

Larry W. Lee (State Bar No. 228175)
Mai Tulyathan (State Bar No. 316704)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
Polaris Law Group
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN JOAQUIN

MARTIN MORENO, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

MEDLINE INDUSTRIES, L.P., an Illinois
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: STK-CV-UOE-2020-7446

(Assigned to the Hon. Erin Guy Castillo, Dept.
10B)

**DECLARATION OF MAI TULYATHAN IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: May 11, 2022, May 12, 2022, or
May 13, 2022

Time: 9:00 a.m.

Dept.: 10B

Complaint Filed: September 8, 2020

FAC Filed: January 14, 2022

Trial: Not Set

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

1. I am an attorney at law duly admitted to practice before all courts in the State of California and am a member of the law firm of the Diversity Law Group, P.C., one of the attorneys of record for Plaintiff Martin Moreno (“Plaintiff”) in the above-entitled action. I have personal knowledge of the matters set forth herein, and if called upon as a witness to testify thereto, I could competently do so.

of the case, Class Counsel have zealously represented the
 and settlement was obtained for the benefit of the Class, not for the

4. As set forth in the PAGA notices, Plaintiff alleges that Defendant failed to provide accurate itemized wage statements under Labor Code § 226(a). Specifically, Plaintiff alleges that whenever Defendant paid overtime wages to its employees, the corresponding wage statements failed to identify the correct overtime rates of pay and the total hours worked. Additionally, Plaintiff alleges that whenever Defendant paid shift differential wages to its employees, the corresponding wage statements failed to identify the correct total hours worked.

6. On January 14, 2022, Plaintiff filed the operative First Amended Complaint. The operative First Amended Complaint alleges class and representative PAGA claims for violations of Labor Code § 226(a), based on the facts and theories alleged in Plaintiff's PAGA notices to the LWDA.

2

**DECLARATION OF MAI TULYATHAN IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

1 Plaintiff propounded his first set of written discovery, including Requests for Production of
2 Documents and Special Interrogatories. Defendant served its objections to written discovery on
3 March 23, 2021.

4 8. In light of the then-pending related case – *Russell v. Medline Industries, Inc.*,
5 United States District Court, Eastern District of California, Case No. 2:020-cv-00459-TLN-JDP
6 (the “*Russell*” action), Defendant subsequently filed a motion to stay this action pending final
7 resolution of the *Russell* action. On March 25, 2021, the Court granted Defendant’s motion and
8 stayed this action pending conclusion of the *Russell* action. The *Russell* action was dismissed by
9 the Court on May 11, 2021, and thus lifting the stay in this action.

10 MEDIATION

11 9. The Parties resumed formal discovery and continued to meet and confer regarding
12 supplemental discovery responses and documents after the stay was lifted in this after. In
13 connection with meet and confer discussions, the Parties agreed to attempt to resolve this matter
14 through private mediation.

15 10. In advance of the mediation, the Parties engaged in informal discovery, which
16 allowed Plaintiff to conduct a full damage analysis. Defendant provided informal data and
17 information pertaining to the putative class size and aggrieved employees and the number of pay
18 periods at issue, as well and information pertaining to Defendant’s wage statement policies and
19 practices.

20 11. On September 23, 2021, the Parties participated in an all-day mediation session
21 with mediator Michael Loeb, Esq. After a full day of negotiations, the Parties were able to reach
22 an agreement for settlement and the key terms, which was memorialized in a memorandum of
23 understanding. Each side has apprised the other of their respective factual contentions, legal
24 theories, and defenses, resulting in extensive arm’s length negotiations taking place among the
25 Parties.

26 12. The Parties subsequently formalized and executed the Class Action Settlement
27 Agreement (“Settlement Agreement”) on February 11, 2022. Attached hereto as **Exhibit A** is a
28 true and correct copy of the Settlement Agreement. A copy of the proposed notice to be sent to

Class Members is attached as Exhibit A to the Settlement Agreement.

SUMMARY OF THE MONETARY TERMS OF THE SETTLEMENT

13. The material terms of the settlement are memorialized in the Settlement Agreement. As defined by the Settlement Agreement, proposed Class consists of “all non-exempt persons who have been employed by Defendant in the State of California at any time during the Class Period, who received one or more wage statements during the Class Period.” (Settlement Agreement at ¶ I.C.) The Class Period is defined as “the period of time from January 19, 2020, through December 31, 2021.” (Settlement Agreement at ¶ I.H.) Defendant represents that there are approximately 3,077 individuals that comprise the Class during the Class Period. (Settlement Agreement at ¶ I.C.)

14. The Settlement Agreement provides for the Gross Settlement Amount of One Million and Six Hundred Thousand Dollars (\$1,600,000.00). (Settlement Agreement at ¶ I.Q.) The amount allocated to each Class Member will be based on each Participating Class Member’s Pay Period Count, as compared to the total Pay Period Count for all Participating Class Members. (Settlement Agreement at ¶ III.D.2.) The Participating Class Member Pay Period Count is comprised of the number of pay periods worked during the Class Period, plus the number of pay periods worked during the Class Period were Participating Class Members were paid shift differential and/or overtime wages. (*Id.*) This is a fair method of allocation, as it allocates recovery on a pro rata basis, and it directly provides greater recovery to individual Class Members who have allegedly suffered greater harm.

15. The Settlement Agreement allocates Forty Thousand Dollars (\$40,000.00) of the Gross Settlement Amount to PAGA penalties. (Settlement Agreement at ¶ III.C.3.) Pursuant to the PAGA, 75% of this amount, *i.e.*, the sum of Thirty Thousand Dollars (\$30,000.00), shall be paid to the LWDA. (*Id.*) The remaining 25%, *i.e.*, the sum of Ten Thousand Dollars (\$10,000.00), will become part of the Net Settlement Amount to be distributed to Aggrieved Employees based on the number of pay periods they worked during the PAGA Period. (*Id.*) Aggrieved Employees consist of “all current and former non-exempt hourly employees employed in the State of California by Defendant during the PAGA Period, who received one or more wage statements

1 during the PAGA Period.” (Settlement Agreement at ¶ I.B.)

2 16. As part of the Settlement Agreement, Defendant does not object to Plaintiff’s
3 Counsel’s request for attorneys’ fees of up to thirty-five percent (35%) of the Gross Settlement
4 Amount, *i.e.*, the sum of Five Hundred Sixty Thousand Dollars (\$560,000.00). (Settlement
5 Agreement at ¶ III.C.2.) Defendant also does not object to Plaintiff’s Counsel’s request for
6 reimbursement of actual litigation costs of up to Twenty-Five Thousand Dollars (\$25,000.00),
7 subject to the Court finally approving this Settlement. (*Id.*) Class Counsel have, at their own risk,
8 expended costs, for example, to file this instant action and other pleadings, effect service of
9 process, mediation costs, and pay other litigation related costs.

10 17. Defendant does not object to Plaintiff’s request for a Service Award of Twenty
11 Thousand Dollars (\$20,000.00), to compensate Plaintiff for prosecuting this action on behalf of
12 other employees and for executing a general release of all claims, including a waiver under Section
13 1542. (Settlement Agreement at ¶ III.C.1.)

14 18. Finally, the Settlement Agreement provides for the payment of the fees and
15 expenses reasonably incurred by the Settlement Administrator. (Settlement Agreement at ¶
16 III.C.4.) The Parties have received a quote from ILYM Group, Inc. for a fee of approximately
17 Seventeen Thousand Five Hundred Dollars (\$17,500.00) to administer the settlement. (*Id.* at ¶¶
18 I.Z, III.C.4, III.E.) ILYM Group, Inc. is a well-recognized class action settlement administrator.
19 The Parties believe that the administration fee is reasonable and should be approved. Any portion
20 of the Settlement Administration Costs not used or approved by the Court shall be added to the Net
21 Settlement Amount.

22 **PAYMENTS TO CLASS MEMBERS**

23 19. Provided that the Court approves the above amounts in full, Class Counsel
24 estimates that the Net Settlement Amount will be approximately \$947,500.00.

25 20. Defendant has represented that there are no more than 3,077 individuals that
26 comprise the Class. Based on the anticipated Net Settlement Amount, on a pure raw average, each
27 Participating Class Member will receive approximately \$307.93 each. The amount any particular
28 Participating Class Member will be entitled to recover will be greater or lower than this average,

1 depending on his or her Pay Period Count and the number of opt-outs received.

2 21. This is a non-reversionary settlement as the entirety of the settlement amount will
3 be fully paid out. (See Settlement Agreement at ¶ III.B.) Any Settlement Shares to Participating
4 Class Members that remain un-cashed within one hundred eighty (180) days of the mailing of
5 settlement payment checks by the Settlement Administrator will be sent to the designated *cy pres*
6 recipient, Legal Aid at Work. (See Settlement Agreement at ¶ III.F.9.)

7 **POTENTIAL STATUTORY AND CIVIL PENALTIES**

8 22. Using the data provided by Defendant, I performed a comprehensive damages
9 analysis. Plaintiff estimated that Defendant would face potential liability of up to approximately
10 \$7,058,250 for Plaintiff's class claims, pursuant to Labor Code § 226(e) if Plaintiff succeeded at
11 trial. Plaintiff was able to estimate the potential damages and penalties based on data provided by
12 Defendant, including the number of employees in the putative class (3,077) and the number of pay
13 periods at issue during the relevant time period (approximately 72,121 pay periods).

14 23. With respect to potential liability of Plaintiff's PAGA claim, Plaintiff estimated that
15 Defendant could face civil penalties of up to a maximum of \$7,212,100 if Plaintiff were successful
16 at trial. This amount is calculated based on the PAGA's initial \$100 penalty for each aggrieved
17 employee per pay period, based on the *Gunther v. Alaska Airlines, Inc.*, 72 Cal. App. 5th 334
18 (2021) decision, in which the Court held that the \$100 penalty applies to PAGA claims.

19 24. Thus, based on the data provided by Defendant, Plaintiff's counsel estimated total
20 penalties to be approximately \$14,270,350, if the Court awarded full penalties on both Plaintiff's
21 PAGA and class claims.

22 25. The penalty calculation assumes that Plaintiff will prevail both on class certification
23 and the merits. Although Plaintiff believes that a class can be certified, Plaintiff also believes in the
24 fairness of the settlement that is based on factoring in the uncertainty and risks to Plaintiff involved
25 in not prevailing on one or more of the theories alleged in the operative First Amended Complaint,
26 the possibility of non-certification, and the potential for appeals.

27 26. Among other risks, Defendant has argued that any alleged omission of information
28 from the wage statements was not a "knowing and intentional failure" by Defendant to comply

1 with Labor Code § 226(a), and penalties are therefore unwarranted. Significantly, Defendant also
2 indicated that it has revised its wage statements as of August 1, 2021, to correct the wage statement
3 deficiencies alleged in this lawsuit. As such, any liability that Plaintiff could seek in this lawsuit
4 would be limited. Defendant also argued that Plaintiff could not establish “injury” under Section
5 226(e), as (1) employees have access to Defendant’s online portal where they could obtain
6 accurate information regarding their pay, and (2) employees can determine total hours worked on
7 certain wage statements.

8 27. Plaintiff further recognizes that Defendant could make a persuasive argument at
9 trial that the PAGA penalties here should be substantially reduced. As an example, in *Fleming v.*
10 *Covidien, Inc.*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal. Aug. 12, 2011), while plaintiff
11 ultimately prevailed in a PAGA trial predicated on a violation of Labor Code § 226(a), the Court
12 assessed only 17% of the maximum penalties.

13 28. Taking these defenses above into account on the class and PAGA claims, Plaintiff
14 believes that the settlement for the amount stated herein is fair, reasonable, and adequate.

15 29. Plaintiff’s settlement of \$1,600,000.00 is approximately **11.2%** of the total
16 estimated liability. The settlement was negotiated at arms’ length, and the settlement’s percentage-
17 to-recovery falls within the range that warrants approval by the Court.

18 **THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

19 30. I strongly believe that a class can be certified and that Plaintiff can prevail at trial.
20 However, after taking into account sharply disputed factual and legal issues involved in this
21 litigation, the risks attending further prosecution, and the substantial benefits to be received
22 pursuant to the compromise and settlement of the litigation, I have concluded that settlement on
23 the terms set forth in the Settlement Agreement is appropriate and in the best interests of Plaintiff
24 and the Class.

25 **ATTORNEY EXPERIENCE**

26 31. I have spent significant time researching and pursuing the claims that have been
27 alleged in this action. From the inception of the case, my co-counsel and I have solely represented
28 the interest of the Class and have expended significant time and resources reviewing the

documents and pleadings in this case, opposing Defendant's motion to stay, meeting and conferring with defense counsel on a number of issues, calculating and analyzing the potential range of recoverable penalties, preparing for and attending mediation, negotiating the terms of the settlement, and drafting the Settlement Agreement. The settlement was obtained for the benefit of the Class, not for the individual Plaintiff. Based on my review of all the information, and based on my experience in class action litigation, I believe this settlement to be fair, adequate, and reasonable.

32. I am one of the primary attorneys on this matter. My qualifications are as follows: I received my JD from Loyola Law School in 2017. I received the First Honors Award in Legal Research and Writing, First Honors Award in Appellate Advocacy, and First Honors Award in Civil Litigation Practicum I for achieving the highest grade in those classes. During law school, I was a Staff Editor for Loyola Law Review. I was also an extern at the U.S. District Court, Central District of California, for the Honorable Christina A. Snyder, and a certified law clerk at the San Diego County District Attorney's Office, Collaborative Courts Division, and the Los Angeles County District Attorney's Office, Consumer Protection and Environmental Crimes Division. In 2016, I participated in Loyola Law School's Scott Moot Court Competition, where I placed Top 16 and was awarded the Top Ten Brief Award. In 2017, I participated in the Employment Rights Clinic, an extension of the Division of Labor Standards Enforcement created to investigate retaliation complaints. Upon graduation from law school, I was admitted to the California Bar in December 2017.

33. I am currently an associate at the law firm Diversity Law Group, P.C., an employment law firm that has handled numerous wage and hour class and individual actions, on both plaintiff and defense sides. The firm currently has cases in numerous state courts, including the Santa Clara Superior Court, Los Angeles Superior Court, Orange County Superior Court, San Diego County Superior Court, Monterey County Superior Court, as well as the United States District Courts for the Central, Northern, Southern, and Eastern Districts of California.

34. I am currently handling and/or have handled numerous wage and hour class action and PAGA lawsuits, including *Magadia v. Wal-Mart Associates, Inc., et al.* (Case Number 5:17-

1 cv-00062-LHK); *Garcia v. Wal-Mart Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-
2 MDD); *Hernandez v. Wells Fargo Bank, N.A.* (Case Number 16CV299319); *Lao v. H & M Hennes*
3 *& Mauritz, L.P.* (Case Number 5:16-cv-333 EJD); *Arroyo v. Int'l Paper Company* (Case Number
4 5:17-cv-06211-BLF); *Baker v. California Forensic Medical Group, Inc., et al.*, Judicial Council
5 Coordination Proceeding No. 4999 (Lead Case No. 17CV003723); and *Garcia v. Apex Systems,*
6 *LLC, et al.* (Case Number RG19014709).

7 35. In 2018, I argued before the California Court of Appeal, Second Appellate District,
8 in the case of *Lee v. California Commerce Club, Inc.* (California Court of Appeal Case Number
9 B276171, LASC Case Number BC596924), and *Perez v. Standard Drywall, Inc.* (California Court
10 of Appeal Case Number A146819, Alameda Sup. Ct. No. RG15761142). In that same year, I also
11 assisted the firm in successfully obtaining class certification and partial summary judgment by the
12 United States District Court, Central District of California in the case of *Magadia v. Wal-Mart*
13 *Associates, Inc.* (Case Number 17-CV-00062-LHK). I third chaired the bench trial in that same
14 case in December 2018.

15 36. I have also been approved as class counsel in numerous other wage/hour class
16 actions. Most recently, I was approved as class counsel in the cases *Garcia v. Wal-Mart*
17 *Associates, Inc., et al.* (Case Number 3:18-cv-00500-L-MDD), *Richert v. Samaritan, LLC, et al.*
18 (Case Number 17CV314186), *Song v. THC – Orange County, Inc.* (Case No. 8-17-cv-965-JLS
19 (DFM)), and *Hernandez v. Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-299319).
20 Moreover, I was granted final approval as class counsel in *California Forensic Medical Group*
21 *Wage and Hour Cases* (Case No. JCCP4999), *Valles v. Community Hospital of the Monterey*
22 *Peninsula* (Case No. 17CV003452), *Chavez v. Hugo Boss Retail, Inc.* (Case No. 18CV322644),
23 *Hernandez v. Wells Fargo Bank National Ass'n, et al* (Case No. 16-CV-299319), *Mendez v.*
24 *Falcon Trading Company* (Case No. 19CV004512), *Khan v. Amy's Kitchen, Inc.* (Case No. SCV-
25 266127), and *Truong v. DS Services of America, Inc.* (Case No. FCS054399). I acted as lead
26 counsel in these cases listed above.

27 **NOTICE TO THE LWDA**

28 37. Concurrent with the filing of the Motion for Preliminary Approval of Class Action

1 Settlement, my office uploaded the Motion and Settlement Agreement to the LWDA's website.

2 I declare under penalty of perjury under the laws of the State of California that the
3 foregoing is true and correct.

4 Executed on this 11th day of April 2022, at Los Angeles, California.

5 
6 _____
7 Mai Tulyathan
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiff Martin Moreno (“Plaintiff”), on behalf of himself and on behalf of the State of California, all similarly-situated individuals, and all allegedly aggrieved employees, and Defendant Medline Industries, LP formerly known as “Medline Industries, Inc.” (“Defendant”), subject to the approval of the Court, that the Settlement of the Actions (as defined below) shall be effectuated upon and subject to the following terms and conditions to be filed for approval by the Court. Plaintiff and Defendant collectively are 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:

- A. “Action” means the Complaint filed in California state court and any amendments thereto, which are captioned *Moreno v. Medline Industries, Inc., et al.*, Case No. Case No. STK-CV-UOE-2020-0007446, pending in Superior Court of the State of California, County of San Joaquin.
- B. “Aggrieved Employees” means all current and former non-exempt hourly employees employed in the State of California by Defendant during the PAGA Period, who received one or more wage statements during the PAGA Period.
- C. “Class” means all non-exempt persons who have been employed by Defendant in the State of California at any time during the Class Period, who received one or more wage statements during the Class Period. Defendant represents there are approximately 3,077 Class Members/Aggrieved Employees during the Class Period/PAGA Period.
- D. “Class Counsel” means Larry Lee and Mai Tulyathan of Diversity Law, A.P.C.
- E. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for attorneys’ 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 and related pleadings, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
- F. “Class Member” is a member of the Class.
- G. “Class Notice” or “Class Notice Packet” means the Notice of Proposed Settlement of Class Action and Hearing Date to be provided to the Class Members by the Settlement Administrator set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).

- H. “Class Period” means the period of time from January 19, 2020, through December 31, 2021.
- I. “Class Representative Service Award Payment” means the service payment made to Plaintiff in his capacity as Class Representative in order to compensate him for initiating the Action, performing work in support of the Action on behalf of other Class Members, undertaking the risk of liability for Defendant’s expenses in the event Plaintiff was unsuccessful in the prosecution of the Action, and for the general release of all claims by the Plaintiff.
- J. “Court” means the Superior Court of California, County of San Joaquin.
- K. “Defendant” means Medline Industries, LP, formerly known as “Medline Industries, Inc.”
- L. “Defendant’s Counsel” means Steven A. Goode, and Jannine E. Kranz of Littler Mendelson, P.C.
- M. “Effective Date” means the date this Agreement is approved as provided herein and the Court’s order granting Settlement Approval and entry of Final Judgment becomes final and is no longer appealable. For purposes of this Agreement, “becomes final and is no longer appealable” shall mean the later of: (a) if no appeal is filed, the day after the last date by which a notice of appeal to the applicable Court of Appeal of the order and judgment approving this Settlement Agreement may be timely filed and none is filed (*i.e.*, 61 days from notice of entry of judgment); (b) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or in any other manner that confirms the validity of the order and judgment, the day after the last date for filing a request for further review of the order and judgment approving this Settlement Agreement passes, and no further review is requested; or (c) if an appeal is filed and the order approving this Settlement Agreement is affirmed and further review of the order is requested, the day after the review is finally resolved and the order and judgment approving this Settlement Agreement is affirmed.
- N. “Request for Exclusion” means the written letter submitted by a Class Member indicating his or her request to be excluded from the Class Settlement submitted in accordance with the instructions in the Class Notice. Such a written request will have no effect on one’s inclusion in the PAGA Settlement. In other words, no Aggrieved Employee may submit a Request for Exclusion from the release of PAGA claims, such that all Aggrieved Employees will be bound by the judgment entered herein and will have released the PAGA claims if and when the Court grants final approval of this settlement.
- O. “Employee List” means, for each Class Member/Aggrieved Employee, his or her name; last-known mailing address; Social Security number; his or her email address

(if known); and, his or her dates of employment and/or number of pay periods worked during the Class/PAGA Period as a Class Member/Aggrieved Employee.

- P. “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.
- Q. “Gross Settlement Amount” means One Million Six Hundred Thousand Dollars (\$1,600,000) to be paid by Defendant as provided by this Agreement. This amount is an all-in amount without any reversion to Defendant or any of the Released Parties and shall be inclusive of all payments of Settlement Shares to the Participating Class Members, Aggrieved Employees, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the PAGA Payment contemplated in this resolution in this Agreement.
- R. “Judgment” means the Final Approval Order and Judgment entered by the Court in the Action.
- S. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the PAGA Payment, and the Settlement Administration Expenses.
- T. “Non-Participating Class Member” means a Class Member who submits a valid and timely Request for Exclusion.
- U. “PAGA Period” means the period of time from January 19, 2020 through December 31, 2021.
- V. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- W. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement.
- X. “Released Parties” means Defendant and each and all of its past and present parent, subsidiary, and affiliated corporations, including but not limited to Medline Industries, Inc., entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former owners, directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.
- Y. “Settlement” means the disposition of the Actions and all related claims effectuated by this Agreement.

- Z. “Settlement Administrator” means ILYM Group, Inc. a third-party settlement claims administrator agreed to by the Parties and appointed by the Court for the purposes of administering this Settlement. The Parties each represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.
- AA. “Settlement Share” means each Participating Class Member’s share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

- A. On August 3 and September 2, 2020, Plaintiff notified the Labor Workforce Development Agency (“LWDA”) of his intent to file an action under California’s Private Attorneys General Act, California Labor Code § 2698 *et seq.* (“PAGA”).
- B. Plaintiff allowed the LWDA an opportunity investigate his claim as required by the Labor Code. The LWDA took no action in response to Plaintiff’s notices.
- C. On September 8, 2020, Plaintiff filed a lawsuit on behalf of himself and all allegedly similarly situated individuals against Defendant in the Superior Court of the State of California, County of San Joaquin (Case No. STK-CV-UOE-2020-0007446) asserting a cause of action under PAGA (“Complaint”) based on wage statement violations under Labor Code § 226(a).
- D. On November 20, 2020, Defendant filed an Answer, generally denying Plaintiff’s allegations and asserting twenty affirmative defenses.
- E. During the course of the litigation of the Action, the Parties engaged in informal discovery, including Defendant production of relevant policies, employee wage statements, and data pertaining to the Class Members/Aggrieved Employees, including number of individuals in the Class/PAGA group and number of pay periods at issue.
- F. On September 23, 2021, the Parties participated in an all-day mediation presided over by Michael Loeb, Esq., a respected mediator of wage and hour class actions. During the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based on a mediator’s proposal which was 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.
- G. 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 Defendant that the claims in the Action of Plaintiff or the Class/Aggrieve Employees have merit or that Defendant bears any liability to Plaintiff or the Class/Aggrieved Employees on those claims or any other claims, or as an admission

by Plaintiff that Defendant's defenses in the Actions 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, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Actions.

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

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Amendment.** In order to efficiently effectuate the Settlement, Plaintiff agrees to file an amended complaint in the Action to assert the wage statement claims in the Action on a classwide basis, and make such other amendments as necessary to effectuate the terms of this Agreement.
- B. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is One Million Six Hundred Thousand Dollars (\$1,600,000). This amount is all-inclusive of all payments contemplated in this resolution. 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.
- C. **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:
 - 1. **To Plaintiff:** In addition to the Settlement Share to be paid to Plaintiff, Plaintiff will apply to the Court for an award of not more than \$20,000 for the Class Representative Service Payment. Defendant will not oppose Class Representative Service Payment of no more than \$20,000 to Plaintiff. The Settlement Administrator will pay the Class Representative Service Payment approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payment of less than \$20,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. To receive the payments, the Plaintiff agrees to a 1542 waiver and a general release of all claims as set forth below. Subject to approval by the Court, the Class Representative Service Payment is in settlement of claims for penalties and, accordingly, shall be reported on IRS Form 1099.
 - 2. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than Thirty-Five percent (35%) of the Gross Settlement Amount, or Five Hundred Sixty Thousand Dollars and No Cents (\$560,000.00) as their Class Counsel Fees Payment. Class Counsel will also apply to the Court for an amount not more than \$25,000 for all costs and expenses incurred as documented in Class Counsel's billing records as their Class

Counsel Litigation Expenses Payment. Defendant 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, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. One or more Forms 1099 will be issued to Class Counsel with respect to the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment.

3. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of \$40,000 out of the Gross Settlement Amount, which shall be allocated 75% (\$30,000) to the LWDA (the “LWDA Payment”) as the LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA, and 25% (\$10,000) will remain in the Net Settlement Amount for distribution to the Aggrieved Employees based upon their respective pay periods worked during the PAGA Period. If the Court approves a PAGA Payment of less than \$40,000, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Class Counsel shall notify the Labor and Workforce Development Agency of this Settlement as required by statute.
4. **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 \$17,500 (“Settlement Administration Expenses”). To the extent the Settlement Administration Expenses that are documented and approved by the Court are less than \$17,500, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

D. **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:

1. **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.
2. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Net Settlement Fund shall be divided among Participating Class Members on a pro rata basis, based upon the following:

- a. Each Participating Class Member's Pay Period Count, which shall be the sum of (1) the total number of pay periods the Participating Class Member worked during the Class Period, plus (2) the number of pay periods during the Class Period where the Participating Class Member received payment for shift differential wages and/or overtime wages;
 - b. Divided by the combined sum of all Participating Class Members' Pay Period Count; and
 - c. Multiplied by the value of the Net Settlement Fund.
 - d. Each Participating Class Member's respective calculation of the Pay Period Count, including total pay periods worked and pay periods worked with payment for shift differential wages and/or overtime wages, and estimated Settlement Share shall be identified in the Class Notice. In determining the Pay Period Count for Participating Class Members, Defendant's payroll records shall control, but Class Members will have the right to challenge the number of pay periods.
- 3. **Reporting.** Subject to approval by the Court, 100% of each Participating Class Member's Settlement Share is in settlement of claims for penalties allegedly due to employees and shall be reported on IRS Form 1099.
- 4. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Request for Exclusion will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. The respective Settlement Shares of Non-Participating Class Members will not be counted as part of the Net Settlement Amount when calculating Settlement Shares to be distributed among Participating Class Members.
- E. **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, Inc. 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, translating into Spanish, 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; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Requests for Exclusion; 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 establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

F. Procedure for Approving Settlement.

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

- a. After Execution of this Settlement Agreement, Plaintiff will file a Preliminary Approval Motion with the Court for an order giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the "Motion for Preliminary Approval"). Plaintiff will provide a draft of the Motion for Preliminary Approval at least four business days in advance of filing for review and comment. Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement that the Parties cannot resolve through good faith meet and confer efforts will be referred to the mediator for resolution.
- b. 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.
- c. 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.

2. 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:

- a. No later than ten (10) business days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide the Settlement Administrator with the Employee List, which

shall be used solely for the administration of this Settlement and for no other purpose, and which shall not be shared with any persons or entity not employed by the Settlement Administrator and working on the administration of this Settlement. Because sensitive personal information is included in the Employee List, the Settlement Administrator shall maintain the Employee List securely and in confidence, maintaining the strictest standards of data privacy. Access to the Employee List shall be limited to employees of the Settlement Administrator with a need to use the Employee List for administration of this Settlement and the Employee List shall be returned to Defendant and/or destroyed once settlement administration is concluded.

- b. The Settlement Administrator shall update the Employee List 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 ten (10) calendar days after receiving the Employee List, 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.
- c. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly, and not longer than seven (7) calendar days from receipt of the returned packet, search for a more current address for the Class Member and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Employee List and skip tracing 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, 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. If the Class Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date of each such re-mailing as part of a weekly status report provided to the Parties.
- d. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Requests for Exclusion it receives (including the numbers of valid and deficient), and number of objections received.

- e. Not later than 10 days before the date by which the Plaintiff 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 Requests for Exclusion it received (including the numbers of valid and deficient requests) and any 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.

3. **Objections to Settlement; Disputes as to Pay Periods allocated to Class Members; Requests for Exclusion.** 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 pay periods allocated to them and Requests for Exclusion pursuant to the following procedures:

- a. **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 in writing. Objections in writing must be submitted to the Settlement Administrator with copies to Class Counsel and Defendant's Counsel, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. Written objections must set forth the Class Member's name and contact information, the grounds for the objection(s), and comply with the instructions in the Class Notice. 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 Payments. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.
- b. **Disputes as to Pay Periods.** 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 pay periods 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 Defendant's Counsel, where applicable, and subject to final

resolution by the Court if the Court decides to rule on the dispute prior to or concurrently with final approval. If the Court does not issue a ruling on the dispute, the Settlement Administrator's determination on the number of pay periods during the Class Period will be binding.

- c. **Request for Exclusion.** 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 Request for Exclusion. To be valid, a Request for Exclusion must be timely and must comply with the instructions in the Class Notice. If a question is raised about the authenticity of a signed Request for Exclusion, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity.
- d. **No Opt Out for PAGA.** The Parties acknowledge and agree that for purposes of the PAGA and Judgment, all Aggrieved Employees were allegedly aggrieved in the same manner pursuant to Labor Code § 2698, *et. seq.*, in that each Aggrieved Employee allegedly suffered at least one of the alleged Labor Code violations asserted in the Consolidated Complaint for which the PAGA provides an available remedy. In light of the binding nature of a PAGA judgment on non-party employees pursuant to *Arias v. Superior Ct. (Dairy)*, 46 Cal. 4th 969, and *Cardenas v. McLane Foodservice, Inc.*, 2011 WL 379413 at *3 (C.D. Cal. Jan. 31, 2011), individuals otherwise meeting the definition of Aggrieved Employees who exclude themselves from the Class Settlement, nonetheless shall be bound by the Judgment of the PAGA claim and will receive their proportionate share of the PAGA Settlement. A Non-Participating Class Member will otherwise not participate in or be bound by the Settlement and the Judgment. Defendant 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 Defendant has or could assert against such a claim.
- e. **Settlement Terms Bind All Class Members Who Do Not Opt Out.** A Class Member who does not complete and mail a timely Request for Exclusion 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 a Request for Exclusion 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 Request for Exclusion 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.

- f. **Report.** Not later than ten (10) calendar days after the deadline for submission of Requests for Exclusion, the Settlement Administrator will provide Class Counsel and Defendant's Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.

- 4. **Right of Defendant to Reject Settlement.** If more than five percent (5%) of the Class Members timely opt out of the Settlement by submitting valid Requests for Exclusion, Defendant will have the sole right, but not the obligation, to void the Settlement, in which case the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Defendant will pay the Settlement Administration Expenses incurred as of the date that Defendant exercises the right to void the Settlement pursuant to this Paragraph. Defendant will notify Class Counsel and the Court whether it is exercising its right pursuant to this Paragraph not later than seven (7) calendar days after the Settlement Administrator notifies the Parties of the number of valid Elections Not to Participate in Settlement it has received.
- 5. **No Solicitation.** The Parties and their counsel represent that neither the Parties nor their respective counsel have or will solicit or otherwise encourage directly or indirectly any Class Member to object to the Settlement, appeal from the Judgment, or opt out from the Settlement. If a Class Member submits Request for Exclusion, Class Counsel will not solicit, represent, or otherwise encourage that Non-Participating Class Member to participate in separate litigation against Defendant.
- 6. **Additional Briefing and Final Approval.**
 - a. 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 Plaintiff files the Motion for

Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.

- b. 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 Plaintiff 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.
- c. 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. After entry of the Judgment, the Court will have continuing jurisdiction over the Actions 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.

- 7. **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 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 Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.
- 8. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendant shall fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. Defendant shall

fund the Gross Settlement Amount within fifteen (15) calendar days of the Effective Date. Within seven (7) calendar days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will make payment of all Settlement Shares to Participating Class Members, 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 LWDA Payment in accordance with this Agreement.

9. **Uncashed Settlement Share Checks.** A Participating Class Member must cash his or her Settlement Share check within 180 days after it is mailed to him or her. If a check is returned to the Settlement Administrator within 120 days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected Participating Class Member at his or her correct address. If the check remains uncashed by the expiration of the 60 day period after this notice, the funds from such uncashed checks shall be distributed to following *cy pres* beneficiary consistent with C.C.P. § 384: Legal Aid At Work. The Participating Class Member or Aggrieved Employee who did not cash his or her Settlement Share Check will nevertheless 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 and/or Aggrieved Employees, whether or not they all cash their Settlement Share checks.
10. **Final Report by Settlement Administrator to Court.** Within ten 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.

G. Release of Claims.

1. **Participating Class Members.** Upon the Effective Date, the Participating Class Members release Defendant and the Released Parties from all claims for penalties and damages, including interest, costs and attorneys' fees related thereto, predicated on claims alleged or could have been alleged based on the facts as alleged in the Complaint, First Amended Complaint, and/or LWDA Letters in the Action, including but not limited to any and all known or unknown claims related in any way to defective or inaccurate wage statements under any theory of law including California Labor Code sections 226(a) and 226.3, that accrued from January 19, 2020, through December 31, 2021, against Defendant and the Released Parties (the "Released Class Claims").

2. **Aggrieved Employees.** Upon the Effective Date, the Settlement Aggrieved Employees release Defendant and the Released Parties from all claims for penalties, including costs and attorneys' fees related thereto, predicated on PAGA claims alleged or could have been alleged based on the facts as alleged in the Complaint, First Amended Complaint, and/or LWDA Letters, including but not limited to from any and all known or unknown claims related in any way to defective or inaccurate wage statements under any theory of law that accrued from January 19, 2020, through December 31, 2021, against Defendant and the Released Parties (the "Settled PAGA Claims").
3. **Plaintiff.** Upon the occurrence of the Effective Date, Plaintiff generally, unconditionally, irrevocably and absolutely release and discharge the Released Parties from any and all claims, transactions or occurrences between them that occurred during the Class Period, to the fullest extent permitted by law ("Plaintiff's Released Claims"). Plaintiff's Released Claims unconditionally, irrevocably and absolutely releases and discharges the Released Parties from any claim that Plaintiff could maintain in any action against any Released Party that occurred during the Class Period. Notwithstanding the foregoing, this waiver and release of 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 unemployment benefits and workers' compensation benefits and claims outside the Class Period.

Plaintiff acknowledges that he may discover facts or law different from, or in addition to the facts or law that he knows or believes 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. The Parties execute this release with the full knowledge that this release of the Plaintiff's Released Claims covers all possible claims by Plaintiff against the Released Parties, to the fullest extent permitted by law. To the extent permitted by law, Plaintiff expressly waives his right to recovery of any type, including damages, penalties, in any administrative or court action, whether state or federal, and whether brought by Plaintiff or on Plaintiff's behalf, related in any way to the matters released herein.

Notwithstanding the provisions of Civil Code section 1542 (below), and for the purpose of implementing a full and complete release and discharge of all of the Plaintiff's Released Claims, Plaintiff expressly acknowledges that this settlement is intended to include in its effect, without limitation, all

Plaintiff's Released Claims which Plaintiff does not know or suspect to exist in their favor at the time of execution hereof, and that the Settlement contemplates the extinguishment of all such Plaintiff's Released Claims.

Plaintiff and Defendant acknowledge that it is their mutual intent not only to resolve all matters presently in dispute between them, but also by this Agreement to forever prevent the reoccurrence of any question, dispute, or claim regarding the past employment or future consideration for employment of Plaintiff by Defendant or Released Parties.

4. **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payments, the Plaintiff's Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiff discovers facts and/or claims in addition to or different from those that he now knows or believes to be true with respect to the subject matter of the Plaintiff's Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiff's Released Claims, Plaintiff expressly waives 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.

5. **Class Counsel.** As of the date the Judgment becomes Final, 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 the Released Parties arising from or related to the Actions.
- H. **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 Plaintiff or Participating Class Members, and Plaintiff 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.
- I. **Limitation on Public Statements About Settlement.** The Parties agree that Plaintiff and Class Counsel will not publish the fact of, or terms of, this Settlement to members of the press, including to Verdicts and Settlements. Plaintiff and Class Counsel will not publish the fact of, or terms of, this Settlement or any related information on any website, for advertising purposes and/or in publication materials generally available to the public. Further, Class Counsel and Plaintiff

agree not to issue press releases or initiate any public statements regarding the Settlement, including but not limited to in the media or on the Internet, with the exception of the Class Notice or unless the Court requires that judgment be posted online, for example, on the Settlement Administrator's website. 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. This provision also does not limit Class Counsel from complying with ethical obligations. Plaintiff and Class Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the court. The Parties may make public statements to the Court as necessary to obtain preliminary or final approval of the Settlement. The Parties and their counsel shall refrain from publicly disparaging any of the other parties or counsel, including the Released Parties, or taking any public action designed or reasonably foreseeable to cause harm to the public perception of any of the Released Parties regarding any issue related in any way to the Action or the Settlement, but nothing herein is intended to prevent any party or their counsel, should it be required in connection with official court proceedings in other actions, from discussing the Settlement. In all communications, all Parties must comply with all confidentiality agreements between them. Defendant may, at its sole discretion, disclose the Settlement to its auditors, regulators and any other parties as reasonably necessary. This section does not prohibit disclosure of the Settlement with the Court or Settlement Administrator for purposes of obtaining approval of the Settlement. For the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel shall be allowed to disclose the name of the Parties in the action and the venue/case number of this action, but not any other details regarding the Settlement, for such limited purposes.

J. Miscellaneous Terms.

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

- a. Defendant 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 Actions, or that but for the Settlement a class should be certified in the Actions. 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 Defendant or the Released Parties, or an admission by Plaintiff that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Actions 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 construed as an

admission by Defendant of any liability or wrongdoing as to Plaintiff, Class Members, or any other person, and Defendant specifically disclaims 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, and that settlement of these Actions by way of a class action in no way waives Released Parties' defenses in another action with respect to an individual's waiver of rights to file a class and/or collective action. 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 Plaintiff that Plaintiff's claims do not have merit or that class action is inappropriate.

- 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 Plaintiff or Defendant 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 Actions, 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 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.

- 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibit 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 exhibit other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibit.

3. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, 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 effect 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.
4. **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.
5. **No Tax Advice:** Neither Class Counsel nor Defendant's 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.
6. **Modification of Agreement.** Except as set forth in III.J.3 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.
7. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
8. **Applicable Law.** All terms and conditions of this Agreement and its exhibit will be governed by and interpreted according to the laws of the State of California.
9. **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.
10. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Actions and have arrived at this Agreement through arms-

length negotiations, taking into account all relevant factors, current and potential.

11. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant 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 days after the Judgment becomes Final, Class Counsel will return or destroy all such documents and data and confirm in writing to Defendant's counsel (upon request for such a confirmation).
12. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
13. **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 Plaintiff and the Class:

Larry W. Lee
Mai Tulyathan
DIVERSITY LAW GROUP, A P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Tel.: (213) 488-6555
Fax: (213) 488-6554
E-Mail: lwlee@diversitylaw.com
ktulyathan@diversitylaw.com

To Defendant:

Steven A. Groode
Jannine E. Kranz
Littler Mendelson, P.C.
2049 Century Park East, 5th Floor
Los Angeles, CA 90067
Tel.: (310) 553-0308
Fax: (310) 553-5583
E-Mail: sgroode@littler.com
jkranz@littler.com

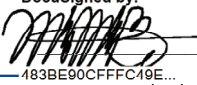
14. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically, DocuSign, pdf, or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument 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.
15. **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.
16. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Actions 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. The prevailing party to any enforcement action shall be entitled to also seek reasonable attorneys' fees and costs incurred in any such enforcement action.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

DEFENDANT MEDLINE INDUSTRIES, LP PLAINTIFF MARTIN MORENO

By: 
Date: 2/11/2022

DocuSigned by:

483BE90CFFFC49E...
Date: 2/7/2022

LITTLER MENDELSON, P.C.


Steven Groode
Jannine Kranz
LITTLER MENDELSON, P.C.
Attorneys for Defendant
Medline Industries, LP, formerly known
as Medline Industries, Inc.

DIVERSITY LAW GROUP, A P.C.


Larry W. Lee
Mai Tulyathan
DIVERSITY LAW GROUP, A P.C.
Attorneys for Plaintiff
Martin Moreno

EXHIBIT A

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

**(*Moreno v. Medline Industries, LP* Superior Court of the State of California,
County of San Joaquin, Case No. STK-CV-UOE-2020-0007446)**

**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 Class Notice. In exchange for the settlement payment, you will release claims against Medline Industries, LP formerly known as “Medline Industries, Inc.” and certain related persons and entities 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 by _____ as provided below. If you request exclusion, you will receive no money from the class action portion of the Settlement, but you will still receive your share of the PAGA settlement. Instructions are set forth in Section 7 below.
Object	Submit a written objection about why you do not agree with the settlement by _____. Directions are provided in Section 8 below.

1. Why did I get this Notice?

A proposed class and PAGA action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Joaquin (the “Court”) has been reached between Plaintiff Martin Moreno (“Plaintiff”) and Defendant Medline Industries, LP (formerly known as “Medline Industries, Inc.”) (“Defendant”) 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 non-exempt persons who have been employed by Defendant in the State of California at any time during the Class Period, who received one or more wage statements during the Class Period.

The “Class Period” is from January 19, 2020 through December 31, 2021.

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 August 3, 2020, Plaintiff notified the Labor Workforce Development Agency (“LWDA”) of his intent to file an action under California’s Private Attorneys General Act, California Labor Code § 2698 et seq. (“PAGA”). Plaintiff allowed the LWDA an opportunity investigate his claim as required by the Labor Code. The LWDA took no action in response to Plaintiff’s notices.

On September 8, 2020, Plaintiff filed a lawsuit on behalf of himself and all allegedly similarly situated individuals against Defendant in the Superior Court of the State of California, County of San Joaquin (Case No. STK-CV-UOE-2020-0007446) asserting a cause of action for penalties under PAGA on the grounds that Defendant allegedly failed to provide accurate wage statements to employees. On _____, 2021, Plaintiff filed a First Amended Complaint alleging an additional cause of action on behalf of himself and the Class for Failure To Provide Accurate Wage Statements in violation of California Labor Code sections 226(a) and 226.3. This lawsuit, including the Complaint and First Amended Complaint, are the “Action.”

Defendant denies and disputes all such claims. Specifically, Defendant contends that it complied with California wage statement requirements; that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action; and that the Action cannot be maintained as a class action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative and the law firm of Diversity Law, A.P.C. 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 One Million Six Hundred Thousand Dollars (\$1,600,000) (the “Gross Settlement Amount”) to fund the settlement of this Action. The Gross Settlement Amount includes 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 Payment and the PAGA Payment.

Within fifteen (15) days of the Judgment becoming Final, Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means when the Judgment is no longer appealable. Assuming no appeal is filed, the Judgment will become “final” 61 days from notice of entry of Judgment. Seven (7) 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 \$17,500, 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 thirty-five percent of the Gross Settlement Amount, which is presently \$560,000 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$25,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff 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 Payment in an amount not to exceed Twenty Thousand Dollars (\$20,000.00) to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Payment. A payment of \$40,000 relating to the claim for penalties under the Private Attorney Generals Act ("PAGA"), which shall be allocated 75% (\$30,000) to the LWDA (the "LWDA Payment") as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$10,000) will remain in the Net Settlement Amount for distribution to the Aggrieved Employees based upon their respective pay periods worked during the PAGA Period. "Aggrieved Employees" are all current and former non-exempt hourly employees employed in the State of California by Defendant during the PAGA Period, who received one or more wage statements during the PAGA Period. The "PAGA Period" is the period of time from January 19, 2020 through December 31, 2021

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 is called the "Net Settlement Amount" and shall be distributed to Class Members as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$925,000. The Settlement Administrator will pay a 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 pay periods worked for all Participating Class Members that occurred during the Class Period plus the [total] number of pay periods during the Class Period where the Participating Class Members received payment for shift differential wages and/or overtime wages according to Defendant's records, and (b) multiplying the result by each individual Participating Class Member's pay periods worked that occurred during the Class Period plus any pay periods during the Class Period where the Participating Class Member received payment for shift differential wages and/or overtime wages.

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. 100% of each Participating Class Member's Settlement Share is in settlement of claims for penalties for which there shall be no withholdings and shall be reported on IRS Form 1099. Neither Class Counsel nor Defendant's 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, the Court entering the Judgment, and the Judgment becoming Final.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the date the Judgment becomes Final and full payment of the Gross Settlement Amount is made by Defendant, all Participating Class Members will fully and finally release and discharge Defendant and the Released Parties from all Released Class Claims. "Released Class Claims" means all claims for penalties and damages, including interest, costs and attorneys' fees related thereto, predicated on claims alleged, and/or which could have been alleged based on the facts alleged in the Complaint, First Amended Complaint, and/or LWDA Letters in the Action, including but not limited to any and all known or unknown claims related in any way to defective or inaccurate wage statements under any theory of law including California Labor Code sections 226(a) and 226.3, that accrued from January 19, 2020, through December 31, 2021. 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 Defendant 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. As of the date the Judgment becomes Final and full payment of the Gross Settlement Amount is made by Defendant, all Aggrieved Employees will fully and finally release are all claims for penalties, including costs and attorneys' fees related thereto, predicated on PAGA claims alleged or could have been alleged based on the facts as alleged in the Complaint, First Amended Complaint, and/or LWDA Letters, including but not limited to from any and all known or unknown claims related in any way to defective or inaccurate wage statements under any theory of law that accrued from January 19, 2020, through December 31, 2021, against Defendant and the Released Parties. Even if you elected not to participate in the Class Settlement, as an Aggrieved Employee you still release these PAGA claims.

The "Released Parties" means Defendant and each and all of its past and present parent, subsidiary, and affiliated corporations, including but not limited to Medline Industries, Inc., entities, divisions, general and limited partners, joint venturers and affiliates, and each of their respective current and former owners, directors, officers, managers, employees, principals, members, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, general partners, limited partners, joint venturers, and affiliated companies, and each of their respective executors, predecessors, successors, assigns and legal representatives.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> pay periods as a Class Member during the Class Period (January 19, 2020 through December 31, 2021).

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 <<____>>.

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: _____ (800) _____.

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

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 its terms, except that you will be deemed to be an Aggrieved Employee and have released the Aggrieve Employee Released Claims that arise under the Private Attorneys General Act, California Labor Code sections 2698, *et seq*, and will receive your proportional share of a PAGA payment.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed letter requesting to be excluded ("Request for Exclusion"). The Request for Exclusion must be received by the Settlement Administrator and must state in substance: "I wish to be excluded from the Class in the *Moreno v. Medline Industries, Inc.* lawsuit, Case No. STK-CV-UOE-2020-0007446. I understand that if I ask to be excluded from the Class, I will not receive a settlement share from the settlement of this Action." The Request for Exclusion should: (1) contain the name, address, and the last four digits of the Social Security Number of the person requesting exclusion; (2) state the Class Member's request to exclude himself or herself from the Settlement and to opt out of the Settlement; (3) be signed by the Class Member or his or her lawful representative; and (4) be postmarked by the deadline above to the Settlement Administrator at the specified address.

The address for the Settlement Administrator is _____. Written requests for exclusion that are postmarked after _____ [forty-five (45) days after the date of the Notice] or are incomplete or unsigned will 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 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payments, in writing. Objections that are in writing must state the Class Member's name, current address, telephone number, and the dates of employment in California by Defendant, 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 *Moreno v. Medline Industries, Inc., et al.*, in the Superior Court of the State of California, County of San Joaquin, Case No. STK-CV-UOE-2020-0007446.

All written objections must be mailed to the Settlement Administrator at _____ with copies to the Parties' counsel, no later than _____ [forty-five (45) days after the date of the Notice].

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 Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

The addresses for Class Counsel are as follows:

Larry W. Lee
Mai Tulyathan
DIVERSITY LAW GROUP, A P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Tel.: (213) 488-6555
Fax: (213) 488-6554
E-Mail: lwlee@diversitylaw.com
ktulyathan@diversitylaw.com

The address for Defendant's Counsel is as follows:

Steven A. Groode
Jannine E. Kranz
Littler Mendelson, P.C.
2049 Century Park East, 5th Floor
Los Angeles, CA 90067
Tel.: (310) 553-0308
Fax: (310) 553-5583
E-Mail: sgroode@littler.com
jkranz@littler.com

9. What is Defendant's response to the Action?

Defendant denies all allegations in the Action and asserts it did not violate the law and has no liability for any of the Class Members' claims. In reaching this Settlement, Defendant is not in any way admitting that it engaged in any of the acts alleged in the Action.

10. Has the Court decided who is right?

No. The Court has not decided whether the Action has any merit. The Court has instead made a preliminary determination that the Parties' proposed Settlement of this action is within the range of reasonableness that could be granted final approval, following the present settlement administration process and if the Court enters Judgment following the final approval hearing.

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

The Court will hold a Final Approval Hearing at _____ on _____, in Department 10B of the Superior Court of California, County of San Joaquin, Spring Street Courthouse, 180 East Weber Avenue, Stockton, CA 95202. 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. 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.

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

You may call the Settlement Administrator at _____ or write to *Moreno v. Medline Industries, Inc.* Settlement Administrator, c/o _____; or contact Class Counsel.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents from the Settlement Administrator. You may also get more details by examining the Court's file via the Public Access Portal for the California Superior Court for the County of San Joaquin and entering the Case No. STK-CV-UOE-2020-0007446.

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. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.