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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

GAUDENCIO GARCIA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

R& B WHOLESALE DISTRIBUTORS, INC., a
California corporation; and DOES 1 through 10,
inclusive

Defendants.

Case No.: CIVSB2108856

**JOINT STIPULATION OF CLASS ACTION
AND PAGA SETTLEMENT**

Complaint filed: April 20, 2021
Trial date: Not set

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action Settlement ("Joint Stipulation of Settlement" or
3 "Settlement" or "Agreement") is made and entered into by and between Plaintiff Gaudencio Garcia,
4 individually, and on behalf of all others similarly situated, ("Plaintiff" or "Class Representative"), and
5 Defendant R&B Wholesale Distributors, Inc. ("Defendant"). Plaintiff and Defendant are collectively
6 referred to herein as "the Parties."

7 THE PARTIES STIPULATE AND AGREE as follows:

8 **DEFINITIONS**

9 1. For purposes of this Settlement, "Complaint" refers to the operative complaint at the time the
10 Court grants Preliminary Approval of this Settlement.

11 2. For purposes of this Settlement, this matter, entitled *Gaudencio Garcia v. R&B Wholesale*
12 *Distributors, Inc., et al.*, San Bernardino Superior Court Case No. CIVSB2108856, is referred to herein as
13 the "Action."

14 3. For purposes of this Settlement, "Attorneys' Fees and Costs" means attorneys' fees agreed
15 upon by the Parties and approved by the Court for Class Counsel's litigation and resolution of the Action,
16 and all out-of-pocket costs incurred and to be incurred by Class Counsel in the Action, including but not
17 limited to expert/consultant fees, investigation costs, and costs associated with documenting the
18 Settlement, providing any notices required as part of the Settlement or Court order, securing the Court's
19 approval of the Settlement, administering the Settlement, and obtaining entry of a Judgment terminating
20 the Action. Class Counsel will request attorneys' fees not in excess of one-third (1/3) of the Gross
21 Settlement Amount, or One Hundred Ninety-Three Thousand Three Hundred Fourteen Dollars
22 (\$193,314). The Attorneys' Fees and Costs will also mean and include the additional reimbursement of
23 any costs and expenses associated with Class Counsel's litigation and settlement of the Action, up to
24 Twenty Thousand Dollars (\$20,000.00), subject to the Court's approval. Defendant has agreed not to
25 oppose Class Counsel's request for fees and reimbursement of costs as set forth above.

26 4. For purposes of this Settlement, the "Class Period" is April 20, 2017 through the date the Court
27 preliminarily approves of the settlement, or May 1, 2022, whichever is sooner.

28 5. For purposes of this Settlement, the "Class" or "Class Members" consist of: All persons who

1 worked for Defendant R&B Wholesale Distributors, Inc. in California as an hourly, non-exempt employee
2 from April 20, 2017 to the date the Court preliminarily approves of the settlement, or May 1, 2022,
3 whichever is sooner. "Settlement Class Members" are Plaintiff and those Class Members who do not
4 submit timely exclusion requests to the Settlement Administrator.

5 6. For purposes of this Settlement, "Covered Workweeks" or "Workweeks" means the number of
6 days of employment for each Class Member during the Class Period, subtracting days on leave of absence
7 (if any), dividing by seven (7), and rounding up to the nearest whole number. All Class Members will be
8 credited with at least one Workweek during the Class Period, and all PAGA Members will be credited
9 with at least one Workweek during the PAGA Period. The Settlement Administrator will be responsible
10 for calculating the respective number of Workweeks that each Class Member worked during the Class
11 Period and PAGA Period.

12 7. For purposes of this Settlement, "Class Representative Service Award" means the amount
13 that the Court authorizes to be paid to Plaintiff in recognition of Plaintiff's efforts and risks in assisting
14 with the prosecution of the Action and for his general release of claims.

15 8. For purposes of this Settlement, "Response Deadline" means the date thirty (30) days after the
16 Settlement Administrator initially mails the Notice to Settlement Class Members and the last date on
17 which Settlement Class Members may submit a request for exclusion or written objection to the
18 Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 30 calendar days
19 after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as
20 expressly described herein.

21 9. For purposes of this Settlement, "Class Counsel" means Seung Yang, Esq., Allen Feghali,
22 Esq., and Brett M. Gunther, Esq. of MOON & YANG, APC.

23 10. For purposes of the Settlement, "Defendant's Counsel" means Alexander M. Medina Esq. and
24 Rabindra M. David, Esq. of Medina McKelvey, LLP, 925 Highland Pointe Drive. Ste. 300, Roseville,
25 California 95678, for Defendant R&B Wholesale Distributors, Inc.

26 11. "Plaintiff" means Plaintiff Guadencio Garcia.

27 12. "Defendant" means Defendant R&B Wholesale Distributors, Inc.

28 13. "Class List" means a complete list of all Class Members that Defendant will diligently and in

1 good faith compile from its records and provide to the Settlement Administrator within twenty-one (21)
2 calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in Microsoft
3 Office Excel and will include each Class Member's full name; most recent mailing address and telephone
4 number; email address if known; Social Security number; dates of employment; and any other relevant
5 information needed to calculate settlement payments.

6 14. For purposes of this Settlement, "Gross Settlement Amount" means the Gross Settlement
7 Amount of \$580,000.00 to be paid by Defendant in full satisfaction of all Released Class Claims and
8 Released PAGA Claims, which includes all Individual Settlement Payments, Attorneys' Fees and Costs,
9 the Class Representative Service Award, Settlement Administration Costs, and the PAGA Penalty
10 Payment. This Gross Settlement Amount has been agreed to by Plaintiff and Defendant based on the
11 aggregation of the agreed-upon settlement value of individual claims. In no event will Defendant be liable
12 for more than the Gross Settlement Amount except as otherwise explicitly set forth herein. Defendant will
13 be separately responsible for any employer payroll taxes required by law, including the employer FICA,
14 FUTA, and SDI contributions, which shall not be paid from the Gross Settlement Amount.

15 15. For purposes of this Settlement, "Net Settlement Amount" means the Gross Settlement
16 Amount, less Attorneys' Fees and Costs, the Class Representative Service Award, Settlement
17 Administration Costs, and the PAGA Penalty Payment. The Net Settlement Amount will be distributed to
18 Participating Class Members. There will be no reversion of the Net Settlement Amount to Defendant.

19 16. For purposes of this Settlement, "Individual Settlement Amount" means the amount payable
20 from the Net Settlement Amount to each Class Member and PAGA Employee.

21 17. For purposes of this Settlement, "PAGA Allocation" means the amount that the Parties have
22 agreed to pay to the Labor and Workforce Development Agency ("LWDA") in connection with the Labor
23 Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). The Parties
24 have agreed that the PAGA Allocation will be \$50,000.00 from the Gross Settlement Amount. Pursuant to
25 PAGA, Seventy Five Percent (75%), or \$37,500.00, of the PAGA Penalty Payment will be paid to the
26 LWDA ("PAGA Penalty Payment"), and Twenty Five Percent (25%), or \$12,500.00 of the LWDA
27 Payment will be included in the Net Settlement Amount for PAGA Employees ("PAGA Settlement
28 Payment").

1 18. For purposes of this Settlement, "PAGA Period" means the period between June 19, 2020
2 through the date the Court preliminarily approves of the settlement, or May 1, 2022, whichever is sooner.

3 19. For purposes of this Settlement, "PAGA Employee" means all Class Members that worked
4 during the PAGA Period.

5 20. For purposes of this Settlement, "PAGA Pay Periods" means the number of pay periods each
6 PAGA Employee worked during the PAGA Period.

7 21. For purposes of this Settlement, "PAGA Representative" means Plaintiff.

8 22. For purposes of this Settlement, "Released Class Claims" means any and all claims asserted in
9 the operative class complaint and the letter on file with the LWDA, all claims that could reasonably have
10 been asserted in the operative complaint and LWDA notice, and claims arising out of the same operative
11 facts, including state wage and hour claims for violations of California's Labor Code and Unfair
12 Competition Law based on Defendant's failure to pay all wages due (including minimum wages, straight
13 time wages, and overtime wages), failure to provide compliant meal periods, failure to authorize and
14 permit compliant rest periods, failure to provide accurate and itemized wages statements, failure to timely
15 pay all wages due at the time of termination, failure to reimburse employees for all business-related
16 expenses, and violations of Business and Professions Code section 17200 based on the alleged Labor Code
17 violations, and all damages, interest, penalties, attorneys' fees, costs, and other amounts recoverable under
18 said causes of action under California law, to the extent permissible.

19 23. For purposes of this Settlement, "Released PAGA Claims" means all claims asserted through
20 California Labor Code §§ 2698, *et seq.*, that arise out of or are related to the Released Claims set forth
21 below, and are subject to assertion through PAGA.

22 24. For purposes of this Settlement, "Released PAGA Claims Period" means the period between
23 June 19, 2020 through the date the Court preliminarily approves of the settlement, or May 1, 2022,
24 whichever is sooner.

25 25. For purposes of this Settlement, "Request for Exclusion" means a written request by a Class
26 Member to opt out of, or exclude oneself, from the Settlement.

27 26. For purposes of this Settlement, "Settlement" means the final and complete disposition of the
28 Action pursuant to this Stipulation.

27. For purposes of this Settlement, “Settlement Payments” means all of the payments to Settlement Class Members (the “Settlement Class Payments”) and all of the payments to PAGA Employees (the “PAGA Settlement Payments”).

28. For purposes of this Settlement, PAGA Settlement Payments are the amount that the Parties have agreed to pay to the LWDA and PAGA Members in connection with Plaintiff's claim under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

29. For purposes of this Settlement, “Settlement Administrator” means a third-party class action settlement administrator agreed to by the Parties and approved by the Court for purposes of administering this Settlement.

30. For purposes of this Settlement, “Settlement Administration Costs” means the reasonable costs and fees of administration of this Settlement, including, but not limited to: (i) printing, mailing and re-mailing (if necessary) Notice of Settlement to the Class Members; (ii) preparing and submitting to Class Members and government entities all appropriate tax filings and forms; (iii) computing the amount of and distributing Individual Settlement Payments, the Class Representative Service Award, Attorneys’ Fees and Costs, and the LWDA Payment; (iv) processing and validating Requests for Exclusion and Notices of Objection; (v) establishing a Qualified Settlement Fund (“QSF”), as defined by the Internal Revenue Code; and (vi) calculating and remitting to the appropriate government agencies all employer and employee payroll tax obligations arising from the Settlement and preparing and submitting filings required by law in connection with the payments required by the Settlement.

STIPULATED BACKGROUND

31. On April 14, 2021, Plaintiff submitted a “Notice of Labor Code Violations and PAGA Penalties” online to the Labor & Workforce Development Agency to satisfy the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.] (“PAGA”). More than 65 days have passed since the Plaintiff’s submission of the notice letter and Plaintiff has not received any notice from the LWDA of its intent to investigate the claims set forth in the April 14, 2021 PAGA letter.

32. On April 20, 2021, Plaintiff Gaudencio Garcia filed a putative Class Action (the “Complaint”) alleging the following labelled causes of action: (1) Failure to Pay Minimum and Regular Rate Wages

[Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]. On August 23, 2021, Plaintiff filed a First Amended Complaint to add a claim for PAGA penalties under California Labor Code §§ 2698 *et. seq.*

33. On January 31, 2022, the Parties participated in a mediation in the Action with Mediator Tripper Ortman, Esq. and the Parties were able to reach an agreement on the essential terms of a proposed class action settlement and PAGA settlement. On January 31, 2022, the Parties executed a memorandum of understanding reflecting their agreement.

34. In the Complaint, Plaintiff sought to represent all non-exempt employees who worked for Defendant in California, and who were allegedly denied minimum and overtime wages on account of Defendants' temperature and security checks, who allegedly did not receive all meal and rest periods legally entitled, who allegedly did not receive minimum, overtime, meal period premium and rest period premium wages at the correct rate of pay, who allegedly did not timely receive all wages upon their resignation or termination of employment, who were not indemnified for all necessary business expenses, and who allegedly did not received accurate itemized wage statements at any time during the period beginning four years before the filing of the initial complaint and ending the date the Court preliminarily approves of the settlement, or May 1, 2022, whichever is sooner.

35. The Parties stipulate and agree to the certification of the proposed class for settlement purposes only. The Parties further agree that this Stipulation will not be admissible in this or any other proceeding as evidence that (i) a class action should be certified, (ii) a representative action is appropriate or manageable, or (iii) Defendant is liable to Plaintiff or any Class Member, other than according to the terms of this Stipulation. Solely for purposes of settling this case, the Parties stipulate and agree that:

- (a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.

- (b) There are common questions of law and fact including, but not limited to, the following:
- 1) Whether or not Plaintiff and the Class Members were properly compensated for all hours worked, including minimum and overtime wages;
 - 2) Whether or not Plaintiff and the Class Members were provided and/or authorized and permitted all meal and rest periods, and/or were paid premium pay at the proper rate of pay for failure to provide meal and rest breaks ;
 - 3) Whether or not Plaintiff and the Class Members timely received all wages owed upon the termination and/or resignation of their employment;
 - 4) Whether or not Defendants maintained accurate records of all hours Plaintiff and the Class Members worked;
 - 5) Whether or not Plaintiff and the Class Members were fully reimbursed for all necessary business expenses incurred during employment with Defendant; and,
 - 6) Whether or not Defendants engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.
- (c) Plaintiff's claims are typical of the claims of the Class Members.
- (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.
- (e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- (f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and

1 efficient adjudication of the controversy.

2 36. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were
3 willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be
4 admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be
5 certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves
6 its right to oppose claim or class certification in this or any other action should this Settlement not become
7 effective.

8 37. Defendant expressly denies any liability or wrongdoing of any kind whatsoever associated
9 with the claims alleged in the Complaint, and Defendant further denies that, for any purpose other than
10 settling this lawsuit, the action is appropriate for class or representative treatment. With respect to
11 Plaintiff's claims, Defendant contends, among other things, that Plaintiff and the Class Members have
12 been paid proper wages, have been provided meal periods or they have been made available as required,
13 have been provided rest periods or they have been authorized and permitted as required, have been paid
14 timely wages upon separation of employment, have been fully reimbursed for all necessary business
15 expenses, and have been provided with accurate itemized wage statements. Defendant contends, among
16 other things, that it has complied at all times with the California Labor Code and the applicable Wage
17 Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendant contends
18 that it has complied at all times with the California Business and Professions Code.

19 38. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all
20 disputes and claims arising from or related to the Complaint.

21 39. Class Counsel has conducted a thorough investigation into the facts of this Action, including
22 an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the
23 Class against Defendant. Based on its own independent investigation and evaluation, Class Counsel is of
24 the opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Joint
25 Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of
26 all known facts and circumstances, including the risk of significant delay, the risk the Class will not be
27 certified by the Court, defenses asserted by Defendant, and numerous potential appellate issues.
28 Defendant and Defendant's Counsel also agree that the Settlement is fair and in the best interest of the

1 Class.

2 40. The Parties agree to cooperate and take all steps necessary and appropriate to obtain
3 preliminary and final approval of this Settlement. Class counsel will obtain a hearing before the Court to
4 request the Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary Approval
5 Order for: (i) conditional certification of the Settlement Class for settlement purposes only, (ii) preliminary
6 approval of the proposed Settlement Agreement, and (iii) setting a date for a final fairness hearing. The
7 Preliminary Approval Order will provide for the Notice Packet to be sent to all Class Members as
8 specified herein. In conjunction with the Preliminary Approval hearing, Plaintiff will submit this
9 Settlement Agreement, which sets forth the terms of this Settlement, and will include the proposed Notice
10 of Class Action Settlement, attached as an Exhibit. Class Counsel will be responsible for drafting all
11 documents necessary to obtain preliminary approval.

12 41. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to
13 implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

14 **PRIMARY TERMS OF SETTLEMENT**

15 42. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set
16 forth herein, the Parties agree, subject to the Court's approval, as follows:

17 (a) It is agreed by and among the Class and Defendant that this case and any claims,
18 damages, or causes of action arising out of the disputes which are the subject of
19 this case, be settled and compromised as between the Class and Defendant, subject
20 to the terms and conditions set forth in this Settlement and the approval of the
21 Court.

22 (b) Effective Date: The terms of settlement embodied in this Settlement shall become
23 effective when all of the following events have occurred: (i) this Joint Stipulation
24 of Settlement has been executed by all Parties and their respective counsel; (ii) the
25 Court has given preliminary approval to the Settlement; (iii) the Notice has been
26 given to the class, providing them with an opportunity to dispute information
27 contained in the Notice, to opt out of the Settlement, or to object to the Settlement;
28 (iv) the Court has held a final approval hearing and entered a final order and

1 judgment certifying the Class and approving this Settlement; and (v) the later of the
2 following events: (a) the date final approval is granted if there are no objections to
3 the settlement; (b) sixty-five (65) days following notice of entry of the Court's final
4 order approving the Settlement if there are any objections by any Class Member; or
5 (c) if any appeal, writ or other appellate proceeding opposing this Settlement has
6 been filed within sixty-five (65) days following notice of entry of the Court's final
7 order approving the Settlement, then twenty (20) days after when any appeal, writ
8 or other appellate proceeding opposing the Settlement has been resolved finally
9 and conclusively with no right to pursue further remedies or relief. In this regard, it
10 is the intention of the Parties that the Settlement shall not become effective until the
11 Court's order approving the Settlement is completely final, and there is no further
12 recourse by an appellant or objector who seeks to contest the Settlement.

13 (c) Gross Settlement Amount: Defendant's maximum total payment under the
14 Settlement, including all attorney's fees and costs, the Service Payment to the
15 named Plaintiff, the costs of settlement administration, the PAGA Allocation, and
16 any other payments provided by this Settlement, is \$580,000.00 ("Gross Settlement
17 Amount"), subject to the Escalator Clause and except that, to the extent that any
18 portions of the Class Members' Settlement Payments constitute wages, Defendant
19 will be separately responsible for any employer payroll taxes required by law,
20 including the employer FICA, FUTA, and SDI contributions.

21 (d) Escalator Clause: If it is later determined that the number of Workweeks through
22 January 31, 2022 is more than 25% greater than the original estimate of 23,869
23 Workweeks (i.e., 29,836 or more workweeks), the Gross Settlement Amount shall
24 be increased by the percentage that the actual number of Covered Workweeks
25 exceeds the original estimates beyond 25% (the "Escalator Clause"). The Gross
26 Settlement Amount will not be reduced for any reason.

27 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
28 revert to Defendant.

- 1 (f) No Claims Required: Class Members will not be required to submit a claim to
2 receive their Settlement payment.
- 3 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
4 deducting from the Gross Settlement Amount (\$580,000.00) the following sums,
5 subject to approval by the Court: (1) attorney's fees (not to exceed 33.33% of the
6 Gross Settlement Amount, or \$193,314); (2) reasonable litigation costs (not to
7 exceed \$20,000.00); (3) the Class Representative Service Award (not to exceed
8 \$7,500.00); (4) the PAGA Penalty Payment in the amount of \$37,500.00 (which is
9 75% of the \$50,000.00 PAGA Allocation); and (5) costs of settlement
10 administration (estimated not to exceed \$15,000). Settlement Payments to the
11 Class Members will be calculated by the Settlement Administrator and paid out of
12 the Net Settlement Amount as set forth below.
- 13 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
14 Settlement Class Members' Settlement Payments constitute wages, Defendant will
15 be separately responsible for any **employer** payroll taxes required by law,
16 including the employer FICA, FUTA, and SDI contributions. Except for any
17 employer payroll taxes, it is understood and agreed that Defendant's maximum
18 total liability under this Settlement shall not exceed the Gross Settlement Amount.
19 The Settlement Administrator will calculate and submit the Defendant's employer
20 share of payroll taxes after advising Defendant of the total amount owed, in
21 aggregate, as employer-side payroll taxes and receiving a lump sum payment from
22 Defendant in that amount when the Gross Settlement Amount is delivered to the
23 Settlement Administrator.
- 24 (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class
25 Payments will be paid out of the Net Settlement Amount. Each Settlement Class
26 Member will be paid a pro-rata share of the Net Settlement Amount (less the
27 PAGA Settlement Payments), as calculated by the Settlement Administrator. The
28 pro-rata share will be determined by comparing the individual Settlement Class

1 Member's Covered Workweeks worked during the Class Period in California to
2 the total Covered Workweeks of all the Settlement Class Members during the
3 Class Period as follows: [Workweeks worked by a Settlement Class Member] ÷
4 [Sum of all Covered Workweeks worked by all Settlement Class Members] × [Net
5 Settlement Amount – all PAGA Settlement Payments] = Individual Settlement
6 Payment for a Settlement Class Member. Settlement Class Payments in the
7 appropriate amounts will be distributed by the Settlement Administrator by mail to
8 the Settlement Class Members. Un-cashed, unclaimed or abandoned checks, shall
9 be transmitted to the California Controller's Office, as set forth below.

10 (j) PAGA Settlement Payments: The Parties have agreed that Fifty Thousand Dollars
11 (\$50,000.00) of the Gross Settlement Amount will be allocated to the PAGA
12 Settlement Payments. Pursuant to PAGA, Seventy-Five Percent (75%), or Thirty
13 Seven Thousand Five Hundred Dollars (\$37,500.00), of the PAGA Settlement
14 Amount will be paid to the California Labor and Workforce Development Agency
15 ("Labor and Workforce Development Agency Payment"), and Twenty-Five
16 Percent (25%), or Twelve Thousand Five Hundred Dollars (\$12,500.00), of the
17 PAGA Settlement will be disbursed to PAGA Members, regardless of whether
18 they request to be excluded from the Settlement Class. PAGA Settlement
19 Payments will be paid out of the Net Settlement Amount. Each PAGA Employee
20 will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment,
21 as calculated by the Settlement Administrator. Because this settlement resolves
22 claims and actions brought pursuant to PAGA by Plaintiffs acting as proxies and as
23 Private Attorneys General of, and for, the State of California and the LWDA, the
24 Parties agree that no PAGA Employee will be permitted to exclude themselves
25 from this portion of the Settlement. PAGA Employees will be bound by the terms
26 of the Settlement Agreement, upon its approval by the Court, regardless of whether
27 he or she cashes any payment received as a result of this Settlement. The Parties
28 also agree that no PAGA Employee has the right to object to the terms of the

1 Settlement Agreement. The pro-rata share will be determined by comparing the
2 individual PAGA Employees' PAGA Pay Periods during the PAGA Period to the
3 total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as
4 follows: [PAGA Pay Periods worked by a PAGA Employee] ÷ [Sum of all PAGA
5 Pay Periods worked by all PAGA Employees] × [PAGA Settlement Payment] =
6 individual PAGA Employee's portion of the PAGA Settlement Payment. PAGA
7 Settlement Payments to PAGA Employees in the appropriate amounts will be
8 distributed by the Settlement Administrator by mail to the PAGA Employees at the
9 same time Settlement Class Payments issue to the Settlement Class. Un-cashed,
10 unclaimed or abandoned checks, shall be transmitted to the California Controller's
11 Office, as set forth below. The LWDA's PAGA Penalty Payment will issue to the
12 LWDA at the same time Settlement Payments issue to the Settlement Class.

13 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
14 Payments will be allocated as follows: 20% to wages and 80% to penalties and
15 interest. The PAGA Settlement Payment shares to PAGA Employees will be
16 entirely allocated to penalties. Appropriate federal, state and local withholding
17 taxes will be taken out of the wage allocations, and each Class Member will
18 receive an IRS Form W-2 with respect to this portion of the Settlement Payment.
19 The employer's share of payroll taxes and other required withholdings will be paid
20 as set forth above, including but not limited to the Defendants' FICA and FUTA
21 contributions, based on the payment of claims to the Class Members. IRS Forms
22 1099 will be issued to each Class Member reflecting the payments for penalties and
23 interest. Class Members are responsible to pay appropriate taxes due on the
24 Settlement Payments they receive. To the extent required by law, IRS Forms 1099
25 and W-2 will be issued to each Class Member with respect to such payments.

26 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
27 Payments to individual Class Members shall be deemed to be paid to such Class
28 Member solely in the year in which such payments actually are received by the

1 Class Member. It is expressly understood and agreed that the receipt of such
2 Settlement Payments will not entitle any Class Member to additional compensation
3 or benefits under any company bonus, contest or other compensation or benefit
4 plan or agreement in place during the period covered by the Settlement, nor will it
5 entitle any Class Member to any increased retirement, 401(k) benefits or matching
6 benefits or deferred compensation benefits. It is the intent that the Settlement
7 Payments provided for in this Settlement are the sole payments to be made by
8 Defendants to the Class Members, and that the Class Members are not entitled to
9 any new or additional compensation or benefits as a result of having received the
10 Settlement Payments (notwithstanding any contrary language or agreement in any
11 benefit or compensation plan document that might have been in effect during the
12 period covered by this Settlement).

13 (m) Class Representative Service Award: Subject to Court approval, and in exchange
14 for his service and assistance in prosecuting the action as well as a general release,
15 Defendant will not object to Class Counsel's application for an additional payment
16 of up to \$7,500.00 to Plaintiff for service as a Class Representative ("Class
17 Representative Service Award"). It is understood that this award is in addition to
18 the individual Settlement Payment to which Plaintiff is entitled to along with the
19 other Class Members. In exchange, Plaintiff has agreed to release all claims,
20 whether known or unknown, under federal law or state law against the
21 Releasees, to the extent permitted by law, through the Class Period ("Plaintiff's
22 Released Claims"). Plaintiff understands that this release includes unknown
23 claims and that he is, as a result, waiving all rights and benefits afforded by
24 Section 1542 of the California Civil Code, which provides:

25 **A GENERAL RELEASE DOES NOT EXTEND TO**
26 **CLAIMS THAT THE CREDITOR OR RELEASING**
27 **PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN**
28 **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.

Specifically excluded from Plaintiff's Released Claims are any claims for workers' compensation benefits. The Service Payment will issue at the same time all Settlement Payments are mailed to the Settlement Class. The difference between the amounts requested as a service payment and the actual amounts awarded will be distributed to the class as Settlement Payments.

(n) The Settlement Administrator will be responsible for issuing to Plaintiffs, Participating Class Members, PAGA Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities. The Plaintiff will be individually responsible for correctly characterizing this compensation on personal income tax returns for tax purposes and for paying any taxes on the amounts received. Should the Court approve a Service Payment in an amount less than that set forth above, the difference between the lesser amount(s) approved by the Court and the Service Payment amount(s) set forth above shall be added to the Net Settlement Amount. Plaintiff agrees not to opt out or object to the Service Payment as the Class Representative.

(o) Settlement Administrator: The Settlement Administrator will be ILYM Group, Inc., or such Settlement Administrator as may be mutually agreeable to the Parties and approved by the Court. Settlement Administration Costs are estimated not to exceed \$15,000. These costs, which will be paid from the Gross Settlement Amount, will include, *inter alia*, the required tax reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms, distributing Notice Packets, calculating and distributing the Gross Settlement Amount, and providing necessary reports and declarations. The costs of the Settlement Administrator for work done shall be paid regardless of the outcome of this Settlement.

1 (p) Funding of Gross Settlement Account: Defendant will make a one-time deposit of
2 the Gross Settlement Amount of Five Hundred Eighty Thousand dollars
3 (\$580,000.00) into a Qualified Settlement Account to be established by the
4 Settlement Administrator. Defendant will pay the employer's share of payroll
5 taxes separately. After the Effective Date, the Gross Settlement Amount will be
6 used for: (i) Individual Settlement Payments; (ii) the Labor and Workforce
7 Development Agency Payment; (iii) the Class Representative Service Award; (iv)
8 Attorneys' Fees and Costs; and (v) Settlement Administration Costs. Defendant
9 will deposit the Gross Settlement Amount and the employer's share of payroll
10 taxes within twenty-one (21) calendar days of the Effective Date.

11 (q) Mailing of Settlement Payments: The Settlement Administrator shall cause the
12 Settlement Payments to be mailed to the Class Members via regular First-Class
13 U.S. Mail, within fourteen (14) calendar days after the final funds are deposited
14 with the administrator, using the most current, known mailing address identified in
15 the class list.

16 (r) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
17 material terms of the proposed Settlement, along with instructions about how to
18 object or request exclusion from the proposed class action Settlement ("Notice").
19 For each Class Member, there will be pre-printed information on the mailed
20 Notice, based on Defendant's records, stating the Class Member's Covered
21 Workweeks during the Class Period and the estimated total Settlement Payment
22 under the Settlement, including the Settlement Class Payment and the PAGA
23 Settlement Payment that will be distributed irrespective of any exclusion request.
24 The pre-printed information based on Defendant's records shall be presumed to be
25 correct. A Class Member may dispute the pre-printed information on the Notice as
26 to his or her Covered Workweeks during the Class Period. Class Members must
27 submit any dispute regarding the information on the Notice as to his or her
28 Covered Workweeks within the Response Deadline. Unless a disputing Class

1 Member submits documentary evidence in support of his or her dispute, the
2 records of the Defendant will be determinative, subject to review by the Court.

3 (s) Settlement Notice Language: The Notice will issue in English and Spanish.

4 (t) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

5 Class Members submitting a Request for Exclusion will nevertheless receive their
6 pro-rata share of the PAGA Settlement Payment. If the Court approves the
7 compromise of the PAGA Claim, all Class Members are bound by the Court's
8 resolution of that Claim. Plaintiff shall serve a notice of settlement on the
9 California Labor and Workforce Development Agency at or before the time
10 Plaintiff file the motion for preliminary approval.

11 (u) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of
12 Defendant's records used to calculate Covered Workweeks, and the Parties'
13 counsel cannot resolve the dispute informally, the matter will be referred to the
14 Settlement Administrator. The Settlement Administrator will review Defendant's
15 records and any information or documents submitted by the Class Member and
16 issue a decision regarding the dispute. The Court reviewing this Settlement shall
17 have the authority to review and make a final decision regarding any Class
18 Member dispute. The Class Member must submit information or documents
19 supporting his or her position to the Settlement Administrator prior to the
20 expiration of the Response Deadline. Information or documents submitted after
21 the expiration of the Response Deadline will not be considered by the Settlement
22 Administrator, unless otherwise agreed to by the Parties.

23 (v) Right of Class Member to Request Exclusion from the Settlement: Any Class
24 Member may request to be excluded from the Class by mailing a "Request for
25 Exclusion" from the Settlement within the Response Deadline, stating, as follows
26 or in substantially similar terms:

27 "I WISH TO BE EXCLUDED FROM THE CLASS IN THE
28 *GARCIA v. R&B WHOLESALE DISTRIBUTORS, INC., ET AL*,
CLASS ACTION LAWSUIT, SAN BERNARDINO COUNTY

1 SUPERIOR COURT CASE NO. CIVSB2108856. I
2 UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM
3 THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM
4 THE SETTLEMENT OTHER THAN MY SHARE OF THE
5 PAGA PAYMENT.”

6 Any Request for Exclusion must include the name, address, telephone number, last
7 four digits of the Class Member’s Social Security Number, and the signature of the
8 Class Member requesting exclusion. Any such request must be made in
9 accordance with the terms of the Notice, and the Notice will advise Class Members
10 of these requirements. Any Class Member who timely requests exclusion in
11 compliance with these requirements (i) shall not have any rights under this
12 Settlement other than a right to receive a pro-rata share of the portion of the PAGA
13 payment allocated to the Class Members if the Class Member is also PAGA
14 Employee; (ii) shall not be entitled to receive any Settlement Payments under this
15 Settlement other than as stated in (i) in this paragraph; and (iii) shall not be bound
16 by this Settlement or the Court’s Order and Final Judgment other than as it applies
17 to the PAGA Claim. Exclusion requests may also be made by fax or email.

18 (w) Right of Settlement Class Member to Object to The Settlement: Any Class
19 Member may object to the Settlement. To object, the Class Member may (1)
20 appear in person at the Final Approval Hearing to explain any objection, (2) have
21 an attorney object for the Class Member, or (3) submit a simple written brief or
22 statement of objection to the Settlement Administrator. If any Class Member
23 chooses to submit a written objection, the written objection should be submitted via
24 fax or email to counsel for the Parties no later than fourteen (14) calendar days
25 before the Final Approval Hearing, and should contain sufficient information to
26 confirm the identity of the objector and the basis of the objection, including (1) the
27 full name of the Settlement Class Member; (2) the signature of the Settlement
28 Class Member; (3) the grounds for the objection; and (4) be postmarked within the
Response Deadline to permit adequate time for processing and review by the
Parties of the written statement or objection. Class Counsel shall ensure that any

1 written objections are transmitted to the Court for the Court's review (either by
2 Class Counsel or as an attachment to declaration from the Settlement
3 Administrator). A Class Member who does not object prior to or at the Final
4 Approval Hearing, will be deemed to have waived any objections and will be
5 foreclosed from making any objections (whether at the Final Approval Hearing, by
6 appeal, or otherwise) to the Settlement and/or seeking any adjudication or review
7 of the Settlement, by appeal or otherwise. At no time will any of the Parties or
8 their counsel seek to solicit or otherwise encourage Class Members to submit
9 written objections to the Settlement Agreement or appeal from the final approval
10 order and judgment. Class Counsel will not represent any Class Members with
11 respect to any such objections to this Settlement.

12 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

13 43. Subject to the Court's approval, and subject to reconsideration by the Parties after a
14 competitive bidding process, the Parties have agreed to the appointment of ILYM Group, Inc. to perform
15 the customary duties of Settlement Administrator. The Parties each represent that they do not have any
16 financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement
17 Administrator that could create a conflict of interest. The Settlement Administrator will mail the Notice,
18 both in English and Spanish, to the Class Members.

19 44. The Settlement Administrator will independently review the Covered Workweeks attributed to
20 each Class Member and will calculate the estimated amounts due to each Class Member and the actual
21 amounts due to each Settlement Class Member in accordance with this Settlement. The Settlement
22 Administrator shall report, in summary or narrative form, the substance of its findings. The Settlement
23 Administrator shall be granted reasonable access to Defendant's records in order to perform its duties.

24 45. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement Amount
25 from Defendant, the Settlement Administrator will issue and send out the Settlement Payment checks to
26 the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in
27 accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's
28 performance of its duties shall be referred to the Court, if necessary, which will have continuing

1 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
2 contemplated by this Settlement have been fully carried out.

3 46. The Settlement Administrator will mail the final judgment approving the Settlement along
4 with the settlement payments.

5 **ATTORNEY'S FEES AND COSTS**

6 47. In consideration for resolving this matter and in exchange for the release of all claims by the
7 Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object and
8 will not oppose Class Counsel's application for attorney's fees not to exceed 33.33% of the Gross
9 Settlement Amount (\$193,314 of \$580,000.00) and litigation costs not to exceed \$20,000.00. The
10 amounts set forth above will cover all work performed and all fees and costs incurred to date, and all work
11 to be performed and all fees and costs to be incurred in connection with the approval by the Court of this
12 Settlement and administration of the Settlement. Should Class Counsel request a lesser amount and/or the
13 Court approve a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference between the
14 lesser amount(s) and the maximum amount set forth above shall be added to the Net Settlement Amount.
15 Attorneys' fees and costs approved by the Court shall be paid to Class Counsel within 14 calendar days
16 after the funds are deposited with the Settlement Administrator. In the event that the Court awards less
17 than 25% of the Gross Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal
18 that portion of any Final Approval Order and Judgment.

19 **THE NOTICE PROCESS**

20 48. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the
21 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice
22 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in
23 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the
24 Settlement Administrator to forward the Notices to the Class.

- 25 (a) Within twenty-one (21) calendar days from the date of entry of the preliminary
26 approval order of this Settlement by the Court, Defendant shall provide to the
27 Settlement Administrator a class database containing the following information for
28 each Class Member: (1) name; (2) last known mailing address and telephone

1 number; (3) last known email address; (4) social security number; and (5) dates of
2 employment at Defendants' locations in California. This database shall be based
3 on Defendant's payroll and other business records and shall be provided in a
4 format acceptable to the Settlement Administrator. Defendant agrees to consult
5 with the Settlement Administrator prior to the production date to ensure that the
6 format will be acceptable to the Settlement Administrator. The Settlement
7 Administrator will run a check of the Class Members' addresses against those on
8 file with the U.S. Postal Service's National Change of Address List. Absent mutual
9 written agreement of counsel for the Parties or Court order, the Settlement
10 Administrator will keep this database confidential and secure and use it only for the
11 purposes described herein, and will return this database to Defendant upon final
12 approval of the settlement or destroy electronic records containing the database
13 after the Settlement is final and all payments are distributed as required under this
14 Agreement. The information provided to the Settlement Administrator shall be
15 kept confidential and shall not be disclosed, either in writing or orally, by the
16 Settlement Administrator at any time. The Settlement Administrator shall use due
17 care with respect to the storage, custody, use, and/or dissemination of the
18 confidential information. Such information must be stored in a secure fashion and
19 all persons who access the data must agree to keep it confidential.

- 20 (b) Within fourteen (14) calendar days after the Class database is provided to the
21 Settlement Administrator, the Settlement Administrator will mail the Notices to the
22 Class Members by First Class U. S. mail. Each Notice Packet will provide: (i)
23 information regarding the nature of the Action; (ii) a summary of the Settlement's
24 principal terms; (iii) the Settlement Class and PAGA Employee definitions; (iv) the
25 total number of Workweeks each respective Class Member and PAGA Employee
26 worked for Defendant during the Class Period and PAGA Period; (v) each Class
27 Member's and PAGA Employee's estimated Individual Settlement Payment and
28 the formula for calculating Individual Settlement Payments; (vi) the dates which

1 comprise the Class Period and PAGA Period; (vii) instructions on how to submit
2 Requests for Exclusion or Notices of Objection; (viii) the deadlines by which the
3 Class Member must postmark or fax Request for Exclusions, or postmark Notices
4 of Objection to the Settlement; and (ix) the claims to be released.

- 5 (c) Notices returned to the Settlement Administrator as non-deliverable on or before
6 the initial Response Deadline shall be resent to the forwarding address, if any, on
7 the returned envelope. A returned Notice will be forwarded by the Settlement
8 Administrator any time that a forwarding address is provided with the returned
9 mail. If there is no forwarding address, the Settlement Administrator will do a
10 computer search for a new address using the Class Member's social security
11 number or other information. In any instance where a Notice is re-mailed, the
12 Settlement Administrator must complete re-mailing within three business days, and
13 that Class Member will have to respond by the original response deadline or 14
14 calendar days after re-mailing, whichever is later. A letter prepared by the
15 Settlement Administrator will be included in the re-mailed Notice in that instance,
16 stating the extended response deadline. Upon completion of these steps by the
17 Settlement Administrator, Defendant and the Settlement Administrator shall be
18 deemed to have satisfied their obligations to provide the Notice to the affected
19 Class Member. The affected Class Member shall remain a member of the
20 Settlement Class and shall be bound by all the terms of the Settlement and the
21 Court's Order and Final Judgment.
- 22 (d) Class Counsel shall provide to the Court, at least five calendar days prior to the
23 final approval hearing, or such other date as set by the Court, a declaration by the
24 Settlement Administrator of due diligence and confirming mailing of the Notices.

25 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

26 49. As set forth above, each Class Member will have until the expiration of the applicable
27 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
28 Member's Covered Workweek information on the Notice. To the extent Class Members dispute their

1 employment dates or the number of Workweeks on record, Class Members may produce evidence to the
2 Settlement Administrator showing that such information is inaccurate. Defendant's records will be
3 presumed correct, but the Settlement Administrator shall contact the Parties regarding the dispute and the
4 Parties will work in good faith to resolve it. All disputes must be submitted by the Response Deadline, and
5 will be decided within ten (10) business days after the Response Deadline. No disputes will be honored if
6 they are submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely
7 dispute. Disputes can be communicated via fax or email. Each Class Member is responsible to maintain a
8 copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

9 50. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the
10 payments called for hereunder, and Plaintiffs and Participating Class Members are not relying on any
11 statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard.

12 51. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF
13 THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT
14 OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES
15 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN
16 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
17 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH
18 COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED
19 UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY
20 DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING
21 PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT
22 LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION
23 WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
24 THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
25 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION
26 OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID
27 ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND
28 (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION

1 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX
2 STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING)
3 UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
4 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED
5 BY THIS AGREEMENT.

6 52. The Settlement Administrator will provide Defendant's counsel and Class Counsel a weekly
7 report that certifies the number of Class Members who have submitted valid Requests for Exclusion or
8 objections to the Settlement, and whether any Class Member has submitted a challenge to any information
9 contained in their Notice Packet. Additionally, the Settlement Administrator will provide to counsel for
10 both Parties any updated reports regarding the administration of the Settlement Agreement as needed or
11 requested.

12 53. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
13 Settlement Class Members and PAGA Employees as provided herein. Prior to mailing the Settlement
14 Payment checks, the Settlement Administrator shall check for updated addresses for all recipients, and in
15 the event that any check is returned as undeliverable, the check must be re-mailed within three business
16 days. The check will be re-mailed to the forwarding address, if any, on the returned envelope. If there is no
17 forwarding address, the Settlement Administrator will attempt to determine a correct address by the use of
18 skip-tracing, or other type of automated search for a new address using the Class Member's social security
19 number or other information. Settlement Class Payments and PAGA Payments may be combined into one
20 check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date
21 of their issuance. Settlement Payment checks shall state the expiration date of the checks. Settlement
22 Payment checks will automatically be cancelled by the Settlement Administrator if they are not cashed by
23 the Class Member within that time, and the Class Member's relevant claims will remain released by the
24 Settlement. Settlement Payment checks which have expired will not be reissued.

25 54. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void date
26 shall be transmitted to the California State Controller's Office for Unclaimed Property in the name of each
27 Class Member who failed to cash their Settlement Payment check prior to the void date.
28

Upon completion of its calculation of Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A Declaration of due diligence by the Settlement Administrator attesting to completion of all payment obligations and final mailing of notices will be provided to Class Counsel and Defendant's Counsel and filed with the Court by Class Counsel.

RELEASE BY THE CLASS

55. Upon the final approval by the Court of this Settlement and payment of all funds due under this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

- (a) **Identity of Released Parties.** The released parties are Defendant, and each of its former, present and future direct and/or indirect owners, dba's, parents, subsidiaries, affiliated and related companies, divisions, successors, predecessors, or assigns, and past, current and future employees, attorneys, officers, directors, shareholders, owners, agents, principals, representatives, accountants, auditors, consultants, insurers, reinsurers, trustees, heirs, executors, administrators, predecessors, successors or assigns of any of the foregoing (collectively "Releasees").
- (b) **Date Release Becomes Active.** The Released Claims will be released upon the Settlement's Effective Date and payment by Defendant of all funds due under the settlement. Class Members will not release the Released Claims or Released PAGA Claims until the Effective Date and payment by Defendant of all funds due under the settlement.
- (c) **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees

1 from the following claims for the entire Class Period:

2 1) any and all claims, charges, rights, complaints, liens, demands, obligations,
3 damages, wages, penalties, interest, debts, liabilities, costs, compensation,
4 damages, attorneys' fees, actions, and/or causes of action that were asserted
5 or could have been asserted based upon the facts and circumstances alleged
6 in the Complaint and arising at any time during the Class Period in this
7 Action, including but not limited to all state wage and hour claims
8 (including all claims under the California Labor Code) for unpaid wages,
9 unpaid minimum wages, unpaid overtime wages, off-the-clock work
10 violations, failure to provide meal periods, failure to provide rest periods,
11 unreimbursed business expenses, wage statement violations, interest,
12 penalties, and attorneys' fees, waiting time penalties, withholding from
13 wages and the related provisions of the Labor Code including but limited to
14 Labor Code §§ 201-204, 210, 216, 218.6, 223, 226, 226.3, 226.7, 510, 512,
15 512.5, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, derivative claims
16 under California Business & Professions Code §§ 17200 et seq., and all
17 claims under the governing Wage Order, and Fair Labor Standards Act
18 ("Released Claims"); and all other potential civil and statutory penalties
19 based on or arising from the Released Claims, including but not limited to
20 statutory, constitutional, contractual damages, costs, penalties, punitive
21 damages, interest, attorneys' fees, litigation costs, restitution, and equitable
22 relief.;

23 2) as to any Class Member who cashes their Settlement Payment, the
24 Settlement Administrator shall include language on the Settlement
25 Payments that informs the Class Members that the signing and negotiation
26 of that check shall serve as the Class Member's consent to join the Action
27 for purposes of releasing all claims arising under the Fair Labor Standards
28 Act that are alleged in the Action or related to the claims stated or that

could have been stated in the Action, implicitly or explicitly; and

- 3) in addition, as to *all* Class Members employed during the Released PAGA Claims Period, whether requesting exclusion from the Settlement or not, claims arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent asserted in Plaintiff's administrative exhaustion letter submitted to the LWDA and any Complaint in this matter (i.e., the Released PAGA Claims).

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

56. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiff's unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action Settlement, Plaintiff's counsel shall apply to the Court for the entry of an order:

- (a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representative's service payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Certifying a Class;
- (c) Approving as to form and content the proposed Notice;
- (d) Directing the mailing of the Notice;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing ILYM Group, Inc. as the Settlement Administrator, and order the Settlement Administrator to issue Notices as outlined above.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

57. Upon expiration of the deadlines to postmark Requests for Exclusion or objections to the Settlement Agreement, and with the Court's permission, a final fairness hearing will be conducted to

determine the Final Approval of the Settlement Agreement. Class Counsel will be responsible for drafting all documents necessary to obtain final approval. Class Counsel will also be responsible for drafting the attorneys' fees and costs application to be heard at the final approval hearing. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Service Payment to the Class Representative;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement; and
- (f) Entering a final judgment in the action based on the Parties' Joint Stipulation of Class Action Settlement.

JUDGMENT AND CONTINUED JURISDICTION

58. Upon final approval of the Settlement by the Court or after the final fairness hearing, the Parties will present the Judgment to the Court for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement. A copy of the Judgment will be posted to the Settlement Administrator's website.

NULLIFICATION AND TERMINATION

59. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than

1 adjustments made to the attorney's fees and costs or granting of Service Payments; (c) the Court should for
2 any reason fail to enter the final judgment based on the Parties' Joint Stipulation of Class Action
3 Settlement; (d) the final judgment is reversed, modified, or declared or rendered void; (e) the Settlement
4 does not become final for any other reason; or (f) if ten-percent (10%) or more of the Class members opt-
5 out of the settlement, Defendant may, at its sole discretion, within thirty (30) days of the expiration of the
6 opt-out period, elect to revoke the settlement and their stipulation to Class Certification. If Defendant
7 exercises this option, it will be relieved of any obligation to pay the Settlement Amount or any other
8 obligations from the Settlement, with the exception that Defendant will be responsible for any costs of
9 administration of the Settlement incurred prior to the election to nullify the Settlement, by giving notice to
10 Plaintiff's Counsel and the Settlement Administrator. In addition, in such event, the Settlement Agreement
11 and all negotiations, court orders, and proceedings relating thereto shall be without prejudice to the rights
12 of any and all Parties, and all evidence and/or information exchanged relating to mediation and/or the
13 Settlement Agreement and all negotiations shall not be admissible or discoverable in the Action or
14 otherwise.

15 **PARTIES' AUTHORITY**

16 60. The signatories hereto hereby warrant and represent that they are fully authorized to enter into
17 this Settlement and bind the Parties hereto to the terms and conditions thereof.

18 **MUTUAL FULL COOPERATION**

19 61. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement
20 including, but not limited to, execution of such documents and taking such other action as reasonably may
21 be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best
22 efforts, including all efforts contemplated by this Settlement and any other efforts that may become
23 necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein.
24 As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and
25 cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the Court's
26 preliminary and final approval of this Settlement.

27 **NO PRIOR ASSIGNMENTS**

28 62. The Parties and their respective counsel represent, covenant, and warrant that they have not

1 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
2 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
3 released and discharged except as set forth herein.

4 **NO ADMISSION OF LIABILITY**

5 63. Nothing contained herein, nor the consummation of this Settlement, is to be construed or
6 deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant.
7 Defendant denies all the claims and contentions alleged by the Plaintiff in this case. In entering into this
8 Settlement, Defendant does not admit, and specifically denies, that it violated any federal, state, or local
9 law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable
10 laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in
11 any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
12 employees. The Defendant has entered into this Settlement solely with the intention to avoid further
13 disputes and litigation with the attendant inconvenience and expenses. Neither this Settlement Agreement,
14 nor any of its terms or provisions, nor any of the negotiations connected with it, will be construed as an
15 admission or concession by Defendant of any such violations or failures to comply with any applicable
16 law. Except as necessary in a proceeding to enforce the terms of this Settlement, this Settlement
17 Agreement and its terms and provisions will not be offered or received as evidence in any action or
18 proceeding to establish any liability or admission on the part of Defendant or to establish the existence of
19 any condition constituting a violation of, or a non-compliance with, federal, state, local or other applicable
20 law.

21 **WAIVER**

22 64. No waiver of any condition or covenant contained in this Settlement Agreement or failure to
23 exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further
24 waiver by such party of the same or any other condition, covenant, right or remedy. The Parties further
25 agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except,
26 however, that Plaintiffs or Class Counsel may appeal any reduction to the Attorneys' Fees and Costs
27 below the amount they request from the Court, and either party may appeal any court order that materially
28 alters the Settlement Agreement's terms. No waiver of any condition or covenant contained in this

1 Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be
2 considered to imply or constitute a further waiver by such party of the same or any other condition,
3 covenant, right or remedy.

4 **ENFORCEMENT ACTIONS**

5 65. In the event that one or more of the Parties to this Settlement institutes any legal action or other
6 proceeding against any other party or parties to enforce the provisions of this Settlement or to declare
7 rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover
8 from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees
9 incurred in connection with any enforcement actions.

10 **INVALIDITY OF ANY PROVISION**

11 66. Before declaring any provision of this Settlement Agreement invalid, the Court shall first
12 attempt to construe the provision as valid to the fullest extent possible consistent with applicable
13 precedents so as to define all provisions of this Settlement Agreement valid and enforceable. If any term
14 of this Settlement Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced,
15 such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall
16 remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term
17 shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the
18 intention of such invalid or unenforceable term.

19 **NOTICES**

20 67. Unless otherwise specifically provided herein, all notices, demands or other communications
21 given hereunder shall be in writing and shall be deemed to have been duly given as of the third business
22 day after mailing by United States registered or certified mail, return receipt requested, addressed as
23 follows:

24
25 Class Counsel:

Counsel for Defendant:

Seung Yang
Allen Feghali
Brett M. Gunther
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
seung.yang@moonyanglaw.com
allen.feghali@moonyanglaw.com
brett.gunther@moonyanglaw.com

Alexander M. Medina (SBN: 222015)
alex@medinamckelvey.com
Rabindra M. David (SBN: 274504)
rabi@medinamckelvey.com
MEDINA McKELVEY, LLP
925 Highland Pointe Drive, Suite 300
Roseville, California 95678
Telephone: (916) 960-2211
Facsimile: (916) 742-5488

CONSTRUCTION

68. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

69. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

EXHIBITS INCORPORATED BY REFERENCE

70. Exhibits Incorporated by Reference. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement.

MODIFICATION

71. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

72. This Settlement Agreement and any attached Exhibits contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and

whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties expressly recognize California Civil Code Section 1625 and California Code of Civil Procedure Section 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms of this Settlement Agreement.

BINDING ON ASSIGNS

73. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

CALIFORNIA LAW GOVERNS

74. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

REPRESENTATION BY COUNSEL

75. The Parties acknowledge that they have been represented by competent counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of said counsel. Further, Plaintiffs and Class Counsel warrant and represent that there are no liens on the Settlement Agreement.

CLASS COUNSEL SIGNATORIES

76. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement. The Notice will advise all Class Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall have the same force and effect as if this Settlement were executed by each member of the Class.

COUNTERPARTS

77. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties.

///

CLASS ACTION CERTIFICATION FOR SETTLEMENT PURPOSES ONLY

78. The Parties agree to stipulate to class action certification for purposes of the Settlement only. If, for any reason, the Settlement is not approved, the stipulation to certification will be void. The Parties further agree that certification for purposes of the Settlement is not an admission that class action certification is proper under the standards applied to contested certification motions and that this Settlement Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class action should be certified or (ii) Defendant is liable to Plaintiffs or any Class Member, other than according to the Settlement's terms.

No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

CONFIDENTIALITY & PUBLIC COMMENT

79. The Parties and their counsel agree that they will not issue any public comment, including but not limited to press releases, initiate any contact with the press, respond to any press inquiry, or have any communication with the press about the fact, amount, or terms of the Settlement.

80. The Class Representative and Class Counsel agree they will not make any disparaging comments about Defendant relating to this Settlement of this class action or disclose the negotiations of the Settlement. The Class Representative and Class Counsel shall only disclose matters of public record other than to Class Members, who may receive information about the Settlement that is not in the public record after the Court has preliminarily approved the Settlement. Other than as to Class Members or as expressly allowed below, the Parties and attorneys will keep the settlement confidential until the filing of the motion for preliminary approval of the class settlement. Thereafter, the Parties agree to make no comments to the media or otherwise publicize the terms of the Settlement, other than in court filings. To the extent counsel for either Party wish to advertise this settlement, such advertising will be limited to a statement that a matter was settled between a putative class and a "wholesaler and distributor of furniture and appliances." Any communication about the Settlement to Class Members prior to the Court-approved mailing will be limited to (1) a statement that a settlement has been reached, (2) a statement of any of the details that would necessarily be included in any Court-approved Notice if a Class Member requests

1 details about the proposed Settlement, and (3) a warning that the terms of the proposed Settlement have
2 not yet been approved by the Court. Prior to preliminary approval, the Class Representative is prohibited
3 from discussing the terms or the fact of the settlement with third parties other than (1) a spouse, (2)
4 accountants or lawyers as necessary for tax purposes, or (3) Class Members. At all times, the Class
5 Representative is prohibited from communicating about the terms or the fact of the settlement on any form
6 of social media ("Social Media Bar"). In the event of a proven breach of the Social Media Bar, the
7 violating Plaintiff shall forfeit one-half of the class representative enhancement payment, as a form of
8 liquidated damages. Class Counsel will take all steps necessary to ensure the Class Representative is
9 aware of, and will adhere to, the restrictions against any public disclosure of the Settlement. Class
10 Counsel will not include or use the settlement for any marketing or promotional purposes other than as
11 expressly allowed above.

12 81. All Terms Subject to Final Court Approval. All amounts and procedures described in this
13 Settlement Agreement herein will be subject to final Court approval.

14 **FINAL JUDGMENT**

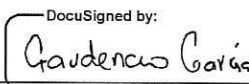
15 82. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will
16 be made and entered in its entirety. The final judgment may be included in the Order granting Final
17 Approval of the Settlement.

18 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
19 Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

20 IT IS SO STIPULATED.

21
22 **Plaintiff & Class Representative:**

23 Dated: 3/12/2022

24 By: 
25 Gaudencio Garcia
26 128C5F11EEDC4F7...

Plaintiff's Counsel:

Dated: 3/14/22

MOON & YANG, APC

By: _____

Seung Yang
Allen Feghali
Brett M. Gunther
Attorneys for Plaintiff

Defendant:

Dated: 3/1/2022

R&B Wholesale Distributors, Inc.

By: _____

SHAMSUL HYDER

Print Name

SHAMSUL HYDER

Signature

C F O

Title

Defendant's Counsel:

Dated: March 1, 2022

MEDINA McKELVEY, LLP

By: _____

Alexander M. Medina
Rabindra M. David
Attorneys for Defendant R&B Wholesale
Distributors, Inc.

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Gaudencio Garcia v. R&B Wholesale Distributors, Inc., et al.
San Bernardino Superior Court Case No. CIVSB2108856

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU WORKED AS A NON-EXEMPT EMPLOYEE OF R&B WHOLESALE DISTRIBUTORS, INC. (“DEFENDANT”) IN CALIFORNIA AT ANY TIME BETWEEN APRIL 20, 2017 AND MAY 1, 2022, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Gaudencio Garcia v. R&B Wholesale Distributors, Inc., et al.*, San Bernardino Superior Court Case No. CIVSB2108856 (the “Action”). The purpose of this Notice of Proposed Class Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement.

The proposed Settlement will resolve all claims in the Action. A hearing concerning final approval of the proposed Settlement will be held before the Hon. David S. Cohn on <<**FA Date and Time**>> in Department Dept. S-26 of the San Bernardino Superior Court Civil Courthouse, 247 West Third Street San Bernardino CA 92415, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendants for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: << RESPONSE DATE >>	You have the option to pursue separate legal action against Defendants about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded. As a result, you will not receive any benefits under the Settlement. Except that, even if you request exclusion, you will receive payment for PAGA Penalties, and you will release PAGA claims as discussed below.
OBJECT TO THE SETTLEMENT DEADLINE TO SUBMIT WRITTEN OBJECTIONS: << RESPONSE DATE >>	To object to the Settlement, you may mail a written explanation of why you do not agree with the Settlement to the Settlement Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. Written objections must be submitted by << RESPONSE DATE >>. You may arrange to appear at the hearing remotely via CourtCall by dialing 1-888-882-6878 or by visiting the CourtCall website at www.courtcall.com to schedule a remote appearance.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All persons who worked for Defendant R&B Wholesale Distributor, Inc. in California as an hourly, non-exempt employee at any time between April 20, 2017 and May 1, 2022.

According to Defendant's records, you are a member of the Class ("Class Member").

What is this case about?

In the Action, Plaintiff Gaudencio Garcia ("Plaintiff") alleges on behalf of himself and the Class allege that Defendants: (1) Failed to Pay Minimum Wages; (2) Failed to Pay Overtime Compensation; (3) Failed to Provide Meal Periods; (4) Failed to Authorize and Permit Rest Breaks; (5) Failed to Indemnify Necessary Business Expenses; (6) Failed to Timely Pay Final Wages at Termination; (7) Failed to Provide Accurate Itemized Wage Statements; (8) committed Unfair Business Practices; and (9) violated provisions of the Labor Code giving rise to civil penalty liability under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.]. Plaintiff seeks unpaid wages, reimbursement for necessary business expenses, actual damages, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendant denies all liability and are confident that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendant contends that their conduct is and has been lawful at all times relevant and that Plaintiff's claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendant (the "Parties"), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Seung Yang
Allen Feghali
Brett M. Gunther
Julie Oh
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
seung.yang@moonyanglaw.com
allen.feghali@moonyanglaw.com
brett.gunther@moonyanglaw.com
julie.oh@moonyanglaw.com

Defendant's Counsel

Alexander M. Medina (SBN: 222015)
alex@medinamckelvey.com
Rabindra M. David (SBN: 274504)
rabi@medinamckelvey.com
MEDINA McKELVEY, LLP
925 Highland Pointe Drive, Suite 300
Roseville, California 95678
Telephone: (916) 960-2211
Facsimile: (916) 742-5488

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$580,000 (the "Gross Settlement Amount") for: (a) individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payment to Plaintiff (\$7,500); (c) the Court-approved attorneys' fees and costs to Class Counsel (\$193,314.00 in fees and up to \$20,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties (\$37,500 of a total of \$50,000 allocated to PAGA penalties); and (e) payment to the Settlement Administrator for settlement administration services (up to an estimated maximum of \$15,000).

Individual Settlement Payments. After deduction from the Gross Settlement Amount for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the payment to the LWDA, and settlement administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant will

make an individual Settlement Payment to each Class Member who does not request to be excluded from the Settlement (“Settlement Class Members”).

Upon final approval of the Settlement by the Court, Defendant will make a one-time payment of \$580,000 into a qualified settlement account established by the Settlement Administrator. A pro-rated portion of your Individual Settlement Payment will be mailed to you within 14 days after the settlement payment is made.

The Net Settlement Amount shall be divided among all Settlement Class Members on a pro rata basis based upon the total number of workweeks worked by each respective Settlement Class Member as a non-exempt hourly employee in the State of California during the Class Period. Your estimated individual Settlement Payment is listed below.

Your estimated minimum settlement payment is <<Estimated Payment>> and your covered Work Weeks worked during the relevant period between April 20, 2017 and May 1, 2022 are <<Work Weeks>>. To the extent you dispute the number of Work Weeks, you must make your dispute (“Work Week Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than <<+45 days from date of mailing>> (the “Response Deadline”) to:

ILYM Group, Inc., <<Mailing Address>>

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendant’s records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its’ decisions will be reviewable by the Court during the Final Approval Hearing. **REMINDER:** If you believe your estimated individual Settlement Amount is incorrect because your Work Weeks (the number of total weeks you worked within the Class Period only) are wrong, the deadline to dispute the workweeks reported for you is <<RESPONSE DATE>>.

For tax reporting purposes, the payments to Settlement Class Members will be allocated 20% as wages, 80% as penalties and interest, excluding the PAGA Settlement Payments, which will be allocated as 100% penalties. The wage portion of the individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the individual Settlement Payments. The portion of the Settlement Payments allocated to penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC. Any taxes owed on that other miscellaneous income will be the responsibility of Settlement Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Defendant.

All checks for individual Settlement Payments paid to Settlement Class Members shall advise that the checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed by a participating Class Member within that time. Any individual Settlement Payment that is not cashed by a Settlement Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller’s Office for Unclaimed Property in the name of each Class Member who failed to cash their Settlement Payment check prior to the void date. The Settlement Administrator shall void any tax documents issued to Settlement Class Members who did not cash their checks within 180 days of issuance. In such event, the Settlement Class Member shall nevertheless remain bound by the Settlement.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

Class Counsel Attorneys’ Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA. Class Counsel will ask the Court to award attorneys’ fees up to \$193,314.00 (one-third) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$20,000. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment of up to \$7,500 for Plaintiff for his efforts in bringing the case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$15,000.00. A payment in the amount of \$37,500.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$50,000 set aside for payment under PAGA.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement and payment of all funds due under this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

- (a) **Identity of Released Parties.** The released parties are Defendant, and each of its former, present and future direct and/or indirect owners, dba's, parents, subsidiaries, affiliated and related companies, divisions, successors, predecessors, or assigns, and past, current and future employees, attorneys, officers, directors, shareholders, owners, agents, principals, representatives, accountants, auditors, consultants, insurers, reinsurers, trustees, heirs, executors, administrators, predecessors, successors or assigns of any of the foregoing (collectively "Releasees").
- (b) **Date Release Becomes Active.** The Released Claims will be released upon the Settlement's Effective Date and payment by Defendant of all funds due under the settlement. Class Members will not release the Released Claims or Released PAGA Claims until the Effective Date and payment by Defendant of all funds due under the settlement.
- (c) **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:
 - 1) any and all claims, charges, rights, complaints, liens, demands, obligations, damages, wages, penalties, interest, debts, liabilities, costs, compensation, damages, attorneys' fees, actions, and/or causes of action that were asserted or could have been asserted based upon the facts and circumstances alleged in the Complaint and arising at any time during the Class Period in this Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, unpaid minimum wages, unpaid overtime wages, off-the-clock work violations, failure to provide meal periods, failure to provide rest periods, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 223, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1174, 1194, 1194.2, 1197, 1197.1, 1198, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and Fair Labor Standards Act ("Released Claims"); and all other potential civil and statutory penalties based on or arising from the Released Claims, including but not limited to statutory, constitutional, contractual damages, costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief.;
 - 2) as to any Class Member who cashes their Settlement Payment, the Settlement Administrator shall include language on the Settlement Payments that informs the Class Members that the signing and negotiation of that check shall serve as the Class Member's consent to join the Action for purposes of releasing all claims arising under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action, implicitly or explicitly; and
 - 3) in addition, as to *all* Class Members employed during the Released PAGA Claims Period, whether requesting exclusion from the Settlement or not, claims arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the

extent asserted in Plaintiff's administrative exhaustion letter submitted to the LWDA and any Complaint in this matter (i.e., the Released PAGA Claims).

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an individual Settlement Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will receive a settlement payment and you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an individual Settlement Payment under the Settlement, **you do not need to take any action.** By remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims as described above.

Any amount paid to Settlement Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

OPTION B. Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing, have an attorney object for you, or submit a written brief or statement of objection ("written objection") to the Settlement Administrator at ILYM Group, Inc., <<Mailing Address>>. If you submit a written objection, it should contain sufficient information to confirm the your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<Response Deadline>> and returned to the Settlement Administrator at the address listed above to ensure that it is received in time to be transmitted to and considered by the Court. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the final approval hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Settlement Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

Regardless of the form, an objection, alone will not satisfy the requirement that a Settlement Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION C. Request to Be Excluded from the Settlement and Receive No Money from the Settlement. If you do not want to be part of the Settlement, you must submit a written request to be excluded from the Settlement to the Settlement Administrator at ILYM Group, Inc., <<Mailing Address>>. In order to be valid, your written request to be excluded from the Settlement must be signed and include your name, address, and telephone number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement like the following:

"I WISH TO BE EXCLUDED FROM THE CLASS IN THE GARCIA v. R&B WHOLESALE DISTRIBUTORS, INC., ET AL, CLASS ACTION LAWSUIT, SAN BERNARDINO COUNTY SUPERIOR COURT CASE NO. CIVSB2108856. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT."

Your written request to be excluded from the Settlement must then be signed and postmarked on or before <<Response Deadline>>. If you do not submit a written request to be excluded from the Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Settlement

by the deadline to request exclusion, you will have no further role in the Action. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement – except that you will still receive payment for and release claims for Civil Penalties Under PAGA. You will not be able to complain to the Court about any aspect of the Settlement.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness, and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on <<FA Date and Time>> in Department S-26 of the San Bernardino Superior Court Civil Courthouse, 247 West Third Street San Bernardino CA 92415. If you wish to attend the Final Approval Hearing telephonically, you may arrange to appear at the hearing remotely via CourtCall by dialing 1-888-882-6878 or by visiting the CourtCall website at www.courtcall.com to schedule a remote appearance prior to the date of the Final Approval Hearing. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an individual Settlement Payment.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action Settlement attached to the Declaration of Allen Feghali in Support of Plaintiff's Motion for Preliminary Approval. The Joint Stipulation of Class Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Santa Bernardino Superior Court. You may also request a copy of the Settlement Agreement from Class Counsel and/or Defendant's Counsel referenced above.

PLEASE DO NOT OTHERWISE CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.