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7
8 Attorneys for Plaintiff,

9 NICOLE SHAVER, and all others similarly situated

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF SAN BERNARDINO**

12 **(UNLIMITED JURISDICTION)**

13 NICOLE SHAVER, on behalf of herself, all
14 others similarly situated, and the general
15 public, and as an “aggrieved employee” on
16 behalf of other “aggrieved employees” under
the Labor Code Private Attorneys General Act
of 2004,

17 *Plaintiff(s),*

18
19 vs.

20 G AND C SWAN, INC., a California
21 corporation; and DOES 1–50, inclusive,

22 *Defendant(s).*

Case No. CIVSB2103630

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

Hearing Date: June 17, 2024

Hearing Time: 1:30 p.m.

Time:

Hearing Dept.: S-17, The Honorable
Joseph T. Ortiz

Action filed: February 17, 2021

Trial Date: Not Set



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1 The Motion of Plaintiff Nicole Shaver (hereafter referred to as “Plaintiff”) for Preliminary
2 Approval of a Class Action Settlement (the “Motion”) was considered by the Court, The
3 Honorable Joseph T. Ortiz presiding. The Court having considered the Motion, the Class Action
4 and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement Agreement”),
5 and supporting papers, HEREBY ORDERS THE FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary
8 Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court
9 has determined only that there is sufficient evidence to suggest that the proposed settlement might
10 be fair, adequate, and reasonable, and that any final determination of those issues will be made at
11 the final hearing. The Court will make a determination at the hearing on the motion for final
12 approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement
13 is fair, adequate and reasonable to the Settlement Class.

14 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
15 all of Defendant's hourly, non-exempt California employees and interns (collectively “Class
16 Members”), who worked anytime during the Class Period. The “Class Period” shall mean the
17 period of time from February 17, 2017, through to the date of the Court’s preliminary approval
18 of the Settlement or the date the Class Work Weeks reaches 19,924, whichever is earlier.

19 3. Based on its records, Defendant estimates that, as of the date of the Settlement
20 Agreement, (1) there are 112 Class Members and 19,924 Total Work Weeks during the Class
21 period and (2) there were 54 Aggrieved Employees who worked 5,099 Pay Periods during the
22 PAGA Period.

23 4. “Effective Date” means the date by when both of the following have occurred: (a)
24 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
25 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
26 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
27 one or more Participating Class Members objects to the Settlement, the day after the deadline for
28 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the



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1 day after the appellate court affirms the Judgment and issues a remittitur.

2 5. This action is provisionally certified pursuant to section 382 of the California Code
3 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
4 purposes of settlement only with respect to the proposed Settlement Class.

5 6. Not later than 15 days after the Court grants Preliminary Approval of the
6 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form
7 of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator
8 must maintain the Class Data in confidence, use the Class Data only for purposes of the Settlement
9 and for no other purpose, and restrict access to the Class Data to Administrator employees who
10 need access to the Class Data to effect and perform under the Settlement Agreement. Defendant
11 has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data
12 omitted class member identifying information and to provide corrected or updated Class Data as
13 soon as reasonably feasible. Without any extension of the deadline by which Defendant must send
14 the Class Data to the Administrator, the Parties and their counsel will expeditiously use best
15 efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
16 Class Data.

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

20 8. Using best efforts to perform as soon as possible, and in no event later than 14
21 days after receiving the Class Data, the Administrator will send to all Class Members identified
22 in the Class Data, via first-class United States Postal Service ("USPS") mail, the Notice Packet
23 with Spanish translation, if applicable substantially in the forms attached to this order as **Exhibits**
24 **A, B, C, and D**. The first page of the Class Notice shall prominently estimate the dollar amounts
25 of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member,
26 and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate these
27 amounts. Before mailing Notice Packets, the Administrator shall update Class Member addresses
28 using the National Change of Address database.



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

8 10. Class Counsel's contact information is David G. Spivak, Esq., The Spivak Law
9 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel's
10 contact information is Allyson K. Thompson, Esq., Kaufman Dolowich & Voluck LLP, 21515
11 Hawthorne Blvd, Suite 450, Torrance, CA 90503.

12 11. The deadlines for Class Members' written objections, Challenges to Work Weeks
13 and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional 14 days
14 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is
15 re-mailed. The Administrator will inform the Class Member of the extended deadline with the
16 re-mailed Notice Packet.

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

25 13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
26 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
27 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
28 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for



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1 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
2 the Class Member's election to be excluded from the Settlement and includes the Class Member's
3 name, address and email address or telephone number. To be valid, a Request for Exclusion must
4 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
5 in Settlement form, attached as Exhibit B, may be used for this purpose but is not required.

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

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

20 16. Every Class Member who submits a valid and timely Request for Exclusion is a
21 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
22 right to object to the class action components of the Settlement. Plaintiff releases all claims for
23 civil penalties that could have been sought by the Labor Commissioner for the violations
24 identified in Plaintiffs pre-filing letter to the LWDA; Plaintiff does not release the claim for wages
25 or damages of any Aggrieved Employee unless such Aggrieved Employee is a Participating Class
26 Member.

27 17. Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days
28 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members

1 whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay
2 Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute.
3 A Work Week Dispute form, attached as Exhibit C, may be used for this purpose but is not
4 required. The Class Member may challenge the allocation by communicating with the
5 Administrator via fax, email or mail. The Administrator must encourage the challenging Class
6 Member to submit supporting documentation. In the absence of any contrary documentation, the
7 Administrator is entitled to presume that the Work Weeks contained in the Class Notice are
8 correct so long as they are consistent with the Class Data. The Administrator's determination of
9 each Class Member's allocation of Work Weeks and/or Pay Periods shall be final and not
10 appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
11 copies of all challenges to calculation of Work Weeks and/or Pay Periods to Defense Counsel and
12 Class Counsel and the Administrator's determination the challenges.

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

17 19. Participating Class Members may send written objections to the Administrator, by
18 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
19 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
20 Participating Class Member who elects to send a written objection to the Administrator must do
21 so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional
22 14 days for Class Members whose Notice Packet was re-mailed). An The Objection form attached
23 as Exhibit D may be used for this purpose but is not required.

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

26 21. Not later than 14 days before the date by which Plaintiff is required to file the
27 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
28 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and



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1 compliance with all of its obligations under the Settlement Agreement, including, but not limited
2 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
3 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
4 from Settlement it received (both valid or invalid), the number of written objections and attach
5 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
6 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
7 declaration(s) in Court.

8 22. The Court approves, as to form and content, the Class Notice in substantially the
9 form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in
10 substantially the form attached as Exhibit B to this Order, the Work Weeks Dispute form in
11 substantially the form attached as Exhibit C to this Order, and the Objection form in substantially
12 the form attached as Exhibit D to this Order.

13 23. The Court approves, for settlement purposes only, David G. Spivak of The Spivak
14 Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

15 24. The Court approves, for settlement purposes only, Nicole Shaver as the Class
16 Representative.

17 25. The Court approves ILYM Group, Inc. as the Administrator.

18 26. The Court preliminarily approves Class Counsel's request for attorneys' fees and
19 costs subject to final review by the Court.

20 27. The Court preliminarily approves the estimated Administrator costs payable to the
21 Administrator subject to final review by the Court.

22 28. The Court preliminarily approves Plaintiff's Class Representative Service
23 Payment subject to final review by the Court.

24 29. A Final Approval Hearing shall be held on
25 _____ at _____ .m. in Department S-17 of the
26 Superior Court for the State of California, County of San Bernardino, located at the San
27 Bernardino District – Civil Division, 247 West Third Street, Dept. S17, San Bernardino, CA
28 92415-0210 to consider the fairness, adequacy and reasonableness of the proposed Settlement



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1 preliminarily approved by this Preliminary Approval Order, and to consider the application of
2 Class Counsel for attorneys' fees and costs and the Class Representative Service Payment to the
3 Class Representative. The notice of motion and all briefs and materials in support of the motion
4 for final approval of class action settlement and motion for attorneys' fees and litigation costs
5 shall be served and filed with this Court sixteen (16) Court days before the Final Approval
6 Hearing. Plaintiff's counsel must give notice to any objecting party of any continuance of the
7 hearing of the motion for final approval.

8 30. If for any reason the Court does not execute and file a Final Approval Order and
9 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
10 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
11 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
12 litigation, as more specifically set forth in the Settlement.

13 31. The Court expressly reserves the right to adjourn or continue the Final Approval
14 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
15 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

16 **IT IS SO ORDERED.**

17
18 _____
DATE

18 _____
THE HONORABLE JOSEPH T. ORTIZ
19 **SUPERIOR COURT JUDGE**



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EXHIBIT A

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

3 (case name: Nicole Shaver v. G & C Swan, Inc. and number CIVSB2103630)

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

6 **You may be eligible to receive money** from an employee class action lawsuit ("Action")
7 against G & C Swan, Inc. (abbreviate name; "Defendant" is used herein as a placeholder) for
8 alleged violations of California's labor laws. The Action was filed by one of Defendant's
9 employees Nicole Shaver ("Plaintiff") and seeks payment of (1) wages and other relief for a class
10 of All of Defendant's hourly, non-exempt California employees and interns ("Class Members")
11 during the Class Period (February 17, 2017 to the date of the Court's preliminary approval of the
12 Settlement or the date the Class Work Weeks reaches 19,924, whichever is earlier); and (2)
13 penalties under the California Private Attorney General Act ("PAGA") for hourly, non-exempt
14 employees who worked for Defendant during the PAGA Period (December 11, 2019 to the date
15 of the Court's preliminary approval of the Settlement or the date the Class Work Weeks reaches
16 19,924, whichever is earlier) ("Aggrieved Employees").

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

21 Based on Defendant's records, and the Parties' current assumptions, **your Individual**
22 **Class Payment is estimated to be \$<<IndividualClassPaymentAmount>> (less withholding)**
23 **and your Individual PAGA Payment is estimated to be**
24 **\$<<IndividualPAGAPaymentAmount>>.** The estimated dollar value of a Work Week is
25 <<\$increment type value>> and a Pay Period is <<@PayPeriodValue>>. The actual amount you
26 may receive likely will be different and will depend on a number of factors. (If no amount is
27 stated for your Individual PAGA Payment, then according to Defendant's records you are not
28 eligible for an Individual PAGA Payment under the Settlement because you didn't work during
29 the PAGA Period.) The individual payments amounts will vary. However, the average Individual
30 Class Payment to a Class Member is estimated to be <<\$Average Individual Class Payment
31 Amount>>. The average Individual PAGA Payment to a Class Member is estimated to be
32 <<\$Average Individual PAGA Payment Amount>>. The highest Individual Class Payment to a
33 Class Member is estimated to be <<\$Highest Individual Class Payment Amount>> and the lowest
34 is estimated to be <<\$Lowest Individual Class Payment Amount>>. The highest Individual
35 PAGA Payment to a Class Member is estimated to be <<\$Highest Individual PAGA Payment
36 Amount>> and the lowest is estimated to be <<\$Lowest Individual PAGA Payment Amount>>.

37 The above estimates are based on Defendant's records showing that **you worked**
38 <<__>> **Work Weeks** during the Class Period and **you worked** <<__>> **Pay Periods** during
39 the PAGA Period. If you believe that you worked more Work Weeks during either period, you
40 can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. You can use the enclosed Election Not To Participate In Settlement form for this purpose. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating
The Opt-out Deadline is <<RESPONSE DEADLINE>>	

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	Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and Plaintiff releases Defendant from civil penalties it may owe to the Aggrieved Employees.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by <<RESPONSE DEADLINE>>	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. You can use the enclosed Objection form for this purpose. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the <<FinalApprovalHearingDate>> Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on <<FinalApprovalHearingDate>>. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing whether or not they submitted a written objection. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Work Week / Pay Periods Written Challenges Must be Submitted by <<RESPONSE DEADLINE>>	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Work Weeks and number of PAGA Period Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice. You can use the enclosed Work Weeks Dispute form for this purpose.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failure to pay wages, unauthorized and unlawful wage deductions, failure to provide meal periods, failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to issue proper wage statements, failure to timely pay wages, failure to maintain required payroll records, and related violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA (Labor Code section 2698 and sections that follow) (“PAGA”). Plaintiff is represented by attorneys in the Action:

David G. Spivak of The Spivak Law Firm and Walter L. Haines of United Employees Law Group (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

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

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

A. Gross Settlement Amount. Defendant Will Pay \$650,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

1. Attorney Fees and Costs. Up to \$216,666.64 (33.33% of the Gross Settlement to Class Counsel for attorneys’ fees and up to \$40,000.00 for their litigation expenses.

To date, Class Counsel have worked and incurred expenses on the Action without payment.

2. Class Representative Service Award. Up to \$20,000.00 as a Class Representative Service Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

3. Administration Expenses. Up to \$10,000.00 to the Administrator for services administering the Settlement.

4. PAGA Penalties. Up to \$4,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

Based on its records, Defendant estimated that, as of the date of the Settlement, (1) there are 112 Class Members and 19,924 total Work Weeks during the Class period and (2) there were 54 Aggrieved Employees who worked 5,099 Pay Periods during the PAGA Period.

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

D. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 33.33% of each Individual Class Payment to taxable wages ("Wage Portion") and 66.67% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

E. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) in your name.

1 If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you
2 should consult the rules of the Fund for instructions on how to retrieve your money. You can
3 contact the Unclaimed Property Fund at (800) 992-4647.

4 F. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
5 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
6 Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out.
7 The easiest way to notify the Administrator is to email, fax, or mail a written and signed Request
8 for Exclusion by the <<RESPONSE DEADLINE>> Response Deadline. The Request for
9 Exclusion should be a letter from a Class Member or his/her representative setting forth a Class
10 Member's name, present address, telephone number, and a simple statement electing to be
11 excluded from the Settlement. You may use the enclosed Election Not To Participate In
12 Settlement form for this purpose. Excluded Class Members (i.e., Non-Participating Class
13 Members) will not receive Individual Class Payments, but will preserve their rights to personally
14 pursue claims against Defendant for violations of California's labor laws.

15 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
16 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
17 Individual PAGA Payments and Plaintiff releases Defendant from civil penalties it may owe to
18 the Aggrieved Employees.

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

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

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

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

1 All Participating Class Members, on behalf of themselves and their respective
2 former and present representatives, agents, attorneys, heirs, administrators,
3 successors, and assigns, release Released Parties from all claims stated in the
4 Operative Complaint and those based solely upon the facts alleged in the Operative
5 Complaint. Except as set forth in Section 6.3 of the Settlement Agreement,
6 Participating Class Members do not release any other claims, including claims for
vested benefits, wrongful termination, violation of the Fair Employment and
Housing Act, unemployment insurance, disability, social security, workers'
compensation, or claims based on facts occurring outside the Class Period.

7 J. The PAGA Release. After the Court's judgment is final, and Defendant has paid
8 the Gross Settlement (and separately paid the employer-side payroll taxes), Plaintiff releases all
9 claims for civil penalties that could have been sought by the Labor Commissioner for the
10 violations identified in Plaintiff's pre-filing letter to the LWDA; Plaintiff does not release the
11 claim for wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a
Participating Class Member.

12 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

13 A. Individual Class Payments. The Administrator will calculate Individual Class
14 Payments by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
15 by all Participating Class Members, and (b) multiplying the result by the number of Work Weeks
16 worked by each individual Participating Class Member.

17 B. Individual PAGA Payments. The Administrator will calculate Individual PAGA
18 Payments by (a) dividing \$1,000.00 by the total number of PAGA Pay Periods worked by all
19 Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods
20 worked by each individual Aggrieved Employee.

21 C. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
22 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
23 Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have
24 until <<RESPONSE DEADLINE>> to challenge the number of Work Weeks and/or Pay Periods
25 credited to you. You can submit your challenge by signing and sending a letter to the
26 Administrator by email, fax or regular U.S. mail. You can use the enclosed Dispute form for this
27 purpose. Section 9 of this Notice has the Administrator's contact information.

28 You need to support your challenge by submitting copies of pay stubs or other records.
The Administrator will accept Defendant's calculation of Work Weeks and/or Pay Periods based
on Defendant's records as accurate unless you send copies of records containing contrary
information. You should send copies rather than originals because the documents will not be
returned to you. The Administrator will resolve Work Week and/or Pay Period challenges based
on your submission and on input from Class Counsel (who will advocate on behalf of
Participating Class Members) and Defendant's Counsel. The Administrator's decision is final.
You can't appeal or otherwise challenge its final decision.

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1 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for
2 Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
3 object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class
4 Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the
5 Administrator is <<RESPONSE DEADLINE>>.** Be sure to tell the Administrator what you
6 object to, why you object, and any facts that support your objection. Make sure you identify the
7 Action, *Nicole Shaver vs. G & C Swan, Inc.*, case no. CIVSB2103630, and include your name,
8 current address, telephone number, and approximate dates of employment for Defendant and sign
9 the objection. Section 9 of this Notice has the Administrator's contact information. You may use
10 the enclosed Objection form for this purpose. You should send your objection to the
11 Administrator by email, fax, or send by regular U.S. mail.

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

17 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

18 You can, but don't have to, attend the Final Approval Hearing on <<FINAL APPROVAL
19 HEARING DATE>> at <<FINAL APPROVAL HEARING TIME>> in Department S-26 of the San
20 Bernardino Superior Court, located at San Bernardino District – Civil Division, 247 West Third
21 Street, Dept. S17, San Bernardino, CA 92415-0210. At the Hearing, the judge will decide whether
22 to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to
23 Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors,
24 Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer
25 to attend) either personally or virtually by <<CourtConnect/CourtCall/MicrosoftTeams>>
26 (<https://www.<<CourtVirtualAppearanceLink>>>). Check the Court's website for the most current
27 information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the
proposed Settlement. The easiest way to read the Agreement, the Judgment or any other
Settlement documents is to go to the Administrator's website at <<CLERK OF COURT'S PHONE
NUMBER>>. You can also telephone or send an email to Class Counsel or the Administrator
using the contact information listed below, or consult the Superior Court website by going to
(<http://www.<<COURT'S WEBSITE>>.aspx>) and entering the Case Number for the Action, Case
No. CIVSB2103630. You can also make an appointment to personally review court documents
in the Clerk's Office at the San Bernardino District – Civil Division by calling <<CLERK OF
COURT'S PHONE NUMBER>>.

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

Class Counsel:

Name of Attorney: David G. Spivak
Email Address: david@spivaklaw.com
Name of Firm: The Spivak Law Firm
Mailing Address: 8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
Telephone: (213) 725-9094

Administrator:

Name of Company: ILYM Group, Inc.
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) for instructions on how to retrieve the funds. You can contact the Unclaimed Property Fund at (800) 992-4647.

11. WHAT IF I CHANGE MY ADDRESS?

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

EXHIBIT B

1 *Shaver v. G & C Swan, Inc.*
2 **Superior Court of the State of California, County of San Bernardino**
3 Case No. CIVSB2103630

4 **ELECTION NOT TO PARTICIPATE IN SETTLEMENT FORM**

5 **IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND BE ELIGIBLE FOR**
6 **A SHARE OF THE SETTLEMENT PROCEEDS,**
7 **DO NOT FILL OUT THIS FORM.**

8 **IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST COMPLETE AND**
9 **SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS BELOW, EMAILED, FAXED, OR**
10 **POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:**

11 *Shaver v. G & C Swan, Inc.* Class Action Administrator
12 c/o ____
13 ____
14 ____

15 I declare as follows: I have received notice of the proposed settlement in this action and I wish to be
16 excluded from the class and **not** to participate in the proposed settlement. I understand this means that I will not be
17 bound by the Settlement and also will not share in the settlement proceeds. I understand that exclusion from the
18 Class Settlement will not result in exclusion from the PAGA portion of the Settlement. If I am an Aggrieved
19 Employee under the Settlement, I will still receive an Individual PAGA Payment.

20 ____
21 (Typed or Printed Name)

22 ____
23 (Address)

24 ____
25 (City, State, Zip Code)

26 ____
27 (Telephone Number, Including Area Code)

28 ____
(Identification Number)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
correct and was executed on ____.

Dated: ____.
(Signature)

EXHIBIT C

1 **WORK WEEK DISPUTE FORM**

2 Superior Court of The State of California
3 For The County of San Bernardino
4 *Nicole Shaver v. G & C Swan, Inc.*, Case No. CIVSB2103630

5 Indicate Name/Address Changes, if any:

6 <<Name>>

7 <<Address>>

8 <<City>>, <<State>> <<Zip Code>>

9 XX – XX – ____

10 TO ALL OF DEFENDANT'S HOURLY, NON-EXEMPT CALIFORNIA EMPLOYEES AND
11 INTERNS DURING THE CLASS PERIOD FROM FEBRUARY 17, 2017 THROUGH THE
12 DATE OF THE COURT'S PRELIMINARY APPROVAL OF THE SETTLEMENT.

13 The amount of your estimated Settlement Award is based upon the number of eligible Work
14 Weeks you worked between February 17, 2017 and the date of the Court's preliminary approval
15 of the Settlement and eligible Work Weeks you worked between December 11, 2019 and the date
16 of the Court's preliminary approval of the Settlement. "Individual Class Work Weeks" are
17 defined as any Work Week in which you worked at least one (1) day as an hourly, non-exempt
18 employees of G & C Swan, Inc. ("Defendant") in California during the calendar week.
19 "Individual PAGA Work Weeks" are defined as any Work Week in which you worked at least
20 one (1) day as an hourly, non-exempt employees of Defendant in California during the calendar
21 week during the period of December 11, 2019 through the date of the Court's preliminary
22 approval of the Settlement. The number of Class and PAGA Work Weeks applicable to your
23 claim are set forth below.

24 **YOUR ELIGIBLE WORK WEEKS**

25 Defendant's records indicate that you worked <<number of Work Weeks>> Work Weeks
26 between February 17, 2017 and <<the date of the Court's preliminary approval of the
27 Settlement>> and <<number of Work Weeks>> Work Weeks between December 11, 2019
28 through <<the date of the Court's preliminary approval of the Settlement>>.

29 **YOUR ESTIMATED SETTLEMENT AWARD AND DISPUTE PROCEDURE**

30 Under the terms of the Class Action Settlement, you are entitled to receive a settlement payment
31 in the approximate estimated amount of <<\$Settlement Share Amount>>, minus all applicable
32 payroll and tax deductions, after the Court approves the Settlement and it goes into effect. This
33 process may take six months or more. You will receive a Form W-2 reflecting the payment to
34 you. Your Settlement Share reflected on this Notice is only an estimate. The exact amount of the
35 payment could vary, up or down.

1 If you wish to dispute the number of February 17, 2017 credited to you, or anything else about
2 your employment status, you must complete and return this form by indicating what you believe
3 is incorrect on the blank lines below and return it on or before <<RESPONSE DEADLINE>> to
4 the Administrator by email, fax, or regular U.S. Mail with proof of the submission date (such as
5 a postmark or delivery service date stamp). You may use this Work Weeks Dispute form for this
6 purpose. You must also send any documents or other information that you contend supports your
7 belief that the information set forth above is incorrect. The Administrator will resolve any dispute
8 based upon Defendant's records and any information you provide. Please be advised that the
9 information on this Work Weeks Dispute Form is presumed to be correct unless the documents
10 you submit are company records from Defendant.

11 _____
12 _____
13 _____
14 _____
15 _____

16 **UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF WORK**
17 **WEEKS, RECEIPT OF A SETTLEMENT PAYMENT, OR YOUR EMPLOYMENT**
18 **STATUS, YOU DO NOT NEED TO TAKE ANY ACTION**

EXHIBIT D

1 **OBJECTION FORM**

2 **Nicole Shaver v. G & C Swan, Inc.**
3 **Superior Court of the State California, County of San Bernardino**
4 **Case No. CIVSB2103630**

5 Please verify and/or complete any missing identifying information:

6 CPT ID: <<CPT ID>>

7 <<Name>>

8 <<Address1>>

9 <<Address2>>

10 <<City>>, <<State>> <<Zip>>

CORRECT NAME AND ADDRESS HERE:

Telephone Number: (____) ____ - ____

11 **THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE**
12 **SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF**
13 **YOU OBJECT TO THE SETTLEMENT, YOU SHOULD SIGN AND COMPLETE THIS**
14 **FORM ACCURATELY AND IN ITS ENTIRETY (OR ONE LIKE IT), AND YOU**
15 **SHOULD EMAIL IT TO <<____@____.COM>>, FAX IT TO <<XXX-XXX-**
16 **XXXX>>, OR MAIL IT BY FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR SO**
17 **THAT IT IS POSTMARKED ON OR BEFORE <<RESPONSE DEADLINE>>. THE**
18 **ADDRESS FOR THE ADMINISTRATOR IS NOTED ON PAGE TWO OF THIS FORM.**

19 **IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM.**
20 **THE ADMINISTRATOR WILL SEND THIS OBJECTION AND ANY SUPPORTING**
21 **DOCUMENTS TO THE ATTORNEYS FOR THE PARTIES. THE ATTORNEYS FOR**
22 **THE PARTIES WILL FILE THE OBJECTION WITH THE COURT.**

23 The Court will consider your objection at the Final Approval Hearing if you timely submit it.
24 Include any and all evidence and supporting papers (including, without limitation, all briefs,
25 written evidence, and declarations) that you would like the Court to consider. However, you may
26 speak to the Court at the final approval hearing whether or not you submit a timely objection.

27 [] I OBJECT to the *Nicole Shaver v. G & C Swan, Inc.* Settlement on the following
28 grounds (if additional space necessary, please include additional sheets of paper):

[] I am or will be represented by an attorney (provide name and address of attorney on lines below if applicable):

Executed on _____, 2023

(Signature)

<<Name>>

(Printed Name)

EMAIL TO THE ADMINISTRATOR: <<____@____.COM>>

FAX TO THE ADMINITRATOR: <<(XXX) XXX-XXXX>>

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL
POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:

Nicole Shaver v. G & C Swan, Inc. Administrator
[ADDRESS]

<<____>>
<<____>>
<<____>>