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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

CARLOS HUMBERTO CARRILLO DIAZ
an individual, on behalf of himself and others
similarly situated,

Plaintiff,

vs.

RECON360, LLC; and DOES 1 thru 50,
inclusive,

Defendants.

Case No. 20CV370603

**DECLARATION OF NATHALIE
HERNANDEZ OF ILYM GROUP, INC.,
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 9, 2022
Time: 1:30 p.m.

Judge: Hon. Sunil R. Kulkarni
Dept.: 1

1 I, Nathalie Hernandez, declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am the
3 Operations Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the professional
4 settlement services provider who has been retained by the Parties’ Counsel and subsequently appointed by
5 the Court to serve as the Claims Administrator for the above captioned *Carrillo Diaz v. Recon360, LLC*
6 matter. I am authorized to make this declaration on behalf of ILYM Group and myself. I have personal
7 knowledge of the facts herein, and, if called upon to testify, I could and would testify competently to such
8 facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund distribution
11 services for Class Actions ranging in size from 26 to 4.5 million Settlement Class Members.

12 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
13 appointed by the Court to provide notification services and claims administration, pursuant to the terms of
14 the Settlement, in the above referenced Action. Duties performed to-date and to be performed after Final
15 Approval of the Settlement is granted, include: (a) printing and mailing the *Notice of Class Action*
16 *Settlement* (collectively referred to as “Notice Packet”); (b) receiving and processing requests for exclusion;
17 (c) resolving Settlement Class Members’ disputes over the number of workweeks Defendants have record
18 of them working during the Class Period, which was pre-printed on their individualized Class Notice; (d)
19 calculating individual settlement award amounts; (e) processing and mailing settlement award checks; (f)
20 handling tax withholdings as required by the Settlement and the law; (g) preparing, issuing and filing tax
21 returns and other applicable tax forms; (h) handling the distribution of any unclaimed funds pursuant to the
22 terms of the Settlement; and (i) performing other tasks as the Parties mutually agree to and/or the Court
23 orders ILYM Group to perform.

24 4. On February 10, 2022, ILYM Group received the Court approved text for the Notice Packet
25 from Counsel for Defendants. ILYM Group prepared a draft of the formatted Notice Packet, which was
26 approved by the Parties’ Counsel prior to mailing.

27 5. On February 17, 2022, ILYM Group received the class data file from Counsel for
28 Defendants, which contained the name, social security number, last known mailing address, employment

1 dates, and workweeks for each Settlement Class Member. The data file was uploaded to our database and
2 checked for duplicates and other possible discrepancies. The Class List contained 277 individuals.

3 6. As part of the preparation for mailing, all 277 names and addresses contained in the Class
4 List were then processed against the National Change of Address (“NCOA”) database, maintained by the
5 United States Postal Service (“USPS”), for purposes of updating and confirming the mailing addresses of
6 the Settlement Class Members before mailing of the Notice Packet. The NCOA contains requested change
7 of addresses filed with the USPS. To the extent that an updated address was found in the NCOA database,
8 the updated address was used for the mailing of the Notice Packet. To the extent that no updated address
9 was found in the NCOA database, the original address provided by Counsel for Defendants was used for
10 the mailing of the Notice Packet.

11 7. On March 21, 2022, the Notice Packet was mailed, via U.S First Class Mail, to all 277
12 individuals contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct copy of the
13 mailed Notice Packet.

14 8. As of the date of this declaration, 65 Notice Packets have been returned to our office as
15 undeliverable. ILYM Group performed a computerized skip trace on the 65 returned Notice Packets that
16 did not have a forwarding address, in an effort to obtain an updated address for purpose of re-mailing the
17 Notice Packet. As a result of this skip trace, 26 updated addresses were obtained and the Notice Packets
18 were promptly re-mailed to those Settlement Class Members, via U.S First Class Mail.

19 9. As of the date of this declaration, a total of 26 Notice Packets have been re-mailed.
20 Specifically, 26 have been re-mailed as a result of ILYM Group’s skip tracing efforts.

21 10. As of the date of this declaration, a total of 39 Notice Packets have been deemed
22 undeliverable. Specifically, 39 have been deemed undeliverable as no updated address was found
23 notwithstanding the skip tracing.

24 11. As of the date of this declaration, ILYM Group has received one request for exclusion.
25 The deadline to request exclusion from the Settlement is May 20, 2022.

26 12. As of the date of this declaration, ILYM Group has not received any objections to the
27 Settlement. The deadline to file an objection to the Settlement is May 20, 2022.

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1 13. As of the date of this declaration, ILYM Group will report a total of 276 Participating
2 Claimants, representing 99.64% of the 277 Settlement Class Members.

3 14. Participating Claimants will receive a proportional share of the Net Settlement Fund through
4 individual settlement payments, calculated by a pro-rata formula, based on the number of workweeks
5 worked by Class Members during the Class Period. The Net Settlement Fund is the amount remaining after
6 deduction of the Court-approved payments from the Gross Settlement Fund for Class Counsel Fees and
7 Litigation Costs, the Class Representative Enhancement Award, Claims Administration Fees to ILYM
8 Group, LWDA and the Aggrieved Employees allocation, e.g.,

9 **Gross Settlement Fund \$ 700,000.00**

10 Class Counsel Fees \$ 233,333.33

11 Class Counsel Litigation Costs \$ 8,617.27

12 Enhancement Award \$ 5,000.00

13 Administration Fees \$ 15,000.00

14 LWDA Allocation \$ 18,750.00

15 Aggrieved Employees \$ 6,250.00

16 **Net Settlement Fund (estimated) \$ 413,049.40**

17 To determine a Participating Claimant's individual settlement award payment, the Net Settlement Fund will
18 be divided by the total number of workweeks worked by all Settlement Class Members during the Class
19 Period, multiplied by the number of workweeks worked by that Participating Claimant. Based on these
20 calculations, the Participating Claimants will receive an estimated average gross payment of \$1,519.20 and
21 the estimated highest gross payment being \$7,396.66.

22 15. ILYM Group's total fees and costs for services in connection with the administration of this
23 Settlement, which includes fees and costs incurred to-date, as well as anticipated fees and costs for
24 completion of the settlement administration, are \$15,000.00. ILYM Group's work in connection with this
25 matter will continue with the calculation of the settlement award payments, issuance and mailing of the
26 settlement award checks, the necessary tax filing and reporting on such payments, and any other tasks that
27 the Parties mutually agree to and/or the Court orders ILYM Group to perform.

28 ///

1 I declare under penalty of perjury under the laws of the State of California and the United States
2 that the foregoing is true and correct to the best of my knowledge and that this Declaration was executed
3 this 13th day of May 2022, at Tustin, California.
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Nathalie Hernandez

EXHIBIT “A”

«Contact»

CARLOS HUMBERTO CARRILLO DIAZ v. RECON360, LLC

Superior Court of the State of California, County of Santa Clara

Case No. 20CV370603:

If you are a current or former employee for RECON360, LLC (“RECON360, LLC” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY.
IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.**

- This lawsuit involves a class defined as:

“All persons who are employed or have been employed as an hourly, non-exempt employee by RECON360, LLC, in the State of California from September 22, 2016 to May 31, 2021.”

- You are receiving this Notice because the records reflect that you may be one of the above Class Members.
- Plaintiff in this class action alleges that Defendant failed to provide lawful meal and rest periods, failed to reimburse expenses, failed to pay lawful wages upon termination or resignation, engaged in unfair business practices, and is liable for penalties under California’s Private Attorneys General Act or “PAGA.” Defendant denies Plaintiff’s claims and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or ’s defenses.
- You will not be penalized or retaliated against by RECON360, LLC for participating in this class action settlement. If you are currently employed by RECON360, LLC, your employment will not be affected in any way. Current employees of RECON360, LLC who choose to participate in the settlement will not be required to resign and can continue to work for RECON360, LLC.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue for claims pled or arising out of or reasonably related to the transactions and occurrences pled in the Complaint, which are or could be the basis of claims that Defendant failed to provide lawful meal and rest periods; failed to reimburse expenses; failed to pay lawful wages upon termination or resignation; or engaged unfair business practices, or is subject to PAGA penalties during the Covered Period.
ASK TO BE EXCLUDED (OPT OUT)	Exclude yourself from this lawsuit. Keep your rights to file a separate claim against RECON360, LLC.

	If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to bring your own suit against RECON360, LLC for the same legal claims in this lawsuit.
OBJECT	Object to the terms of this Settlement.

**Your options are explained in this notice.
To opt out or object, you must act by May 20, 2022.**

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of RECON360, LLCs' employees. You have received this notice because RECON360, LLC's records indicate that you are a member of this class.

2. What is this lawsuit about?

This lawsuit was filed on September 22, 2020, on behalf of all persons who are employed or have been employed as an hourly employee by RECON360, LLC in the State of California. The operative complaint alleges class-wide causes of action against RECON360, LLC for failure to provide lawful meal and rest periods under Labor Code §§ 226.7 and 512; failure to reimburse expenses pursuant to Labor Code §2802; failure to pay lawful wages upon termination or resignation under Labor Code § 203; and unfair business practices under Business & Professions Code § 17200 et seq.; and penalties under the Labor Code Private Attorneys General Act, Labor Code § 2698 et seq.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Defendant's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff's claims and asserts that it has complied with all of its legal obligations toward its employees, Defendant has also concluded that further litigation would be protracted and expensive and would also divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$700,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys' fees: \$233,333.33
- Litigation Costs: \$10,000.00
- Settlement Administration Costs: \$15,000.00
- Named Plaintiff Enhancement Award to Named Plaintiff: \$5,000.00
- Penalties to the Labor & Workforce Development Agency: \$18,750.00

After these deductions, it is anticipated that \$411,666.67 will be available for payment to the Settlement Class members receiving this notice ("Net Settlement Amount").

Each Class Member's Individual Settlement Amounts shall be determined on a pro rata basis based upon the number of workweeks during which the employee worked in proportion to the aggregate number of workweeks

by all Settlement Class members.

All Individual Settlement Amounts will be allocated as follows: 1/3 (33%) to settlement of wage claims, 1/3 (33%) to settlement of claims for interest, and 1/3 (33%) to settlement of claims for statutory penalties. There will be normal tax withholdings from the 1/3 portion of your Settlement Amount that is allocated to wage claims.

According to Defendant's records, the total number of workweeks that you worked as an employee *during the relevant time period* is «Workweeks». If you disagree with this information and would like someone to look into the matter, please follow the procedure below. Based on these workweeks, your estimated settlement amount is \$«Total Estimated Settlement Amount».

6. What if I disagree with the number of workweeks shown above?

If you believe the information in the notice is incorrect regarding the number of workweeks, you will need to write a letter setting forth the number of workweeks that you believe are correct. You may attach any relevant documentation in support thereof. You must mail your letter to:

Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

You must submit such information by May 20, 2022. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. In the event they are unable to resolve any dispute under this Section, the Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive a share of the settlement?

If you wish to receive an award under the terms of this settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator in order to ensure you receive your settlement share. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The claims you will Release by doing nothing are: any and all claims, debts, liabilities, demands, obligations, penalties, guarantees, costs, expenses, attorney's fees, damages, action or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, that are alleged, or that reasonably could have arisen out of the same facts alleged in the Action, including: (1) Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512; (2) Failure to Provide Rest Breaks Pursuant to Labor Code §§ 226.7; (3) Failure to Reimburse Expenses Pursuant to Labor Code § 2802; (4) Penalties Pursuant to Labor Code § 203; (5) Violation of Business & Professions Code § 17200; (6) Penalties Pursuant to Labor Code §2699, et seq. ("PAGA"). (Collectively, the "Released Claims")

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself ("opt out") by completing, signing, and mailing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, ILYM Group, Inc. by May 20, 2022.

Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781
Telephone: 888-250-6810

If your Request for Exclusion is postmarked after May 20, 2022, it will be rejected, and you will be a Class

Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue RECON360, LLC separately about the claims made in this lawsuit.

10. What if I have an objection?

You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing at your expense, either in person, telephonically, or through an attorney, provided you notify the Court of your intention to do so. All written objections, supporting papers and/or notices of intent to appear at the Final Approval Hearing must (a) clearly identify the case name and number ([*Carlos Humberto Carrillo Carrillo Diaz v. Recon360, LLC*], Case Number [20CV370603]), (b) be submitted to the Court either by mailing the objection to: Clerk of the Court, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, or by filing in person at the same location; (c) also be mailed to the law firms identified [Kingsley & Kingsley, APC, 16133 Ventura Blvd., Suite 1200, Encino, CA 91436, and HOGE, FENTON, JONES & APPEL, INC., 60 South Market Street, Suite 1400, San Jose, CA 95113.] and (d) be filed or postmarked on or before May 20, 2022.

<u>Class Counsel:</u> Eric B. Kingsley, Esq. Kelsey M. Szamet, Esq. Kingsley & Kingsley, APC 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300 Fax: (818) 990-2903	<u>Counsel for RECON360, LLC</u> HOGE, FENTON, JONES & APPEL, INC. Sarju A. Naran, Esq. Jenn M. Protas, Esq. Maysa Saeed, Esq. 60 South Market Street, Suite 1400 San Jose, CA 95113-2396 Telephone: (408) 287-9501 Facsimile: (408) 287-2583
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11. Do I need a lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 1 of the Santa Clara County Superior Court, Santa Clara Courthouse, located at 191 N. First Street on June 9, 2022, at 1:30 p.m. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's Enhancement Awards, and the costs of claims administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing, but you may appear in person.

13. How can I receive more information?

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Settlement Agreement, which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefil.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures, or you may contact Class Counsel or the Settlement Administrator. Finally, further information is also available at www.scsccourt.org.

Please do not telephone the Court, the Office of the Clerk, or Recon 360's counsel for information regarding this settlement or the claim process.

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 17, 2022, I served all interested parties in this action the following documents described as: **DECLARATION OF NATHALIE HERNANDEZ OF ILYM GROUP, INC., IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

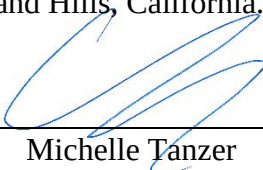
Sarju A. Naran Maysa Saeed Jackie Rivera sarju.naran@hogefenton.com maysa.saeed@hogefenton.com jackie.rivera@hogefenton.com Hoge, Fenton, Jones & Appel, Inc. 55 South Market Street, Suite 900 San Jose, CA 95113-2324	Emil Davtyan emil@davtyanlaw.com Davtyan Law Firm, Inc. 880 E. Broadway Glendale, CA 91205
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[XX] (BY ELECTRONIC SERVICE): I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE): I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 17, 2022, at Woodland Hills, California.



Michelle Tanzer