonstrated by the California Supreme Court decision
18 in *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to
19 overcome for a class wide recovery even where the class has been certified. While other cases have
20 approved class certification in wage and hour claims, class certification in this action would have
21 been hotly disputed and was by no means a foregone conclusion.

22 26. This settlement is therefore certainly entitled to preliminary approval. Were this
23 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
24 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

25 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
26 consideration for their service and for the risks undertaken on behalf of the class. (Agreement at ¶
27 III(36)(a).) Plaintiffs performed their duties admirably by working with Class Counsel. At this
28 stage, the requested service awards of \$10,000 are well within the accepted range of awards for

1 purposes of preliminary approval. *See e.g. Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist.
2 LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was
3 \$351); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014)
4 (approving \$10,000 service award where class member recovery was \$375); *Rausch v. Hartford*
5 *Fin. Servs. Grp.*, 2007 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007) (approving award
6 of \$10,000 where class member recoveries were as little as \$150); *Louie v. Kaiser Foundation*
7 *Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding \$25,000 service
8 award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862,
9 *16-17 (N.D.Cal. Jan. 27 2007) (awarding \$25,000 service award in overtime class action and a
10 pool of \$100,000.00 in enhancements). As explained in *Glass*, service awards are routinely
11 awarded to class representatives to compensate the employees for the time and effort expended on
12 the case, for the risk of litigation, for the fear of suing an employer and retaliation there from, and to
13 serve as an incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at *16-17.
14 See below at ¶35.

15 28. The stage of the proceedings at which this Settlement was reached also militates in
16 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
17 conducted a thorough investigation into the facts of the class action. Class Counsel began
18 investigating the Class Members' claims before the Action was filed. Class Counsel engaged in an
19 investigation of the claims and conducted a review and analysis of the relevant documents and data.
20 Class Counsel was also informed by a prior Court-approved class settlement with Defendants which
21 covered a similar length of time and was resolved for a similar settlement amount of \$700,000, but
22 on a claims-made basis with a reversion to the Defendants ultimately equaling \$200,000, thus
23 establishing this settlement as superior. Class Counsel was also experienced with the claims at
24 issue here, as Class Counsel previously litigated and settled similar claims in other actions.
25 Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient
26 information to make an informed judgment regarding the likelihood of success on the merits and the
27 results that could be obtained through further litigation.

28 29. Based on the foregoing data and their own independent investigation and evaluation,

1 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the
2 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
3 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
4 asserted by Defendants, and numerous potential appellate issues. There can be no doubt that
5 Counsel for both parties possessed sufficient information to make an informed judgment regarding
6 the likelihood of success on the merits and the results that could be obtained through further
7 litigation.

8
9 Class Certification Issues

10 30. Plaintiffs contend that the proposed settlement meets all of the requirements for class
11 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
12 the Court may appropriately approve the Class as defined in the Agreement. This Court should
13 conditionally certify the Class for settlement purposes only, defined as follows:

14 All individuals who are or previously were employed by Defendants in California
15 who were classified as hourly, non-exempt employees at any time during the Class
Period.

16 (Agreement at ¶ I(3).)

17 The “Class Period” is from March 26, 2017 through May 1, 2022. (Agreement at ¶ I(10).)

18 a. **Numerosity** - Here, Plaintiffs assert that the 461 current and former
19 employees that comprise the Class can be identified based on Defendants’ records and are
20 sufficiently numerous for class certification.

21 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
22 questions of law and fact are present, and specifically the common questions of whether Defendants
23 properly calculated the regular rate when paying wages, whether the Defendants failed to provide
24 meal and rest periods to class members, whether class members were lawfully compensated for all
25 hours worked, whether Defendants failed to provide required expense reimbursement, and whether
26 Class Members are entitled to damages and penalties as a result of these practices.

27 c. **Typicality** - In the instant case, Plaintiffs contend that there can be little
28

doubt that the typicality requirement is satisfied. The Plaintiffs, like every other member of the Class, worked for Defendant as non-exempt employee during the Class Period. Plaintiffs contend that, like every other member of the Class, they were subject to the same practices and policies of Defendants and are subject to the same defenses. Thus, Plaintiffs assert that the claims of the Plaintiffs and the Class Members arise from the same course of conduct by the Defendants, involve the same employment policies and practices of Defendants, and are based on the same legal theories.

d. **Adequacy** - Plaintiffs contend that the Class Members are adequately represented here because Plaintiffs and representing counsel (a) do not have any conflicts of interest with other class members, and (b) will prosecute the case vigorously on behalf of the class. This requirement is met here. First, Plaintiffs are well aware of their duties as the representatives of the class and have actively participated in the prosecution of this case to date. They effectively communicated with counsel, provided documents to counsel and participated in the investigation and negotiations in the Action. Second, Plaintiffs retained competent counsel who are experienced in employment class actions and who have no conflicts. Third, there is no antagonism between the interests of the Plaintiffs and those of the Class. Both the Plaintiffs and the Class Members seek monetary relief under the same set of facts and legal theories.

31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can competently represent the Class. Other lawyers at my firm and I have extensive class litigation experience. We have handled a number of class actions and complex cases and have acted both as counsel and as lead and co-lead counsel in a variety of these matters. We have successfully prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits involving complex issues of law and fact. My firm is particularly experienced in wage and hour employment law class actions, including claims for misclassification, overtime, expense reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be

adequate counsel by the courts throughout California. We have been approved as experienced class counsel by both state and federal courts in California in contested class certification proceedings. A true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this settlement is defined as “all individuals who are or previously were employed by Defendants in California who were classified as hourly, non-exempt employees at any time during the Class Period.” I have reviewed my firm’s cases and representation of other plaintiffs and there is no conflict or representation which would prevent my firm from representing the interests of the Class this case. My firm only represents employees, and not employers. My firm has never represented Defendants nor any affiliate of the Defendants. My firm’s only interest in the subject matter of this litigation is to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other employees and classes as the claims are all against different and distinct employers. I can think of no conflict that would arise in our representation of the Class and our adequate representation of the Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery for the Class. Thus, the adequacy requirement for my firm is satisfied.

32. The Class Notice: The Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit “A” to the Agreement.) The Class Notice will include, among other information: (i) information regarding the Action; (ii) the impact on the rights of the Class Members if they do not opt out; (iii) information to the Class Members regarding how to opt out and how to object to the Settlement; (iv) the estimated Settlement Share for each of the Class Members; (iii) the amount of attorneys’ fees and expenses to be sought; (v) the amount of the Plaintiffs’ service award requests; and (vi) the anticipated expenses of the Settlement Administrator. The Class Notice will state that the Class Members shall have forty-five (45) days from the date that the Class Notice is mailed to them to request exclusion (opt-out) or to submit a written objection. (Agreement at ¶ III(39)(c).) In the event of a re-mailing, this deadline will be extended by an additional 15 days. Class Members shall be given the opportunity to object to the Settlement and/or requests for attorneys’ fees and

1 expenses and to appear at the Final Approval Hearing. (Agreement at ¶ III(39)(c).) Class Members
2 who do not submit a timely and proper request to opt-out will automatically receive a payment of
3 their Settlement Share. This notice program was designed to meaningfully reach the Class
4 Members and it advises them of all pertinent information concerning the Settlement. The mailing
5 and distribution of the Class Notice satisfies the requirements of due process, and is the best notice
6 practicable under the circumstances and constitutes due and sufficient notice to all persons entitled
7 thereto.

8
9 33. The PAGA Claims -

10 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
11 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
12 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
13 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
14 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
15 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
16 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
17 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
18 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
19 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
20 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
21 class members." (LWDA Response at p.4).

22 b. **Valuation of the PAGA Claim for Allegedly Aggrieved Employees.**
23 For mediation, Plaintiffs' calculated the value of the alleged PAGA claim as to the Allegedly
24 Aggrieved Employees for civil penalties to be between \$497,650 and \$995,300 for a single
25 violation in every one of the 9,953 pay periods at issue in the PAGA Period, depending on whether
26 the violation was \$50 per pay period as in the case of Labor Code § 558(a)(1) or the standard
27 amount of \$100 per pay period for violation of Labor Code § 1198. This valuation assumed that
28 PAGA civil penalties would be awarded at the maximum rate per pay period but without stacking.

1 The PAGA allocation in the Settlement is the amount of \$10,000. This allocation is justified by
2 several important considerations. First, the PAGA claim was subject to the same risks as the
3 underlying class claims. Second, Defendant asserted additional defenses to the PAGA claim, not
4 only as to liability but also as to the amount of the penalties. Defendant could also argue that no
5 penalties prior to the PAGA notification should be awarded, and I am aware of one Court which has
6 so ruled. These additional defenses present a risk to the PAGA claim and the potential that some or
7 all of the PAGA penalties sought may not be awarded. Third, civil penalties may not be awarded at
8 the maximum rate. In *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court
9 affirmed a judgment which only provided for a PAGA penalty of \$5 per violation. Therefore, at
10 trial, any PAGA penalties awarded could be significantly less than Plaintiffs' calculation even
11 where Plaintiffs prevailed on the PAGA claim. Even if we assume that violations for all 9,953 pay
12 periods were established, using the valuation from *Carrington* results in a more realistic recovery of
13 \$49,765 under PAGA. This means that the \$15,000 PAGA allocation is a reasonable percentage of
14 this potential PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery
15 under the reasoning of the LWDA in *O'Connor v. Uber*.

16 c. **Similar PAGA Settlements.** In reaching the settlement of the PAGA claim,
17 Class Counsel was also aware of what allocations other Courts have approved for similar PAGA
18 settlements as compared to the total settlement amount. A class settlement that allocates
19 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class
20 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
21 Courts typically approve PAGA settlement amounts in the range of between .27 to 1.7 percent of
22 the total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
23 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
24 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
25 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
26 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
27 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
28 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL

672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)

1 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
2 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
3 0.34% of \$1,450,000 settlement amount).

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5 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
6 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
7 reasonable, and at the time of final approval, my firm will present lodestar to further support the
8 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
9 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
10 of the class action awards obtained by Class Counsel in similar employment actions throughout the
11 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
12 settlement value: On June 14, 2017, in *Smith v. Space Exploration* (Los Angeles Superior Court
13 Case No. BC554258), Judge Elihu Berle awarded Class Counsel a 1/3 fee award in a wage and hour
14 class settlement. On March 23, 2018, in *Bailey v. Redfin*, (Los Angeles Superior Court, Case No.
15 BC512191, the Court awarded a 1/3 fee award in a wage and hour class settlement. On July 10,
16 2018, in *Zirpolo v. UAG Stevens Creek II* (Santa Clara Superior Court Case No. 17CV313457,
17 Judge Brian Walsh awarded Class Counsel a one-third fee award in a wage and hour class
18 settlement. On July 19, 2018, in *Metrow v. Liberty Mutual*, (U.S.D.C. Central District of California
19 Case No. EDCV 16-01133-JGB), the District Court awarded Class Counsel a one-third fee award in
20 a wage and hour class settlement. On December 4, 2018, in *Panda Express Wage and Hour Cases*
21 (Los Angeles Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a
22 one-third fee award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage*
23 *and Hour Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded
24 Class Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in
25 *Erickson v. John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge
26 Edward Weil awarded Class Counsel a one-third fee award in a wage and hour class settlement. On
27 December 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case
28 No. BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage

1 and hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
2 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
3 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
4 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class
5 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
6 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
7 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
8 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
9 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
10 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
11 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
12 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
13 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a
14 one-third fee award in a wage and hour class settlement. On November 17, 2021, in *Leon v. Sierra*
15 *Aluminum Company* (San Bernardino Superior Court Case No. CIVDS2010856) Judge David Cohn
16 awarded a one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's*
17 *Candies Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren
18 Nelson awarded a one-third fee award in a wage and hour class action settlement. On April 12,
19 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge
20 Richard Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May
21 23, 2022, in *Ettedgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District
22 of California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee
23 award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
24 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson
25 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
26 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
27 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. A
28

1 fee award equal to one-third of the common fund is therefore reasonable in light of the fees that
2 have been awarded in other similar cases.

3
4 35. Class Representative Service Payments - The reasonableness of the requested service
5 award is also established by reference to the amounts that other California courts have found to be
6 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,
7 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service
8 award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
9 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
10 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
11 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
12 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
13 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service
14 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.
15 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);
16 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
17 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
18 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
19 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
20 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
21 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
22 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
23 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
24 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
25 2011)(awarding \$10,000 service award together with additional compensation for their general
26 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
27 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
28 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);

1 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
2 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
3 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
4 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
5 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
6 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
7 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
8 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
9 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
10 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
11 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
12 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
13 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
14 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
15 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
16 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange
17 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
18 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
19 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
20 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
21 *Industrial Complanly*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.
22 1, 2018) (awarding \$10,000 service award).

23
24 36. Settlement Administration - After seeking bids from three qualified administrators,
25 the estimate from ILYM Group was selected, as it was the lowest and provided for an estimate of
26 \$11,370 to perform the settlement administration for up to \$5,000. The Agreement has a budget of
27 up to \$15,000 to provide for any unanticipated costs, such as if the class is larger than estimated,
28 and the difference between the actual expenses and the budget of \$15,000 will be retained in the

1 Net Settlement Amount for distribution to the Class. A true and correct copy of the estimate from
2 ILYM Group is attached hereto as Exhibit #3. I have used ILYM Group successfully as the
3 administrator in more than twenty class settlements in the last few years and know them to be
4 competent and experienced.

5
6 Service on the LWDA:

7 37. At the same time as the filing and service of this declaration, I am also serving the
8 LWDA with the entire motion for preliminary approval which includes the Class Action Settlement
9 Agreement as set forth in the accompanying proof of service.

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11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct. Executed this 30th day of August, 2022, at La Jolla, California.

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15 By: /s/ Kyle Nordrehaug
16 Kyle Nordrehaug
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CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiffs Hilary Cearley and Yekaterina Kucherova (collectively, “Plaintiffs”) and Defendants University Retirement Community at Davis, Inc., and Pacific Retirement Services, Inc. (collectively, “Defendants”). Plaintiffs and Defendants are collectively referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1. “Action” collectively means: (1) the Class Action Complaint that was filed in California state court and any amendments thereto, which is captioned *Hilary Cearley and Yekaterina Kucherova v. University Retirement Community at Davis, Inc.; Pacific Retirement Services, Inc.; and Does 1 through 50, inclusive*, Case No. CV2021-0531, pending in Superior Court of the State of California, County of Yolo, and (2) the Representative Action Complaint that was filed in California state court and any amendments thereto, which is captioned *Hilary Cearley and Yekaterina Kucherova v. University Retirement Community at Davis, Inc.; Pacific Retirement Services, Inc.; and Does 1 through 50, inclusive*, Case No. CV2021-0524 pending in Superior Court of the State of California, County of Yolo.
2. “Aggrieved Employees” means all individuals who are or previously were employed by Defendants in California who were classified as hourly, non-exempt employees at any time during the PAGA Period.
3. “Class” means all individuals who are or previously were employed by Defendants in California who were classified as hourly, non-exempt employees at any time during the Class Period.
4. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, and Jeffrey S. Herman of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
5. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
6. “Class Data” means, for each Class Member, his or her name; last-known mailing address; Social Security number; his or her employee identification number; and

his or her dates of employment and/or weeks worked during the Class Period as a Class Member and pay periods worked during the PAGA Period.

7. “Class Member” is a member of the Class.
8. “Class Notice” means the Notice of Proposed Settlement of Class Action and Hearing Date for Final Court Approval substantively in the form attached hereto as Exhibit A to this Agreement and incorporated by reference into this Agreement.
9. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).
10. “Class Period” means the period of time from March 26, 2017 through May 1, 2022.
11. “Class Representative Service Payment” means the service payment made to of the Plaintiffs in their capacity as Class Representative in order to compensate them for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendants’ expenses in the event Plaintiffs were unsuccessful in the prosecution of the Action, and for the general release of all claims by the Plaintiffs.
12. “Court” means the Superior Court of California, County of Yolo.
13. “Defendants” means University Retirement Community at Davis, Inc. and Pacific Retirement Services, Inc.
14. “Defendants’ Counsel” means Mark S. Posard and Nicholas A. Deming of Gordon Rees Scully Mansukhani.
15. “Effective Date” means the date by which all of the following have occurred:
 1. This Agreement is approved by the Court; and
 2. The Judgment becomes Final as defined in Section I (17) of this Agreement.
16. “Election Not to Participate in Settlement” means the written request by a Class Member to exclude himself or herself from the Settlement submitted in accordance with the instructions in the Class Notice.
17. “Final” means the last of the following dates, as applicable:
 1. If no objection to the Settlement is made, the date the Judgment is entered.

2. If an objection to the Settlement is made and Judgment is entered, but no appeal is filed, the last date on which a notice of appeal from the Judgment may be filed and none is filed.
3. If Judgment is entered and a timely appeal from the Judgment is filed, the date the Judgment is affirmed and is no longer subject to appeal or the date when the appeal is dismissed, as applicable.
18. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
19. “Gross Settlement Amount” means Seven Hundred Thousand Dollars (\$700,000) to be paid by Defendants as provided by this Agreement. This Gross Settlement Amount is an all-in amount without any reversion to Defendants and shall be inclusive of all payments of Settlement Shares to the Participating Class Members, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, and excluding any employer payroll taxes, if any, due on the portion of the Settlement Shares allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendants.
20. “Judgment” means the Final Approval Order and Judgment entered by the Court substantially in the forms attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
21. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payments, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.
22. “Non-Participating Class Member” means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
23. “PAGA Period” means the period of time from August 20, 2019 through May 1, 2022.
24. “Participating Class Member” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
25. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
26. “Released Parties” collectively mean: Defendants, their predecessors, successors, parent companies, related entities, subsidiaries, affiliates, investors, management

companies, franchisees, owners, attorneys, vendors, and assigns, and their directors, officers, trustees, employees, agents, insurers, and re-insurers, whether in their individual or official capacities.

- 27. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement.
- 28. “Settlement Administrator” means the third-party settlement administrator proposed by the Parties, as approved by the Court.
- 29. “Settlement Share” means each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

Plaintiffs’ Class Action

- 30. On March 26, 2021, Plaintiffs filed a Class Action Complaint against Defendants in the Superior Court of the State of California, County of Yolo. Plaintiffs asserted claims that Defendants:
 - a. Violated California Business and Professions Code § 17200 *et seq.*;
 - b. Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1;
 - c. Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
 - d. Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - e. Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - f. Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
 - g. Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
 - h. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.

Plaintiffs' Representative PAGA Action

31. On March 26, 2021, Plaintiffs also filed a separate Representative PAGA Action Complaint against Defendants for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the Private Attorneys General Act ("PAGA")) for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s).

Mediation and Settlement

32. On January 26, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal, which was then memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties
33. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiffs or the Class have merit or that Defendants bear any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
34. As part of this Settlement, the Parties agree to stipulate to consolidate the Class Action Complaint with the Representative Action Complaint

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

35. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendants will pay under this Settlement is Seven Hundred Thousand Dollars (\$700,000). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages which shall be separately paid by Defendants to the Settlement Administrator. All of the Gross Settlement Amount will be disbursed pursuant to

this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant.

36. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:

- a. **To Plaintiffs:** In addition to the Settlement Shares to be paid to Plaintiffs as Participating Class Members, Plaintiffs will apply to the Court for an award of not more than \$10,000 each as Class Representative Service Payments. Defendants will not oppose a Class Representative Service Payment of no more than \$10,000 for each Plaintiff. The Settlement Administrator will pay the Class Representative Service Payments approved by the Court out of the Gross Settlement Amount. If the Court approves Class Representative Service Payments of less than \$10,000 each, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions will not be taken from the Class Representative Service Payments and instead a Form 1099 will be issued to Plaintiffs with respect to the payments who will assume full responsibility and liability for the taxes due on their Class Representative Service Payments.
- b. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than One-Third of the Gross Settlement Amount, which is presently \$233,333.33, as their Class Counsel Fees Payment and an amount not more than \$20,000 for all expenses incurred as documented in Class Counsel's billing records as their Class Counsel Litigation Expenses Payment. Defendants will not oppose their request for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently \$233,333.33, and \$20,000, respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions, if any, will not be taken from the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment and instead one or more Forms 1099 will be issued to Class Counsel with respect to those payments. The payment of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment shall be made to Class Counsel.
- c. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of Fifteen Thousand Dollars \$15,000 out of the Gross Settlement Amount, which shall be allocated 75% (\$11,250) to the Labor Workforce Development Agency ("LWDA") as the LWDA's share of the

settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$3,750) will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period. If the Court approves a PAGA Payment of less than \$15,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for penalties and not be subject to wage withholdings and shall be reported on IRS Form 1099.

- d. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$15,000 (“Settlement Administration Expenses”). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$15,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

37. **Payments From the Net Settlement Amount.** The Net Settlement Amount shall include the following payments after the deductions have been made from the Gross Settlement Amount as described in this Agreement. The Net Settlement Amount shall include the following:

- a. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. The submission of a claim form is not required to be paid.
- b. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Settlement Share for each Participating Class Member will be calculated as follows: (i) Defendants shall provide the Settlement Administrator with the Class Data; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of weeks included in the dates of employment to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.
- c. **Withholding.**
 - i. Subject to approval by the Court, One Third (1/3) of each Participating Class Member’s Settlement Share is in settlement of

wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Gross Settlement Amount. The Settlement Administrator shall be responsible for remitting to the tax authorities’ employees’ and employer’s share of all payroll taxes on the Wage Portion.

- ii. Subject to approval by the Court, Two-Thirds (2/3) of each Participating Class Member’s Settlement Share is in settlement of claims for interest, non-wage damages and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099.
 - d. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares.
 - e. **Class Size Modification.** Defendants have represented that the class consists of an estimated total of 461 Class Members who worked 52,000 workweeks during the Class Period through the date of mediation. Should the number of workweeks in the Class Period increase by more than 10%, Defendants will increase the Gross Settlement Amount by a proportionate additional amount for each additional pay period above 10%.
38. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint ILYM Group as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator’s duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member’s new address; setting up a toll-free telephone number to receive calls from Class Members; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due

under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administration Expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

The Settlement Administrator shall have its own Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in calculating payroll withholdings for taxes and shall transmit the required employers' and employees' share of the withholdings to the appropriate state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

The Settlement Administrator shall never be empowered to make payments to Participating Class Members exceeding the total Net Settlement Amount or deviate from the payment formula agreed upon by the Parties.

39. Procedure for Approving Settlement.

a. Consolidation of Action

- i. The Parties will stipulate to consolidate the Class Action Complaint and Representative PAGA Action Complaint for settlement purposes only.

b. Motion for Preliminary Approval of Settlement by the Court.

- i. After Execution of this Settlement Agreement, Plaintiffs will file a Preliminary Approval Motion with the Court for an order granting Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the "Motion for Preliminary Approval"). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator for resolution.
- ii. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- iii. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of release

to be granted by Participating Class Members or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval.

- c. **Notice to Class Members.** After the Court enters an Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member's Settlement Share) as follows:
 - i. No later than 21 days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendants will provide to the Settlement Administrator an electronic database containing each Class Member's Class Data. If any or all of the Class Data is unavailable to Defendant, Defendants will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described in section III (42), or pursuant to Defendants' express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration and shall not be used for any other purpose by Class Counsel. Defendants' records will be presumptively determinative in any dispute over entitlement to payment or over membership in the Class. This provision shall not be construed to impede Class Counsel's ability to discharge their fiduciary duties to the Class, and if additional disclosures are necessary, Class Counsel will obtain written authorization of Defendants and/or an order from the Court.
 - ii. The Settlement Administrator shall update the Class Data using the National Change of Address database prior to mailing the Class Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than 14 days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.

- iii. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly re-mail the Class Notice Packet to the Class Member no later than seven (7) business days after the receipt of the undelivered Class Notice. The Settlement Administrator will also email a copy of the re-mailed Class Notice to the Class Member if there is an available email address in the Class Data. The Settlement Administrator will use the Class Data and otherwise work with Defendants to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendants' Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.
- iv. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendants' Counsel of the number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.
- v. Not later than 10 days before the date by which the Plaintiffs file the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections) and objections received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.
- d. **Objections to Settlement; Disputes as to Workweeks allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement and/or objections to the Class Counsel Fees Payment and/or Class Counsel Litigation

Expenses Payment. Class Members may also submit disputes as to workweeks allocated to them and Elections Not to Participate in Settlement pursuant to the following procedures:

- i. **Objections to Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments may object to the proposed Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. Written objections must set forth the grounds for the objection(s) and comply with the instructions in the Class Notice, however a written objection shall not be invalid simply because it does not contain all of the information requested. Alternatively, Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments. Absent a finding of good cause by the Court, a Participating Class Member who does not submit an objection in the manner and by the deadline specified above and in the Class Notice will be deemed to have waived any objection and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.
- ii. **Disputes as to Workweeks.** Each Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the number of workweeks the Class Notice allocates to them during the Class Period. Any notice of dispute shall be directed to the Settlement Administrator. Any dispute as to this allocation shall be resolved by the Settlement Administrator, with input and assistance from Defendants' Counsel, where applicable. Defendant's records will be presumptively determinative in any dispute over entitlement to payment or over membership in the Class.
- iii. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator

postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed Election Not to Participate in Settlement. To be valid, an Election Not to Participate in Settlement must be timely and should comply with the instructions in the Class Notice, however an Election Not to Participate in Settlement shall not be invalid simply because it does not contain all of the information requested. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion. Defendants will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendants has or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement.

- iv. **Report.** Not later than ten (10) calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administrator will provide Class Counsel and Defendants' Counsel with a complete and accurate list of all Elections Not to Participate in Settlement and objections received by the Settlement Administrator.

- e. **Right of Defendants to Reject Settlement.** If either (i) 5% or more of the Settlement Class, or, (ii) a number of Settlement Class members whose share of the class settlement proceeds is 5% of the Gross Settlement Amount or more opt out of the settlement, Defendants may, at their election, rescind the settlement, including any obligation by Defendants to pay the Gross Settlement Amount or any amounts that otherwise would have been owed under this Agreement. Defendants must exercise this right of rescission, in writing, to Plaintiffs' counsel of record in the Actions within thirty (30) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs.
- f. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement. If a Class Member submits an Election Not to Participate in Settlement, Class Counsel will not solicit, represent, or otherwise encourage that Non-Participating Class Member to participate in separate litigation against Defendant. Class Counsel agrees it will not represent a Non-Participating Class Member in separate litigation against Defendant.
- g. **Additional Briefing and Final Approval.**
 - i. Unless otherwise ordered by the Court, Class Counsel will file with the Court their motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments no later than the date Plaintiffs file the Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
 - ii. Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiffs will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administration Expenses.
 - iii. If any opposition is filed to the motion for final approval and/or the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the PAGA Payment, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for final approval, and Plaintiffs and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel Fees Payments, and the Class Counsel Litigation Expenses Payment.

- iv. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiffs and Class Counsel for the PAGA Payment, Class Representative Service Payments, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - v. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment substantially in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.
40. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiffs and Participating Class Members who did not timely submit an objection to the Settlement, Defendants, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.
41. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen (14) days after the reviewing Court's decision

vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payments or the Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendants' obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

42. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendants shall fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. Defendants shall fund the Gross Settlement Amount and the amount necessary to pay Defendants' share of payroll taxes within fifteen calendar days (15) days of the Effective Date. Within fifteen (15) calendar days after Defendants fund the Gross Settlement Amount, the Settlement Administrator will make payment of all Settlement Shares to all Participating Class Members, even if their Class Notice was undeliverable, as well as payment of Settlement Administration Expenses, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payments and the PAGA Payment in accordance with this Agreement.
43. **Uncashed Settlement Checks.** Before checks are mailed, the Settlement Administrator shall update address information through the National Change of Address database. A Participating Class Member or Aggrieved Employee must cash his or her Settlement Share check within 180 days after it is mailed to him or her. The expiration date of the check must be conspicuously printed on the check, and shall be mailed in an envelope substantially in the form attached hereto as Exhibit A. If a check is returned to the Settlement Administrator or not cashed within 120 days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected individual at his or her correct address by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 60-day period after this notice, the funds from such uncashed checks will be paid to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check, and the Participating Class Member or Aggrieved Employee will remain bound by the Settlement. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure Section 384, as the entire Net Settlement Amount will be paid out to Participating Class Members or Aggrieved Employees, whether or not they all cash their Settlement Share checks.

44. **Final Report by Settlement Administrator to Court.** Within ten (10) days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.
45. **Release of Claims.**
- a. **Participating Class Members.** Upon the Effective Date and full funding of the Gross Settlement Amount, Defendants and the Released Parties shall receive a release from the Participating Class Members of all class claims, rights, demands, liabilities, penalties, wages, and causes of action that were pled or could have been pled based on the factual allegations contained in the operative complaint which occurred during the Class Period and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period ("Released Class Claims"). The Released Class Claims specifically include claims for (1) Unfair Competition; (2) Unpaid Minimum Wages; (3) Unpaid Overtime; (4) Failure to Provide Meal Periods, (5) Failure to provide Rest Periods; (6) Failure to Reimburse for Business Expenses; (7) Inaccurate Wage Statements; (8) Waiting Time Penalties; and (9) Civil Penalties under PAGA during the Class Period, and includes claims arising under the following Labor Code statutes which are based on the facts and circumstances alleged in the Complaint: 201 – 204; 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s).
 - b. **Aggrieved Employees.** Upon the Effective Date and the full funding of the Gross Settlement Amount, Defendants shall receive a release from the State of California of all PAGA claims for civil penalties under California Labor Code Sections 2698 *et. seq.* that were pled or could have been pled based on the factual allegations contained in the Complaint and PAGA letters sent by Plaintiffs which occurred during the PAGA Period as to the Aggrieved Employees ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class. The Released PAGA Claims expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.
 - c. **Plaintiffs.** Upon the Effective Date and the full funding of the Gross Settlement Amount and Plaintiffs' separate payments for settlement of Plaintiffs' other claims unrelated to the class claims, Plaintiffs generally, release and discharge the Released Parties from any and all claims,

transactions or occurrences between them that occurred during the Class Period (“Plaintiffs’ Released Claims”). This release of Plaintiffs’ Released Claims releases the Released Parties from any claim that Plaintiffs could maintain in any action against any Released Party that occurred during the Class Period. Notwithstanding the foregoing, this waiver and release of Plaintiffs’ Released Claims does not extend to any rights which as a matter of law cannot be waived and released by private agreement, including rights to sue to enforce this Agreement and rights to vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits, and claims outside the Class Period.

Plaintiffs acknowledge that they may discover facts or law different from, or in addition to the facts or law that they know or believe to be true with respect to the claims and matters released by way of this Agreement and agrees, nonetheless, that this Agreement and the releases contained in it shall be and remain effective in all respects, notwithstanding such different or additional facts or the discovery of them. The Parties declare and represent that they intend this Agreement to be complete and not subject to any claim of mistake, and that the releases herein express full and complete releases, and that they intend that the releases herein shall be final and complete.

- d. **Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payment, the Plaintiffs’ Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiffs discovers facts and/or claims in addition to or different from those that she now knows or believes to be true with respect to the subject matter of the Plaintiffs’ Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiffs’ Released Claims, Plaintiffs expressly waive and relinquishes the provisions, rights and benefits 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.

- e. **Plaintiffs’ Other Claims.** Plaintiffs represent that they have additional individual claims against Defendants. Plaintiffs are separately settling these individual claims. In addition to the Gross Settlement Amount, Plaintiffs will also separately be paid for resolution of their individual claims as set forth in their separate confidential individual settlement agreements. These individual settlements to be paid to Plaintiffs are in addition to the Gross Settlement Amount and will be memorialized in

confidential individual settlement agreements that will be separate from this Agreement. If the Court requires the Parties to submit the terms of the individual settlement agreement to obtain approval of this Settlement, the Parties agree that the individual settlement agreement will be submitted in camera under seal to the Court.

- f. **Class Counsel.** As of the date the Defendants fully fund the Gross Settlement Amount, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendants arising from or related to the Action.
46. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiffs or Participating Class Members, and Plaintiffs and Participating Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.
47. **Limitation on Public Statements About Settlement.** The Parties and their attorneys will keep the settlement confidential through Preliminary Approval. Plaintiff and Class Counsel represent that they have not and will not issue any press, publications, or other media releases about the Settlement (including, but not necessarily limited to advertising or marketing materials or on social media) or have any communication with the press or media or anyone else regarding the Settlement. Neither Plaintiff nor Defendant will issue any press release or other public or non-public representation regarding the Settlement other than as necessary to obtain Court approval and effectuate the terms of the Settlement. This provision shall not prohibit Class Counsel from communicating with Class Members after preliminary approval is granted for the sole purpose of administering the Settlement. Plaintiff and Class Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the court. Class Counsel will not communicate with other wage-hour plaintiffs' counsel about this Settlement, nor utilize it in any way in their marketing or advertising materials or website until after final approval is granted by the Court, except this provision does not limit Class Counsel from complying with ethical obligations or from posting court-filed documents on their website for viewing by Class Members after preliminary approval. The motions for approval, the motion for attorneys' fees and the Judgment shall be posted on a static website as set forth in the Class Notice. Nothing in this provision shall prevent Defendants or Plaintiffs from making any required disclosures.

IV. MISCELLANEOUS TERMS

48. No Admission of Liability or Class Certification for Other Purposes.

- a. Defendants and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendants or the Released Parties, or an admission by Plaintiffs that any of the claims were non-meritorious or any defense asserted by Defendants was meritorious. This Settlement and the fact that Plaintiffs and Defendants were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendants of any liability or wrongdoing as to Plaintiff, Class Members, or any other person, and Defendants specifically disclaim any such liability or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks. Nothing in this Agreement shall be construed as an admission by Plaintiffs that Plaintiffs' claims do not have merit or that class action is inappropriate. Defendants agree to certification of this class solely for purposes of this settlement. It is not an admission that class certification is proper. It also is not an admission that Defendants are joint employers. Should any part of this settlement not be approved or be terminated, the settlement class (if certified) will be decertified and the conditional agreement to class certification will be inadmissible and have no effect on any future actions related to this litigation.
- b. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiffs or Defendants or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding

except for purposes of effectuating the Settlement pursuant to this Agreement.

- c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

- 49. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 50. **Attorney Authorization.** Class Counsel and Defendants' Counsel 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 required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.
- 51. **No Prior Assignments:** The Parties represent, covenant 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 in this Settlement.
- 52. **No Tax Advice:** Neither Class Counsel nor Defendants' Counsel intend anything contained in this Settlement to constitute 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.
- 53. **Modification of Agreement.** Except as set forth in section 50 hereinabove, this Agreement, and any 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.

54. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
55. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
56. **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.
57. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
58. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendants in connection with the mediation or other settlement negotiations in this matter 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. Within thirty (30) days after the Defendants fully fund the Gross Settlement Amount, Class Counsel will return or destroy and confirm in writing to Defendants the destruction of all such documents and data.
59. **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.
60. **Notice.** All notices, demands or other communications given under 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, addressed as follows:

To Plaintiffs and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendants:

Mark S. Posard
Nicholas A. Deming
Gordon Rees Scully Mansukhani
275 Battery Street, Suite 2000
San Francisco, CA 94111
Tel.: (415) 986-5900
Fax: (415) 986-8054
Email: ndeming@grsm.com
mposard@grsm.com

61. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically 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 provided that 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.
62. **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 from the mediation with Tripper Ortman on January 26, 2022, until the earlier of the Effective Date or the date this Agreement shall not longer be of any force or effect.
63. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

V. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Jun 3, 2022

Hilary Cearley

Hilary Cearley (Jun 3, 2022 14:30 PDT)

Plaintiff Hilary Cearley

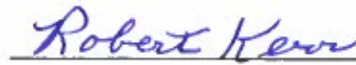
Dated: Jun 3, 2022

Yekaterina D Kucherova

Yekaterina D Kucherova (Jun 3, 2022 13:57 PDT)

Plaintiff Yekaterina Kucherova

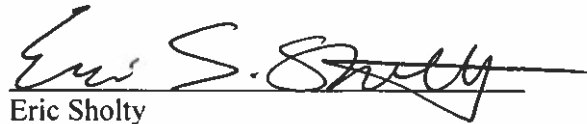
Dated: 06/21/2022



Robert Kerr

For Defendant University Retirement Community at Davis, Inc.

Dated: 6/21/22



Eric Sholty

For Defendant Pacific Retirement Services, Inc.

Dated: _____

Norman Blumenthal

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiff

Dated: June 27, 2022



Mark. S. Posard, Nicholas A. Deming

Gordon Rees Scully Mansukhani

Attorney for Defendants

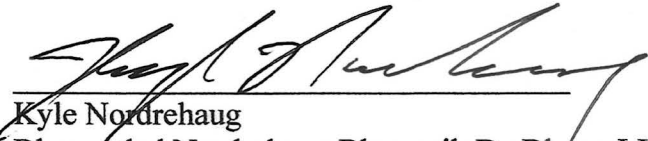
Dated: _____

Robert Kerr
For Defendant University Retirement Community at Davis, Inc.

Dated: _____

Eric Sholty
For Defendant Pacific Retirement Services, Inc.

Dated: 6/3/22



Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: _____

Mark. S. Posard
Gordon Rees Scully Mansukhani
Attorney for Defendants

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

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

(Cearley v. University Retirement Community at Davis, Inc., Superior Court of the State of California, County of Yolo, Case No. CV2021-0524 and CV2021-0531)

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<<__>>. See the explanation in Section 5 below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the settlement payment, you will release claims against the Defendant as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion. Instructions are set forth in Section 7 below.
Object	Write to the Court about why you do not agree with the settlement or appear at the Final Approval Hearing to make an oral objection. Directions are provided in Section 8 below.

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the Settlement you must take action by certain deadlines. If you want the Settlement as proposed, you don't need to do anything to obtain your share of the Settlement. The Defendants will not retaliate against you for any actions you take with respect to the Settlement.

1. Why did I get this Notice?

A proposed class action settlement (the "Settlement") of the above-listed action pending in the Superior Court of the State of California, in and for the County of Yolo (the "Court") has been reached between Plaintiffs Hilary Cearley and Yekaterina Kucherova ("Plaintiffs") and Defendants University Retirement Community at Davis, Inc., and Pacific Retirement Services, Inc. ("Defendants") and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are or previously were employed by Defendants in California who were classified as hourly, non-exempt employees at any time during the Class Period.

The “Class Period” is from March 26, 2017 through May 1, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On March 26, 2021, Plaintiffs filed a Class Action Complaint in the Superior Court of the State of California, County of Yolo on behalf of the Class asserting the following class claims against Defendants: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods, failure to provide required rest periods, failure to provide accurate itemized wage statements, failure to provide expense reimbursement, and failure to pay wages when due. On March 26, 2021, Plaintiffs also filed a separate Representative PAGA Action Complaint against Defendants for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. (the Private Attorneys General Act (“PAGA”) for violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s). As part of this Settlement, the Parties agree to stipulate to consolidate the Class Action Complaint with the Representative Action Complaint. These consolidated lawsuits are referred to as the “Action”.

Defendants deny and dispute all such claims. Specifically, Defendants contends that Plaintiff and the Class Members were properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendants complied with California wage statement requirements; that Defendants are not liable for any of the penalties claimed or that could be claimed in the Action; and that this Action cannot be maintained as a class action.

The Action has been actively litigated. There have been on-going investigations, and there has been an exchange of documentation and information. Furthermore, the Parties have engaged in arms-length private mediation before a well-respected independent mediator. Based upon the negotiations, and all known facts and circumstances, including the various risks and uncertainties related to legal actions, the Parties reached a class-wide Settlement based upon settlement terms recommended by the private mediator. By settling, the Parties will avoid the risks associated with a lengthy litigation process. Despite agreeing to and supporting the Settlement, Defendants continue to deny all allegations and claims.

The Parties have entered into a Class Action Settlement Agreement (“Settlement”). The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class

Representatives, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an “all in” amount of Seven Hundred Thousand Dollars (\$700,000) (the “Gross Settlement Amount”) to fund the settlement of this Action. The Gross Settlement Amount includes all payments of Settlement Shares to Class Members contemplated by the Settlement, the Settlement Administration Expenses, the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the PAGA Payment for civil penalties. Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be paid separately by Defendants.

Within fifteen calendar days (15) days of the Effective Date, Defendants will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. The “Effective Date” means the date the Judgment is entered, or if there are objections or appeals, the date the Judgment is no longer subject to appeal. Fifteen calendar days (15) days after the settlement is funded, the Settlement Administrator will mail checks for the Settlement Shares to Participating Class Members.

Amounts to be Paid From the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount as follows, which will be subject to final Court approval, and which will be deducted from the Gross Settlement Amount before Settlement Shares are made to Class Members who do not request exclusion (“Participating Class Members”):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$15,000, for expenses, including without limitation expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Settlement Shares and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which is presently \$233,333 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses.
- Class Representative Service Payments. Class Representative Service Payments in an amount not to exceed Ten Thousand Dollars (\$10,000.00) each to the two Plaintiffs, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook.
- PAGA Payment. A payment of \$15,000 relating to the claim for penalties under the Private Attorney Generals Act (“PAGA”), \$11,250 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA Payment”). The

remaining \$2,500 will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period (August 20, 2019 through May 1, 2022). “Aggrieved Employees” mean all individuals who are or previously were employed by Defendants in California who were classified as hourly, non-exempt employees at any time during the PAGA Period. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

Calculation of Payments to Class Members. After all of the payments of the court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payments, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion called the “Net Settlement Amount” shall be distributed to Class Members as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ _____. Settlement Administrator will pay a *pro rata* Settlement Share from the Net Settlement Amount to each Participating Class Member. The Settlement Share for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of weeks included in the dates of employment to determine a dollar amount per week (“Weekly Rate”); and (b) the Settlement Administrator shall then take the number of weeks worked by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. One-third (1/3%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Two-Thirds of each Participating Class Member’s Settlement Share is in settlement of claims for interest, non-wage damages and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendants’ Counsel intend anything contained in this Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. Who and What Do I Release Under the Settlement?

Released Parties. The “Released Parties” collectively mean: Defendants, their predecessors, successors, parent companies, related entities, subsidiaries, affiliates, investors, management companies, franchisees, owners, attorneys, vendors, and assigns, and their directors, officers,

trustees, employees, agents, insurers, and re-insurers, whether in their individual or official capacities.

Released Class Claims. Upon the Effective Date and full funding of the Gross Settlement Amount, Defendants and the Released Parties shall receive a release from the Participating Class Members of all class claims, rights, demands, liabilities, penalties, wages, and causes of action that were pled or could have been pled based on the factual allegations contained in the operative complaint which occurred during the Class Period and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period ("Released Class Claims"). The Released Class Claims specifically include claims for (1) Unfair Competition; (2) Unpaid Minimum Wages; (3) Unpaid Overtime; (4) Failure to Provide Meal Periods, (5) Failure to provide Rest Periods; (6) Failure to Reimburse for Business Expenses; (7) Inaccurate Wage Statements; (8) Waiting Time Penalties; and (9) Civil Penalties under PAGA during the Class Period, and includes claims arising under the following Labor Code statutes which are based on the facts and circumstances alleged in the Complaint: 201 – 204; 210, 226(a), 226.7, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040 Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s).

This means that, if you do not timely exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants and any other Released Party about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released PAGA Claims. Upon the Effective Date and the full funding of the Gross Settlement Amount, Defendants shall receive a release from the State of California of all PAGA claims for civil penalties under California Labor Code Sections 2698 *et. seq.* that were pled or could have been pled based on the factual allegations contained in the Complaint and PAGA letters sent by Plaintiffs which occurred during the PAGA Period as to the Aggrieved Employees ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class. The Released PAGA Claims expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside of the PAGA Period.

5. How much will my payment be?

The Weekly Rate is estimated to be <<\$_____>>. Defendants' records reflect that you have <<_____>> weeks worked during the Class Period (March 26, 2017 through May 1, 2022).

Based on this information, your estimated Settlement Share is <<_____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than _____ [forty-five (45) days after the mailing of the Class Notice]. All workweek disputes will be resolved and decided by the Settlement Administrator.

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your Settlement Share will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: ILYM Group (800) _____.

The Court will hold a Final Approval Hearing on _____, at _____ to decide whether to grant final approval of the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will not receive a Settlement Share from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless whether they submit a request for exclusion.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than _____ [forty-five (45) days after the date of the Notice]. The request to opt-out must be postmarked or received by the Settlement Administrator by this deadline and should: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Class and Released Class Claims in the *Cearley v. University Retirement Community at Davis* lawsuit; (2) contain the name, address, and the last four digits of the Social Security Number of the person requesting exclusion; (3) state the Class Member's request to exclude himself or herself from the Settlement and to opt out of the Settlement; and (4) be signed by the Class Member or his or her lawful representative. Please include the name and number of the case, which is *Cearley v. University Retirement Community at Davis*, Case No. CV2021-0524. The request to opt-out must be signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned may be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I don't agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs and/or the service awards, either in writing or in person. Objections that are in writing and must state the Class Member's name, current address, the approximate dates of employment in California by Defendants, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is *Cearley v. University*

Retirement Community at Davis, in the Superior Court of the State of California, County of Yolo, Case No. CV2021-0524.

All written objections must be mailed to the Settlement Administrator at _____ no later than _____ [forty-five (45) days after the date of the Notice]. Any Class Member who does not request exclusion may, if the Class Member so desires, enter an appearance through their own counsel.

Alternatively, Class Members may appear remotely at the Final Approval Hearing on _____ at _____ to make an oral objection without submitting a written objection or to otherwise participate in the Final Approval Hearing. Check the Court's website for the most current information concerning appearances and procedures at the Court - <https://www.yolo.courts.ca.gov/online-services/zoom-remote-appearances>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Settlement Share. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at _____ on _____, in Department 10 of the Superior Court of California, County of Yolo, 1000 Main St., Woodland, CA 95695, before Judge Samuel T. McAdam. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiff. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _____ or write to *Cearley v. University Retirement Community at Davis* Settlement Administrator, c/o _____; or contact the Class Counsel in this matter.

The contact information for Parties' counsel are as follows:

Class Counsel:Blumenthal Nordrehaug Bhowmik De Blouw LLP

Norman Blumenthal

Kyle Nordrehaug

2255 Calle Clara

La Jolla, CA 92037

Tel: 858-551-1223 / Fax: 858-551-1232

Email: kyle@bamlawca.com**Counsel for Defendants:**Gordon Rees Scully Mansukhani

Mark S. Posard

Nicholas A. Deming

275 Battery Street, Suite 2000

San Francisco, CA 94111

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval, or other Settlement documents from Class Counsel's website at www.bamlawca.com under "Class Notices" for *Cearley v. University Retirement Community at Davis* where these documents will be posted. You may also get more details by examining the Court's file via the website for the California Superior Court for the County of Yolo (<https://portal-cayolo.tylertech.cloud/Portal/>) and entering the Case No. CV2021-0524.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date will be printed on the check. In such event, the Settlement Administrator shall pay all unclaimed funds to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check where the funds may be claimed.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

HILARY CEARLEY and YEKATERINA
KUCHEROVA, et al.,

Plaintiff,

vs.

UNIVERSITY RETIREMENT
COMMUNITY AT DAVIS, INC., a
Corporation; PACIFIC RETIREMENT
SERVICES, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: **CV2021-0524**
(Consolidated with Case No. CV2021-0531)

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Samuel T. McAdam
Dept. 10

Action Filed: March 26, 2021
Trial Date: Not Set

This matter, having come before the Honorable Samuel T. McAdam of the Superior Court of the State of California, in and for the County of Yolo, on _____[DATE], for the motion by Plaintiffs Hilary Cearley and Yekaterina Kucherova ("Plaintiffs") for preliminary approval of the class settlement with Defendants University Retirement Community at Davis, Inc., and Pacific Retirement Services, Inc. (collectively, "Defendants"). The Court, having considered the briefing,

PRELIMINARY APPROVAL ORDER

1 the declaration, and all matters presented to the Court and good cause appearing, hereby GRANTS
2 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.

3 **IT IS HEREBY ORDERED:**

4 1. The Court preliminarily approves the Class Action Settlement Agreement
5 ("Agreement") attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in Support of
6 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement. This is based on the
7 Court's determination that the Settlement set forth in the Agreement is within the range of possible
8 final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure
9 and California Rules of Court, rule 3.769.

10 2. This Order incorporates by reference the definitions in the Agreement, and all
11 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

12 3. The Gross Settlement Amount is Seven Hundred Thousand Dollars (\$700,000). It
13 appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate
14 and reasonable as to all potential Class Members when balanced against the probable outcome of
15 further litigation and the significant risks relating to certification, liability and damages issues. It
16 further appears that investigation and research have been conducted such that counsel for the
17 Parties are able to reasonably evaluate their respective positions. It further appears to the Court
18 that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid
19 the delay and risks that would be presented by the further prosecution of the Action. It further
20 appears that the Settlement has been reached as the result of serious and non-collusive, arms-
21 length negotiations. The Court therefore preliminarily finds that the Settlement is fair, adequate,
22 and reasonable when balanced against the probable outcome of further litigation and the
23 significant risks relating to certification, liability, and damages issues.

24 4. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
25 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and
26 proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
27 \$10,000 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount

1 of any service award, until the Final Approval Hearing. Plaintiffs will be required to present
2 evidence supporting these requests, including lodestar, prior to final approval.

3 5. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
4 certification of a class for settlement purposes only. This stipulation will not be deemed
5 admissible in this or any other proceeding should this Settlement not become final. For settlement
6 purposes only, the Court conditionally certifies the following Class: “all individuals who are or
7 previously were employed by Defendants in California who were classified as hourly, non-exempt
8 employees at any time during the Class Period.” The Class Period is the period of time from
9 March 26, 2017 through May 1, 2022.

10 6. The Court concludes that, for settlement purposes only, the Class meets the
11 requirements for certification under section 382 of the California Code of Civil Procedure in that:
12 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
13 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
14 community of interest amongst the members of the Class with respect to the subject matter of the
15 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
16 the Plaintiffs can fairly and adequately protect the interests of the members of the Class; (e) a class
17 action is superior to other available methods for the efficient resolution of this controversy; and (f)
18 counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are adequate
19 representatives of the Class.

20 7. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
21 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
22 Nicholas J. De Blouw, and Jeffrey S. Herman of Blumenthal Nordrehaug Bhowmik De Blouw
23 LLP as Class Counsel for the Class.

24 8. The Court hereby approves, as to form and content, the Notice of Proposed
25 Settlement of Class Action and Hearing Date for Final Court Approval (“Class Notice”) attached
26 to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and
27 accurately inform the Class of all material elements of the proposed Settlement, of the Class
28

1 Members' right to be excluded from the Class by submitting a written opt-out request, and of each
2 member's right and opportunity to object to the Settlement. The Court further finds that the
3 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
4 and this Order meets the requirements of due process, is the best notice practicable under the
5 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
6 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
7 the Agreement.

8 9. The Court hereby appoints ILYM Group as Settlement Administrator. No later
9 than 21 after the Court enters this Order, Defendant will provide to the Settlement Administrator
10 only an electronic database containing each Class Member's Class Data. The Settlement
11 Administrator will perform address updates using the National Change of Address ("NCOA")
12 database prior to the mailing of the Class Notice. Using best efforts to mail it as soon as possible,
13 and in no event later than 14 days after receiving the Class Data, the Settlement Administrator will
14 mail the Class Notice Packets to all Class Members via first-class U.S. Mail.

15 10. The Court hereby approves the procedures for Class Members to participate in, opt
16 out of, or object to the Settlement as set forth in the Settlement Agreement and the Class
17 Notice. Any Class Member may individually choose to opt out of and be excluded from the Class
18 as provided in the Class Notice by following the instructions for requesting exclusion from the
19 Class that are set forth in the Class Notice. All requests for exclusion must be postmarked to the
20 Settlement Administrator by no later than forty-five (45) calendar days after the date of the
21 mailing of the Class Notice, which deadline shall be printed in the Class Notice. Any such person
22 who chooses to opt out of and be excluded from the Class will not be entitled to any recovery
23 under the Settlement and will not be bound by the Settlement or have any right to object, appeal or
24 comment thereon. Class Members who have not requested exclusion shall be bound by all
25 determinations of the Court, the Agreement and the Judgment. A request for exclusion may only
26 opt out that particular individual, and any attempt to effect an opt out of a group, class, or subclass
27 of individuals is not permitted and will be deemed invalid.

1 11. Any Class Member who has not opted out may appear at the final approval hearing
2 and may object or express the Member's views regarding the Settlement, and may present
3 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
4 and determined by the Court as provided in the Notice. Class Members will have forty-five (45)
5 days from the date of the mailing of the Class Notices to postmark their written objections to the
6 Settlement Administrator with copies to counsel for both Parties in accordance with the
7 instructions in the Class Notice. Alternatively, Class Members may appear at the Final Approval
8 Hearing to make an oral objection.

9 12. A Final Approval Hearing shall be held before this Court on _____
10 _____ at _____ in Department 10 of the Yolo County Superior Court to determine
11 all necessary matters concerning the Settlement, including: whether the proposed settlement of the
12 Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable
13 and should be finally approved by the Court; whether the Final Approval Order and Judgment
14 should be entered herein; whether the plan of allocation contained in the Agreement should be
15 approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys'
16 fees and costs, the service awards, and the expenses of the Settlement Administrator. All papers in
17 support of the motion for final approval and the motion for attorneys' fees, costs and service
18 awards shall be filed with the Court and served on all counsel no later than sixteen (16) court days
19 before the hearing and both motions shall to be heard at the Final Approval Hearing.

20 13. Neither the Settlement nor any exhibit, document, or instrument delivered
21 thereunder shall be construed as a concession or admission by Defendants in any way that the
22 claims asserted have any merit or that this Action was properly brought as a class or representative
23 action, and shall not be used as evidence of, or used against Defendants as, an admission or
24 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
25 omission by Defendants or with respect to the truth of any allegation asserted by any person.
26 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
27 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
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1 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
2 deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to,
3 evidence of a presumption, concession, indication or admission by Defendants of any liability,
4 fault, wrongdoing, omission, concession or damage.

5 14. In the event the Settlement does not become effective in accordance with the terms
6 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
7 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
8 and the Parties shall revert to their respective positions as of before entering into the Agreement,
9 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
10 including all available defenses and affirmative defenses, and arguments that any claim in the
11 Action could not be certified as a class action and/or managed as a representative action. In such
12 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
13 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
14 the Agreement with respect to the effect of the Agreement if it is not approved.

15 15. The Court reserves the right to adjourn or continue the date of the final approval
16 hearing and all dates provided for in the Agreement without further notice to Class Members, and
17 retains jurisdiction to consider all further applications arising out of or connected with the
18 proposed Settlement.

19 16. The Action is stayed and all trial and related pre-trial dates are vacated, with the
20 exception of the settlement approval process and subject to further orders of the Court at the Final
21 Approval Hearing.

22 **IT IS SO ORDERED.**

23
24 Dated: _____

25 _____
26 HON. SAMUEL T. MCADAM
27 JUDGE, SUPERIOR COURT OF CALIFORNIA,
28 COUNTY OF YOLO

PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF YOLO

HILARY CEARLEY and YEKATERINA
KUCHEROVA, et al.,

Plaintiff,

vs.

UNIVERSITY RETIREMENT
COMMUNITY AT DAVIS, INC., a
Corporation; PACIFIC RETIREMENT
SERVICES, INC., a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: CV-2019-1797

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Samuel T. McAdam
Dept.: 10

Action Filed: March 26, 2021
Trial date: None Set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiffs Hilary Cearley and Yekaterina Kucherova (“Plaintiffs”) for an
2 order finally approving the Class Action Settlement Agreement (“Agreement”) with Defendants
3 University Retirement Community at Davis, Inc., and Pacific Retirement Services, Inc.
4 (collectively, “Defendants”), attorneys’ fees and costs, service payments, and the fees and
5 expenses of the Settlement Administrator duly came on for hearing on _____ before
6 the Honorable Samuel T. McAdam.

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

- 11 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 12 2. This Court has jurisdiction over the subject matter of this litigation pending before
13 the California Superior Court for the County of Yolo, and over all Parties to this litigation,
14 including the Class.
- 15 3. Based on a review of the papers submitted by Plaintiff and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount of Seven Hundred Thousand
17 Dollars (\$700,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On _____, the Court granted preliminary approval of the Settlement. At
26 this same time, the Court approved conditional certification of the Class for settlement purposes
27 only.

1 **Notice to the Class**

2 6. In compliance with the Preliminary Approval Order, the Class Notice was mailed
3 by first class mail to members of the Class at their last known addresses on or about
4 _____. Mailing of the Class Notice to their last known addresses was the best notice
5 practicable under the circumstances and was reasonably calculated to communicate actual notice
6 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
7 Members fully and accurately informed the Class Members of all material elements of the
8 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
9 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
10 fully with the laws of the State of California, the United States Constitution, due process and other
11 applicable law. The Class Notice fairly and adequately described the Settlement and provided
12 Class Members adequate instructions and a variety of means to obtain additional information.

13 7. The deadline for opting out of the Class or submitting written objections to the
14 Settlement was _____. There was an adequate interval between notice and the deadline
15 to permit Class Members to choose what to do and act on their decision. A full opportunity has
16 been afforded to the Class Members to participate in this hearing, and all Class Members and other
17 persons wishing to be heard have been heard. Class Members also have had a full and fair
18 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
19 Court determines that all Class Members who did not timely and properly submit a request for
20 exclusion are bound by the Settlement and this Final Approval Order and Judgment.

21 **Fairness Of Settlement**

22 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
23 48 Cal.App.4th 1794, 1801 (1996).

24 a. The settlement was reached through arm's-length bargaining between the
25 parties during an all-day mediation before Tripper Ortman, Esq., a respected and experienced
26 mediator of wage and hour class actions based on a mediator's proposal. There has been no
27 collusion between the parties in reaching the proposed settlement.

1 b. Plaintiffs' investigation and discovery have been sufficient to allow the
2 Court and counsel to act intelligently.

3 c. Counsel for both parties are experienced in similar employment class action
4 litigation. All counsel recommended approval of the Agreement.

5 d. The percentage of objectors and requests for exclusion is small. ____
6 objections were received. _____ requests for exclusion were received.

7 e. The participation rate was high. _____ Class Members will be mailed a
8 settlement payment, representing ____% of the overall Class.

9 9. The consideration to be given to the Class Members under the terms of the
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
12 Members' claims, given the uncertainties and significant risks of the litigation and the delays
13 which would ensue from continued prosecution of the action.

14 10. The Agreement is approved as fair, adequate and reasonable and in the best
15 interests of the Class Members.

16 **Attorneys' Fees and Costs**

17 11. An award of \$_____ for attorneys' fees, representing one-third of the
18 Gross Settlement Amount, and \$_____ for litigation costs and expenses, is reasonable,
19 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and
20 the results achieved by Class Counsel. The requested award has been supported by Class
21 Counsel's lodestar and billing statement.

22 **Class Representative Service Payments**

23 12. The Agreement provides for Class Representative Service Payments of not more
24 than \$10,000 to each Plaintiff, subject to the Court's approval. The Court finds that Class
25 Representative Service Payments in the amount of \$_____ to each of the Plaintiffs is reasonable
26 in light of the risks and burdens undertaken by the Plaintiff in this litigation, for their time and
27
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1 effort in bringing and prosecuting this matter on behalf of the Class, and for their execution of a
2 general release.

3 **Settlement Administration Expenses**

4 13. The Settlement Administrator shall calculate and administer the payments to be
5 made to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel,
6 transmit the Class Representative Service Payments to the Plaintiffs, distribute the PAGA
7 Payment, issue any required tax reporting forms, calculate withholdings and perform the other
8 remaining duties set forth in the Agreement. The Settlement Administrator ILYM Group has
9 documented \$ _____ in fees and expenses, and this amount is reasonable in light of the work
10 performed by the Settlement Administrator.

11 **PAGA Payment**

12 14. The Agreement provides for a PAGA Payment out of the Gross Settlement
13 Amount of \$15,000, which shall be allocated 75% (\$11,250) to the Labor Workforce
14 Development Agency ("LWDA") as the LWDA's share of the settlement of civil penalties paid
15 under this Agreement pursuant to the PAGA and 25% (\$3,750) will be distributed to the
16 Aggrieved Employees based on their respective pay periods worked during the PAGA Period.
17 The Aggrieved Employees mean all individuals who are or previously were employed by
18 Defendants in California who were classified as hourly, non-exempt employees at any time during
19 the PAGA Period (August 20, 2019 through May 1, 2022). All Aggrieved Employees will be sent
20 their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims
21 as set forth below, whether or not they opt out of the Settlement. The Court finds this PAGA
22 Payment to be fair and reasonable.

23 **II.**

24 **ORDERS**

25 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

26 1. The Class is certified for the purposes of settlement only. The Class is hereby
27 defined as follows:

1 All individuals who are or previously were employed by Defendants in California
2 who were classified as hourly, non-exempt employees at any time during the Class
Period.

3 The Class Period is March 26, 2017 through May 1, 2022.

4 2. All persons who meet the foregoing definition are members of the Class, except for
5 ____ individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
6 REFERENCE TO IDENTIFY ANY OPT OUTS].

7 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
8 best interest of the Class.

9 4. Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De
10 Blouw, and Jeffrey S. Herman of Blumenthal Nordrehaug Bhowmik De Blouw LLP are confirmed
11 as Class Counsel. Class Counsel are awarded attorneys' fees in the amount of \$_____ and
12 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
13 compensation or reimbursement from Defendants, Plaintiffs or members of the Class.

14 5. Plaintiffs are confirmed as the representatives of the Class. The payment of the
15 Class Representative Service Payments in the amount of \$_____ to each of the Plaintiffs is
16 approved.

17 6. The payment of \$_____ to the Settlement Administrator ILYM Group for
18 their fees and expenses is approved.

19 7. The PAGA Payment of \$15,000 is approved and shall be allocated in accordance
20 with the Agreement.

21 8. The Agreement and this Settlement are not an admission by Defendants, nor is this
22 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
23 wrongdoing by Defendants or that this Action is appropriate for class treatment (other than for
24 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
25 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
26 as, or may be used as an admission by or against Defendants of any fault, wrongdoing or liability
27 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
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1 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
2 admission or concession with regard to the denials or defenses by Defendants. Notwithstanding
3 these restrictions, Defendants may file in the Action or in any other proceeding this Final
4 Approval Order and Judgment, the Agreement, or any other papers and records on file in the
5 Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel,
6 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
7 Claims.

8 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
9 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
10 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
11 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
12 to individual Class Members.

13 10. If the Agreement does not become final and effective in accordance with the terms
14 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
15 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
16 revert to their respective positions as of before entering into the Agreement, and expressly reserve
17 their respective rights regarding the prosecution and defense of this Action, including all available
18 defenses and affirmative defenses, and arguments that any claim in the Action could not be
19 certified as a class action and/or managed as a representative action.

20 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

21 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
22 Plaintiff, and all members of the Class, shall take nothing in the Action.

23 2. The Parties are authorized, with approval from the Court, to agree to and to adopt
24 such amendments, modifications and expansions of the Agreement and all exhibits attached
25 thereto which are consistent with this Final Approval Order and Judgment and do not limit the
26 rights of the Parties or Class Members under the Agreement.

1 3. Each party shall bear its own attorneys' fees and costs, except as otherwise
2 provided in the Agreement and in this Final Approval Order and Judgment.

3 4. The "Released Parties" collectively mean: Defendants, their predecessors,
4 successors, parent companies, related entities, subsidiaries, affiliates, investors, management
5 companies, franchisees, owners, attorneys, vendors, and assigns, and their directors, officers,
6 trustees, employees, agents, insurers, and re-insurers, whether in their individual or official
7 capacities.

8 5. Upon the Effective Date and full funding of the Gross Settlement Amount,
9 Defendants and the Released Parties shall receive a release from the Participating Class Members
10 of all class claims, rights, demands, liabilities, penalties, wages, and causes of action that were
11 pled or could have been pled based on the factual allegations contained in the operative complaint
12 which occurred during the Class Period and expressly excluding all other claims, including claims
13 for vested benefits, wrongful termination, unemployment insurance, disability, social security,
14 workers' compensation, and class claims outside of the Class Period ("Released Class Claims").
15 The Released Class Claims specifically include claims for (1) Unfair Competition; (2) Unpaid
16 Minimum Wages; (3) Unpaid Overtime; (4) Failure to Provide Meal Periods, (5) Failure to
17 provide Rest Periods; (6) Failure to Reimburse for Business Expenses; (7) Inaccurate Wage
18 Statements; (8) Waiting Time Penalties; and (9) Civil Penalties under PAGA during the Class
19 Period, and includes claims arising under the following Labor Code statutes which are based on
20 the facts and circumstances alleged in the Complaint: 201 – 204; 210, 226(a), 226.7, 351, 510,
21 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8,
22 Section 11040 Subdivision 5(A)-(B), and the applicable Industrial Wage Order(s).

23 6. Upon the Effective Date and the full funding of the Gross Settlement Amount,
24 Defendants shall receive a release from the State of California of all PAGA claims for civil
25 penalties under California Labor Code Sections 2698 *et. seq.* that were pled or could have been
26 pled based on the factual allegations contained in the Complaint and PAGA letters sent by
27 Plaintiffs which occurred during the PAGA Period as to the Aggrieved Employees ("Released
28

1 PAGA Claims”). The release of the Released PAGA Claims shall be effective as regardless of
2 whether an Aggrieved Employee submitted a request for an exclusion from the Class. The
3 Released PAGA Claims expressly exclude all other claims, including claims for vested benefits,
4 wrongful termination, unemployment insurance, disability, social security, workers’
5 compensation, and PAGA claims outside of the PAGA Period.

6 7. Upon the Effective Date and the full funding of the Gross Settlement Amount,
7 Plaintiffs generally release and discharge the Released Parties from all of the Plaintiffs’ Released
8 Claims as set forth fully in the Agreement.

9 8. The Court hereby enters judgment in the entire Action as of the filing date of this
10 Final Order, pursuant to the terms set forth in the Settlement. Without affecting the finality of this
11 Final Order in any way, the Court hereby retains continuing jurisdiction over the interpretation,
12 implementation, and enforcement of the Settlement and all orders entered in connection therewith
13 pursuant to California Code of Civil Procedure section 664.6.

14 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

15
16 Dated: _____

17
18 _____
19 HON. SAMUEL T. MCADAM
20 JUDGE, SUPERIOR COURT OF CALIFORNIA
21 COUNTY OF YOLO
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Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

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FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles, 75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391

(S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

CLASS ACTION & REPRESENTATIVE CASES

4G Wireless Wage Cases, Orange County Superior Court, JCCP No. 4736; Classic Party Rentals Wage & Hour Cases, Los Angeles Superior Court, Case No. JCCP No. 4672; Abu-Arafeh v. Norco Delivery Service, Inc., San Francisco County Superior Court, Case No. CGC-14-540601; Aburto v. Verizon, U.S. District Court, Southern District California, Case No. 11-cv-0088; Adkins v. Washington Mutual Bank, Class Certification Granted, San Diego County Superior Court, Case No. GIC819546; Agah v. CompUSA, U.S. District Court, Central District of California, Case No. SA CV05-1087 DOC (Anx); Akers v. The San Diego Union Tribune, San Diego County Superior Court, Case No 37-2010-00088571; Altman v. SolarCity Corporation, San Diego County Superior Court, Case No. 37-2014-00023450-CU-OE-CTL; Aquino v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00395420; Baker v. Advanced Disability Management, Inc., Sacramento County Superior Court, Case No. 34-2014-00160711; Barcia v. Contain-A-Way, U.S. District Court, Southern District California, Case No. 07 cv 0938; Bates v. Verengo, Inc., Orange County Superior Court, Case No. 30-2012-00619985-CU-OE-CXC; Battle v. Charming Charlie Inc., San Diego

County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training, Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris,(In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Dairy, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern

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Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: University Retirement

Requesting Attorneys Name: Kyle Nordrehaug
 E-Mail: kyle@bamlawca.com
 ILYM Contact: Sean Hartranft
 E-Mail: Sean@ilymgroupclassaction.com
 Contact Number: 949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	500
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	6	\$720.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	3	\$210.00
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Rate	\$100.00	1	\$100.00
Toll Free Customer Service Representative	Flat Fee	\$150.00	1	\$150.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$1,600.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING

Fulfillment of Notice	Per Piece	\$1.50	500	\$750.00
USPS First Class Postage	Per Piece	\$0.55	500	\$275.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	100	\$200.00
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$1,525.00

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Check, Stub & Release - Print & Mail (1099)	Per Check	\$1.50	500	\$750.00
USPS First Class Postage	Per Piece	\$0.55	500	\$275.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$2.00	50	\$100.00
Reminder Postcard, Includes Postage	Per Piece	\$1.00	175	\$175.00
Reminder Notice via Email and Social Media	Flat Fee	\$125.00	1	\$125.00
Preparation of Taxes	Hourly	\$120.00	12	\$1,440.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$5,465.00

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	4	\$400.00
Project Manager Final Reporting	Hourly	\$120.00	4	\$480.00
Process Unclaimed Funds to State Controller	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	4	\$500.00

Subtotal \$2,130.00

TOTAL CASE ESTIMATE: \$11,370.00

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.