

Kane Moon (SBN 249834)
H. Scott Leviant (SBN 200834)
Lilit Tunyan (SBN 329351)
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff SALVADOR LOMELI JR.

VORYS, SATER, SEYMOUR AND PEASE LLP
Cory D. Catignani (SBN332551)
4675 MacArthur Court, Suite 700
Newport Beach, California 92660
Telephone: (949) 526-7604
Facsimile: (949) 383-2385
cdcatignani@vorys.com

Attorneys for Defendants
PLASKOLITE, LLC and PLASKOLITE WEST, LLC

(additional counsel listed on following page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET**

SALVADOR LOMELI, JR., individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

PLASKOLITE, LLC, a limited liability
company; PLASKOLITE WEST, LLC, a limited
liability company; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 21STCV14611

[Assigned for All Purposes to The Honorable
Hon. Elihu M. Berle, Dept. 6]

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

Complaint filed: April 16, 2021
Trial date: Not set

1 **VORYS, SATER, SEYMOUR AND PEASE LLP**

2 Andrew C. Smith (Ohio Bar 0008136) (*Pro Hac Vice* pending)

3 52 East Gay Street

4 Columbus, Ohio 43215

5 Telephone: (614) 464-5434

6 Facsimile: (614) 719-4969

7 Attorneys for Defendants PLASKOLITE, LLC and PLASKOLITE WEST, LLC

8 **CALL & JENSEN**

9 A Professional Corporation

10 Chris C. Scheithauer, State Bar 184798

11 Morgan E. Podruski, Bar No. 303822

12 610 Newport Center Drive, Suite 700

13 Newport Beach, CA 92660

14 Tel: (949) 717-3000

15 **THE GIMINO LAW OFFICE**

16 A Professional Corporation

17 Peter J. Gimino III, State Bar 198926

18 1 Park Plaza, Suite 600

19 Irvine, CA 92614

20 Tel: (949) 225-4446

21 Fax: (949) 225-4447

22 Attorneys for Defendant INNOVATIVE RESOURCE MANAGEMENT, INC.

1 **JOINT STIPULATION OF CLASS ACTION SETTLEMENT**

2 This Joint Stipulation of Class and Representative Action Settlement (“Joint Stipulation of
3 Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff
4 SALVADOR LOMELI JR., individually, and on behalf of all others similarly situated, (“Plaintiff” or
5 “Class Representative”), and Defendants PLASKOLITE, LLC, PLASKOLITE WEST, LLC
6 (“Plaskolite”) and INNOVATIVE RESOURCE MANAGEMENT, INC. (“Innovative”). Plaskolite
7 and Innovative are collectively “Defendants”). Plaintiff and Defendants are collectively referred to
8 herein as “the Parties.”

9
10 THE PARTIES STIPULATE AND AGREE as follows:

11 **DEFINITIONS**

12 1. For purposes of this Settlement, “Complaint” refers to the operative complaint, which will
13 be the First Amended Complaint filed in this action.

14 2. For purposes of this Settlement, this matter, entitled *Lomeli v. Plaskolite LLC, et al.*, Case
15 No. 21STCV14611, is referred to herein as the “Action.”

16 3. For purposes of this Settlement, the “Class Period” is April 16, 2017 through the date of
17 entry of order for preliminary approval of the settlement.

18 4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All non-
19 exempt employees of Plaskolite who worked in California during the Class Period, including those who
20 were staffed at Plaskolite by Innovative. “Settlement Class Members” are those Class Members who do
21 not submit timely exclusion requests to the Settlement Administrator. Plaskolite’s best estimate is that the
22 Class does not exceed 100 individuals as of March 23, 2022.

23 5. For purposes of this Settlement, the term “Class Representative” shall mean Plaintiff
24 Salvador Lomeli, Jr.

25 6. For purposes of this Settlement, “Class Counsel” means MOON & YANG, APC.

26 7. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a
27 Class Member worked for Defendants in California during the Class Period.

28 8. For purposes of this Settlement, “Response Deadline” means the date sixty (60) days after

1 the Settlement Administrator initially mails the Class Notice to Settlement Class Members and the last
2 date on which Settlement Class Members may submit a request for exclusion or written objection to the
3 Settlement. In the case of a re-mailed Class Notice, the Response Deadline will be the later of 60 calendar
4 days after initial mailing or 14 calendar days from re-mailing, up to a maximum of 74 days after the initial
5 mailing. The Response Deadline may be extended only as expressly described herein.

6 9. For purposes of the Settlement, “Defendants’ Counsel” means VORYS, SATER,
7 SEYMOUR AND PEASE LLP, CALL & JENSEN and THE GIMINO LAW OFFICE.

8 10. For purposes of this Settlement, “PAGA Allocation” means the amount that the Parties
9 have agreed to allocate to resolution of the claim for violation of the Labor Code Private Attorneys
10 General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that the PAGA
11 Allocation will be \$60,000 from the Gross Settlement Amount. Pursuant to PAGA, Seventy Five Percent
12 (75%), or \$45,000, of the PAGA Allocation will be paid to the LWDA (“PAGA Penalty Payment”), and
13 Twenty Five Percent (25%), or \$15,000, of the PAGA Allocation will be included in the Net Settlement
14 Amount for PAGA Employees (“PAGA Settlement Payment”).

15 11. For purposes of this Settlement, “PAGA Period” means the period from April 16, 2020,
16 through the date of entry of an order for preliminary approval of the Settlement.

17 12. For purposes of this Settlement, “PAGA Employee” means all Class Members that worked
18 at Plaskolite in California at any time during the PAGA Period. PAGA Employees cannot opt out of the
19 settlement of the PAGA claim.

20 13. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods
21 each PAGA Employee worked during the PAGA Period.

22 14. For purposes of this Settlement, “PAGA Representative” means Plaintiff.

23 15. For purposes of this Settlement, “Released PAGA Claims” means all claims that have been
24 pled or could have been pled, based upon the factual allegations and issues set forth in the Notice to the
25 LWDA and alleged in the Complaint, including civil penalties under PAGA, fees, and all other claims and
26 allegations made or which could have been made in the Action based on the facts and allegations pled in
27 Plaintiff’s Notice to the LWDA and the Complaint. Plaintiff’s Notice to the LWDA is attached hereto as
28 **Exhibit “B.”**

16. For purposes of this Settlement, “Released PAGA Claims Period” means the period between April 16, 2020 through the date of entry of order for preliminary approval of the settlement.

17. 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 the PAGA Employees (the “PAGA Settlement Payment”).

STIPULATED BACKGROUND

18. On April 16, 2021, Plaintiff filed a putative Class Action against Defendants PLASKOLITE LLC and PLASKOLITE WEST LLC alleging the following labelled causes of action: (1) Failure to Pay Minimum 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.*]. (The “Action.”) In the Complaint, Plaintiff sought to represent all persons that worked for Plaskolite in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint and ending when the Class Notice to the Class is sent.

19. On July 29, 2021, Plaintiff filed a First Amended Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.]. On September 28, 2021, Plaintiff filed an Amendment to the First Amended Complaint adding Innovative as an additional defendant.

20. Solely for purposes of settling this case, the Parties and their respective counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members that have not requested exclusion have been met and are met.

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

1 not become effective.

2 22. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the
3 claims alleged in the Complaint, and Defendants further deny that, for any purpose other than settling this
4 lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff's claims,
5 Defendants contend, among other things, that Plaintiff and the Class Members have been paid proper
6 wages, have been provided meal periods, have been provided rest periods, have been paid timely wages
7 upon separation of employment, have been reimbursed for business expenses and have been provided with
8 accurate itemized wage statements. Defendants contend, among other things, that they have complied at
9 all times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare
10 Commission. Furthermore, with respect to all claims, Defendants contend that they have complied at all
11 times with the California Business and Professions Code.

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

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

23 25. The Parties agree to cooperate and take all reasonable steps necessary and appropriate to
24 obtain preliminary and final approval of this Settlement.

25 26. The Parties agree to stay all proceedings in the Action, except such proceedings necessary
26 to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the
27 Court.
28

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

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

(c) Gross Settlement Amount: Plaskolite's maximum total payment under the

Settlement, including all attorney's fees and costs, the Service Payment to the named Plaintiff, the costs of settlement administration, the PAGA Allocation, and any other payments provided by this Settlement, is \$470,000.00 ("Gross Settlement Amount"), subject to the Escalator Clause and except that, to the extent that any portions of the Class Members' Settlement Payments constitute wages, Plaskolite will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions.

(d) Escalator Clause: Plaintiff estimates the number of Covered Workweeks to be eight thousand eight hundred seventy-five (8,875). If it is later determined that, on the date of preliminary approval, the number of actual Covered Workweeks during the Class Period exceeds 12% of the estimated Covered Workweeks (i.e., exceeds nine thousand nine hundred forty (9,940) workweeks), Plaskolite may elect to either a. increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of workweeks in excess of 9,940 workweeks; or b. end the Class Period on the date the number of pay periods exceeds 9,940.

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

(f) No Claims Required: Class Members will not be required to submit a claim to receive their Settlement payment.

(g) Net Settlement Amount: The Net Settlement Amount shall be calculated by deducting from the Gross Settlement Amount (\$470,000.00) the following sums, subject to approval by the Court: (1) attorney's fees (not to exceed 33 1/3% of the Gross Settlement Amount, or \$156,666.67); (2) reasonable litigation costs (not to exceed \$20,000.00); (3) the Service Payment (not to exceed \$7,500.00 to the named Plaintiff); (4) the PAGA Penalty Payment in the amount of \$45,000.00 to the California Labor and Workforce Development Agency (which is 75% of the PAGA Allocation); and (5) costs of settlement administration (estimated not to exceed \$20,000). Settlement Payments to the Settlement Class Members and

PAGA Employees will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth below.

(h) Payroll Taxes and Required Withholdings: To the extent that any portions of the Settlement Class Members' Settlement Payments constitute wages, Plaskolite will be separately responsible for any **employer** payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. Except for any employer payroll taxes, it is understood and agreed that Plaskolite's maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Settlement Administrator will calculate and submit Plaskolite's employer share of payroll taxes after advising Plaskolite of the total amount owed, in aggregate, as employer-side payroll taxes and receiving a lump sum payment from Plaskolite in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

(i) Tax Liability: Class Counsel and Defendants make no representations as to the tax treatment or legal effect of payments called for hereunder, and Plaintiff and the Settlement Class Members are not relying on any statement or representation by Class Counsel or Defendants in this regard. Plaintiff and Settlement Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on their respective payments described herein. The amount of federal income tax withholding will be based upon a flat withholding rate for supplemental wage payments in accordance with Treas. Reg. § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also be made pursuant to applicable state and/or local withholding codes or regulations. Forms W-2 and/or Forms 1099 will be distributed at times and in the manner required by the Internal Revenue Code of 1986 (the "Code") and consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other applicable tax law, is changed after the date of this Agreement, the processes set forth in this Section may be modified in a manner to bring Defendants into

1 compliance with any such changes.

2 (j) CIRCULAR 230 DISCLAIMER: EACH PARTY TO THIS AGREEMENT
3 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY”
4 AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE
5 ACKNOWLEDGING PARTY, AN “OTHER PARTY”) ACKNOWLEDGES
6 AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO
7 WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG
8 THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
9 WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR
10 DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON
11 AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
12 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS
13 AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
14 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL
15 AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN
16 CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO
17 THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY
18 OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER
19 PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
20 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER
21 TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE
22 IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY
23 OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
24 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY’S
25 OR ADVISER’S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH
26 LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
27 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX
28 STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION

CONTEMPLATED BY THIS AGREEMENT.

(k) Settlement Class Payments (Excludes PAGA Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member (i.e., those Class Members who do not opt out of the Class Settlement, as defined above) will be paid a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totalling \$15,000, as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows: $[\text{Covered Workweeks worked by a Settlement Class Member}] \div [\text{Sum of all Covered Workweeks worked by all Settlement Class Members}] \times [\text{Net Settlement Amount} - \text{PAGA Settlement Payment}] = \text{individual Settlement Class Payment for a Settlement Class Member}$. Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. Un-cashed, unclaimed or abandoned checks, shall be transmitted to the California Controller's Office, as set forth below.

(l) PAGA Payments: PAGA Settlement Payments will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement Administrator. Class Members will not be permitted to exclude themselves from this portion of the Settlement. The pro-rata share will be determined by comparing the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as follows: $([\text{PAGA Pay Periods worked by a PAGA Employee}] \div [\text{Sum of all PAGA Pay Periods worked by all PAGA Employees}]) \times [\text{PAGA Settlement Payment to Employees, i.e. \$15,000}] = \text{individual PAGA Employee's portion of the PAGA Settlement Payment}$. PAGA Settlement Payments to PAGA

1 Employees in the appropriate amounts will be distributed by the Settlement
2 Administrator by mail to the PAGA Employees at the same time Settlement Class
3 Payments issue to the Settlement Class. Un-cashed, unclaimed or abandoned
4 checks, shall be transmitted to the California Controller's Office, as set forth
5 below. The LWDA's PAGA Penalty Payment will issue to the LWDA at the same
6 time Settlement Payments issue to the Settlement Class.

7 (m) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
8 Payments will be allocated as follows: 20% to wages, 40% to penalties and 40% to
9 interest. The PAGA Settlement Payment shares to PAGA Employees will be
10 entirely allocated to penalties. Appropriate federal, state and local withholding
11 taxes will be taken out of the wage allocations, and each Class Member will
12 receive an IRS Form W-2 with respect to this portion of the Settlement Payment.
13 The employer's share of payroll taxes and other required withholdings will be paid
14 as set forth above, including but not limited to the Plaskolite's FICA and FUTA
15 contributions, based on the payment of claims to the Class Members. To the extent
16 required by law, IRS Forms 1099 will be issued to each Class Member reflecting
17 the payments for penalties and interest. Class Members are responsible for paying
18 appropriate taxes due on the Settlement Payments they receive. The Settlement
19 Administrator will issue to each Settlement Class Member an Internal Revenue
20 Service Form W-2 and comparable state forms with respect to the wage allocation
21 and a Form 1099 with respect to the penalties and interest allocations.

22 (n) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
23 Payments to individual Class Members shall be deemed to be paid to such Class
24 Member solely in the year in which such payments actually are received by the
25 Class Member. It is expressly understood and agreed that the receipt of such
26 Settlement Payments will not entitle any Class Member to additional compensation
27 or benefits under any company bonus, contest or other compensation or benefit
28 plan or agreement in place during the period covered by the Settlement, nor will it

entitle any Class Member to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. It is the intent that the Settlement Payments provided for in this Settlement are the sole payments to be made by Plaskolite to the Class Members, and that the Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

(o) Attorney's Fees and Costs: Subject to approval by the Court, Defendants will not object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount (\$156,666.67) and reimbursement of litigation costs and expenses not to exceed \$20,000.00. Approved attorney's fees and litigation costs shall be paid at the same time Settlement Payments issue to the Settlement Class. Should the Court approve attorney's fees and costs in an amount less than that set forth above, the difference between the lesser amount(s) approved by the Court and the attorney's fees and costs set forth above shall be added to the Net Settlement Amount.

(p) Service Payment: Subject to Court approval, and in exchange for a general release, Defendants will not object to Class Counsel's application for an additional payment of up to \$7,500.00 to Plaintiff for service as a Class Representative ("Service Payment"). It is understood that the Service Payment is in addition to the individual Settlement Payment to which a Class Representative is entitled to along with the other Class Members. In exchange, Plaintiff has agreed to release from all claims, demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule or regulation arising out of, relating to, or in connection with any act or omission by or on the part of any of the Releasees that has been committed or

omitted prior to the execution hereof ("Plaintiff's Released Claims"). Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

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.

- (q) The Settlement Administrator will issue an IRS Form 1099 for the Service Payment to the Plaintiff. 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.
- (r) Settlement Administrator: The Settlement Administrator will be ILYM Group, Inc. The Parties agree that Settlement Administration Costs should not reasonably exceed \$20,000, and the Settlement Administrator's bid for settlement administration services in the amount of \$8,990.00 was selected for the reasonable price and the quality of administration services provided by ILYM Group, Inc. The costs of the Settlement Administrator for work done shall be paid regardless of the outcome of this Settlement.
- (s) Funding of Settlement Account: Plaskolite will fund the settlement account with the Gross Settlement Amount and all employer related payroll taxes within twenty (20) calendar days of the Effective Date of the Settlement, provided that the

Settlement Administrator has delivered to the Parties an accounting of the amounts to be paid by Plaskolite pursuant to the terms of this Settlement.

(t) Mailing of Settlement Payments: Within twenty (20) calendar days of receipt of the Gross Settlement Amount from Plaskolite, the Settlement Administrator will distribute the Individual Settlement Payments to all Settlement Class Members and PAGA Employees.

(u) Notice of Settlement: Within twenty-one (21) calendar days of the Court's preliminary approval of the Settlement, Plaskolite will provide to the Settlement Administrator a list in Microsoft Excel format containing each Settlement Class Member's (i) full name, (ii) last known address, (iii) Social Security Number, and (iv) the total number of Covered Workweeks for each Class Member during the Class Period as a non-exempt employee ("Class List"). Within fourteen (14) calendar days of receipt of the Class List, the Settlement Administrator will perform an NCOA check and will mail the notice to the Settlement Class Members setting forth the material terms of the proposed Settlement, along with instructions about how to object or request exclusion from the proposed class action Settlement ("Class Notice"). The Administrator will skip-trace returned mail and re-mail the notice to the new addresses within five (5) calendar days. These deadlines are subject to court approval. For each Class Member, there will be pre-printed information on the mailed Class Notice, based on Plaskolite's records, stating the Class Member's Covered Workweeks during the Class Period and the estimated total Settlement Payment under the Settlement, including the Settlement Class Payment and the PAGA Settlement Payment that will be distributed irrespective of any exclusion request. The pre-printed information based on Plaskolite's records shall be presumed to be correct. A Class Member may dispute the pre-printed information on the Notice as to his or her Covered Workweeks during the Class Period. Class Members must submit any dispute regarding the information on the Class Notice to the Settlement Administrator as to his or her Covered Workweeks

1 within the Response Deadline. Unless a disputing Class Member submits
2 documentary evidence in support of his or her dispute, the records of Plaskolite
3 will be dispositive.

4 (v) Settlement Notice Language: The Class Notice will issue in English and Spanish.

5 (w) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

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

12 (x) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of
13 Plaskolite's records used to calculate Covered Workweeks, and the Parties' counsel
14 and the Settlement Administrator cannot resolve the dispute informally, the matter
15 will be referred to the court for final resolution. The Class Member must submit
16 information or documents supporting his or her position to the Settlement
17 Administrator prior to the expiration of the Response Deadline. Information or
18 documents submitted after the expiration of the Response Deadline will not be
19 considered by the Settlement Administrator, unless otherwise agreed to by the
20 Parties. In the event that the number of Covered Workweeks is increased for any
21 Class Member, then the Settlement Administrator will recalculate the Individual
22 Settlement Payments accordingly; in no event will Plaskolite be required to
23 increase the Gross Settlement Amount except for as set forth in the escalator
24 clause.

25 (y) Right of Class Member to Request Exclusion from the Settlement: Any Class
26 Member may request to be excluded from the Class by mailing a "Request for
27 Exclusion" from the Settlement within the Response Deadline. A Request for
28 Exclusion must clearly and unequivocally state a desire to be excluded from the

Class, with a statement comparable to the following:

“I WANT TO BE EXCLUDED FROM THE CLASS ACTION SETTLEMENT IN *LOMELI v. PLASKOLITE LLC, et al.*, LOS ANGELES COUNTY SUPERIOR COURT CASE NO. 21STCV14611.”

No specific wording is required to state a Request for Exclusion, so long as it is clear and unequivocal. Any Request for Exclusion must include the name, address, telephone number, last four digits of the Class Member’s Social Security Number, and the signature of the Class Member requesting exclusion. Any such request must be made in accordance with the terms of the Class Notice, and the Class Notice will advise Class Members of these requirements. Any Class Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights under this Settlement other than a right to receive a pro-rata share of the portion of the PAGA payment allocated to the Class Members if the Class Member is also PAGA Employee; (ii) shall not be entitled to receive any Settlement Payments under this Settlement other than as stated in (i) in this paragraph; and (iii) shall not be bound by this Settlement or the Court’s Order and Final Judgment other than as it applies to the PAGA Claim.

(z) Right of Settlement Class Member to Object to The Settlement: Any Class Member may object to the Settlement. To object, the Class Member may (1) appear in person (including through an audio or video call appearance via LACourtConnect) at the Final Approval Hearing to explain any objection, (2) have an attorney object for the Class Member, or (3) submit a simple written brief or statement of objection to the Settlement Administrator. If any Class Member chooses to submit a written objection, the written objection should contain sufficient information to confirm the identity of the objector and the basis of the objection, including (1) the full name of the Settlement Class Member; (2) the signature of the Settlement 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 written objections are transmitted to the Court for the Court's review (either by Class Counsel or as an attachment to declaration from the Settlement Administrator). Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must either make a timely complaint in intervention before final judgment or by file a motion to set aside and vacate the class judgment under Code of Civil Procedure § 663 to have standing to appeal entry of judgment approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). A Class Member who does not object prior to or at the Final Approval Hearing, will be deemed to have waived any objections and will be foreclosed from making any objections (whether at the Final Approval Hearing, by appeal, or otherwise) to the Settlement. If the objecting Class Member does not formally intervene in the action or move to set aside any judgment and/or the Court rejects the Class Member's objection, the Class Member will still be bound by the terms of this Agreement. Class Counsel and Defendants' Counsel may file responses to any written objections submitted to the Court.

(aa) Opt-in to Release Under Fair Labor Standards Act: Settlement Class Members will be advised that they will opt in to a settlement of claims for unpaid compensation under the Fair Labor Standards Act ("FLSA") by cashing or otherwise depositing the check for their Settlement Class Payment. This will be set forth in the Class Notice.

THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES

28. Subject to the Court's approval, and subject to reconsideration by the Parties after a competitive bidding process, the Parties have agreed to the appointment of ILYM Group, Inc. to perform the customary duties of Settlement Administrator. The Settlement Administrator will mail the Class Notice, both in English and Spanish, to the Class Members.

29. The Settlement Administrator will independently review the Covered Workweeks and

1 PAGA Pay Periods attributed to each Class Member and will calculate the estimated amounts due to each
2 Class Member and the actual amounts due to each Settlement Class Member and PAGA Employee in
3 accordance with this Settlement. The Settlement Administrator shall report, in summary or narrative form,
4 the substance of its findings. The Settlement Administrator shall be granted reasonable access to
5 Defendants' records in order to perform its duties.

6 30. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement
7 Amount from Plaskolite, the Settlement Administrator will issue and send out the Settlement Payment
8 checks to the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in
9 accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's
10 performance of its duties shall be referred to the Court, if necessary, which will have continuing
11 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
12 contemplated by this Settlement have been fully carried out.

13 31. The Settlement Administrator will post the final judgment approving the Settlement on a
14 website maintained by the Settlement Administrator for a period of not less than 90 calendar days after the
15 final judgment is entered. The website will use a page on the Settlement Administrator's website, and not
16 a custom domain for this Settlement. The address of that website will be included in the Class Notice.

17 **ATTORNEY'S FEES AND COSTS**

18 32. In consideration for resolving this matter and in exchange for the release of all claims by
19 the Class Members, including Plaintiff, and subject to approval by the Court, Defendants will not object to
20 Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount
21 (\$156,666.67 of \$470,000) and litigation costs not to exceed \$20,000.00. The amounts set forth above will
22 cover all work performed and all fees and costs incurred to date, and all work to be performed and all fees
23 and costs to be incurred in connection with the approval by the Court of this Settlement and administration
24 of the Settlement. As with the Settlement Payments to the Settlement Class, the attorney's fees and costs
25 approved by the Court shall be paid to Class Counsel within 15 calendar days of the Settlement
26 Administrator's receipt of the Gross Settlement Amount from Plaskolite, provided that the Settlement
27 Administrator has delivered to the Parties an accounting of the amounts to be paid by Plaskolite pursuant
28 to the terms of this Settlement. Class Counsel shall disclose to the Court any fee sharing agreements in

1 existence.

2 **THE NOTICE PROCESS**

3 33. A Class Notice in approximately the form attached hereto as **Exhibit “A,”** and as approved
4 by the Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The
5 Class Notice shall be translated into Spanish so that Spanish and English language versions of the Class
6 Notice are included in the mailing. Any returned envelopes from this mailing with forwarding addresses
7 will be utilized by the Settlement Administrator to forward the Class Notices to the Class.

8 (a) Within twenty-one (21) calendar days from the date of preliminary approval of this
9 Settlement by the Court, Plaskolite shall provide to the Settlement Administrator a
10 class database containing the following information for each Class Member a list in
11 Microsoft Excel format containing each Settlement Class Member’s (1) full name,
12 (2) last known address, (3) Social Security Number, and (4) the total number of
13 Covered Workweeks for each Class Member in California during the Class Period
14 as a non-exempt employee (“Class List”): This database shall be based on
15 Plaskolite’s payroll and other business records and shall be provided in a format
16 acceptable to the Settlement Administrator. The Settlement Administrator will run
17 a check of the Class Members’ addresses against those on file with the U.S. Postal
18 Service’s National Change of Address List; this check will be performed only once
19 per Class Member by the Settlement Administrator. Absent mutual written
20 agreement of counsel for the Parties or Court order, the Settlement Administrator
21 will keep this database confidential and secure and use it only for the purposes
22 described herein, and will return this database to Plaskolite upon final approval of
23 the settlement or destroy electronic records containing the database after the
24 Settlement is final and all payments are distributed as required under this
25 Agreement. However, Plaintiff’s Counsel shall be entitled to review anonymized
26 data showing the workweeks worked by each Class Member, with Class Member
27 identity concealed through use of an employee number or number assigned by the
28 Settlement Administrator.

- 1 (b) Within twenty (20) calendar days after the Class database is provided to the
2 Settlement Administrator, the Settlement Administrator will mail the Class Notices
3 to the Class Members by First Class United States mail.
- 4 (c) Class Notices returned to the Settlement Administrator as non-deliverable on or
5 before the initial Response Deadline shall be resent to the forwarding address, if
6 any, on the returned envelope. A returned Class Notice will be forwarded by the
7 Settlement Administrator any time that a forwarding address is provided with the
8 returned mail. If there is no forwarding address, the Settlement Administrator will
9 do a computer search for a new address using the Class Member's social security
10 number or other information. In any instance where a Class Notice is re-mailed,
11 that Class Member will have until the extended Response Deadline as described
12 above. A letter prepared by the Settlement Administrator will be included in the
13 re-mailed Class Notice in that instance, stating the extended Response Deadline if
14 different than the original Response Deadline. Upon completion of these steps by
15 the Settlement Administrator, Defendants and the Settlement Administrator shall
16 be deemed to have satisfied their obligations to provide the Class Notice to the
17 affected Class Member. The affected Class Member shall remain a member of the
18 Settlement Class and shall be bound by all the terms of the Settlement and the
19 Court's Order and Final Judgment.
- 20 (d) Class Counsel shall provide to the Court, at least five (5) calendar days prior to the
21 final approval hearing, or such other date as set by the Court, a declaration by the
22 Settlement Administrator of due diligence and confirming mailing of the Class
23 Notices.
- 24 (e) The Parties authorize their respective Counsel to approve modifications to the
25 Notice to correct drafting errors or make changes required by the Court without the
26 need to amend this Settlement.
27
28

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

2 34. As set forth above, each Class Member will have until the expiration of the applicable
3 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
4 Member's Covered Workweek information on the Class Notice. No disputes will be honored if they are
5 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.
6 Each Class Member is responsible to maintain a copy of any documents sent to the Settlement
7 Administrator and a record of proof of mailing.

8 35. The Settlement Administrator shall cause the Settlement Payments to be mailed to the
9 Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and
10 PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and
11 negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will
12 automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member
13 within that time, and the Class Member's relevant claims will remain released by the Settlement.
14 Settlement Payment checks which have expired will not be reissued.

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

18 37. Upon completion of its calculation of Settlement Payments, the Settlement Administrator
19 shall provide Class Counsel and Defendants' Counsel with a report listing the amounts of all payments to
20 be made to Class Members (to be identified anonymously by employee number or other identifier). A
21 Declaration attesting to completion of all payment obligations will be provided to Class Counsel and
22 Defendants' Counsel and filed with the Court by Class Counsel.

23 **RELEASE BY THE CLASS**

24 38. Upon the final approval by the Court of this Settlement and Plaskolite's payment of all
25 sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this
26 Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and
27 timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

28 (a) **Identity of Released Parties.** The released parties are Defendants and their

1 subsidiaries, affiliates, parents, agents, employees, partners, directors, officer,
2 attorneys, trustees, insurers, representatives, predecessors, successors, and assigns,
3 agents, payroll services, staffing services, and joint employers (collectively
4 “Releasees”).

5 (b) **Date Release Becomes Effective.** The Released Claims will be released upon the
6 later of (1) the Settlement’s Effective Date, or (2) the satisfaction of Plaskolite’s
7 obligation to provide to the Settlement Administrator a sum in the amount required
8 to satisfy all required payments and distributions pursuant to this Settlement and
9 the Order and Judgment of final approval. Class Members will not release the
10 Released Claims or Released PAGA Claims until both the Effective Date of the
11 Settlement has occurred, and Plaskolite has paid all amounts owing under the
12 Settlement.

13 (c) **Claims Released by Settlement Class Members.** Each and every Class Member,
14 on behalf of himself or herself and his or her heirs and assigns, unless he or she has
15 submitted a timely and valid Request for Exclusion (which will not effectuate an
16 opt-out from the release of Released PAGA Claims), hereby releases Releasees
17 from the following claims for the entire Class Period:

- 18 1) all claims alleged in the operative complaint or that could have been
19 alleged based on the facts therein, including claims for failure to pay
20 minimum wages (Cal. Labor Code §§ 204, 1194, 1194.2, and 1197); failure
21 to pay overtime (Cal. Labor Code §§ 1194 and 1198); failure to provide
22 meal periods (Cal. Labor Code §§ 226.7, and 512); failure to authorize and
23 permit rest breaks (Cal. Labor Code § 226.7); failure to indemnify
24 necessary business expenses (Cal. Labor Code § 2802); failure to timely
25 pay final wages at termination (Cal. Labor Code §§ 201 – 203); failure to
26 provide accurate itemized wage statements (Cal. Labor Code § 226); unfair
27 business practices (Cal. Business and Profession Code §§ 17200, et seq.);
28 civil penalties under the Private Attorneys General Act (Cal. Labor Code

1 §§ 2699, et seq.); the Fair Labor Standards Act; and all other civil and
2 statutory penalties, including but not limited to statutory, constitutional,
3 contractual damages, unpaid costs, penalties, punitive damages, interest,
4 attorneys' fees, litigation costs, restitution, and equitable relief ("Released
5 Claims"); and

- 6 2) in addition, as to *all* Class Members employed during the Released PAGA
7 Claims Period, whether requesting exclusion from the Settlement or not,
8 the Released PAGA Claims (*see* Paragraph 14, above).

9 **RELEASE OF CLASS REPRESENTATIVE**

10 39. As a material inducement to Defendants to enter into this Settlement Agreement, Class
11 Representative does hereby, for himself and for his respective spouses, heirs, successors, beneficiaries,
12 devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives,
13 and assigns forever and completely release and discharge the Releasees from any and all charges,
14 complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes
15 of action, suits, rights, demands, costs, losses, debts, and expenses (including back wages, statutory
16 penalties, civil penalties, liquidated damages, exemplary damages, interest, attorneys' fees, and costs) of
17 any nature whatsoever, from the beginning of time through the execution of this Stipulation, whether
18 known or unknown, suspected or unsuspected, including but not limited to all claims arising out of, based
19 upon, or relating to Class Representative's employment with Defendants or the remuneration for or
20 termination of such employment (collectively, the "Class Representative's Claims").

21 40. Without limiting the generality of the foregoing, Class Representative expressly releases
22 all claims or rights against Released Parties arising out of or relating to alleged violations of any contracts,
23 express or implied (including but not limited to any contract of employment); any contract or covenant of
24 good faith and fair dealing (express or implied); any tort, including any claim for improper or unauthorized
25 wage deductions, failure to pay the applicable wage, unpaid wages, unpaid vacation benefits, penalties,
26 liquidated damages, other damages, overtime, and alleged "off the clock" work under federal and state
27 law, including California Labor Code Sections 204 and 558, waiting time penalties pursuant to California
28 Labor Section 203, damages or penalties pursuant to California Labor Code Section 226, meal period and

rest break payments and penalties pursuant to California Labor Code Sections 226.7 and 512, failure to provide itemized wage statements pursuant to California Labor Code Section 226, statutory or civil penalties pursuant to California Labor Code Sections 210, failure to indemnify for business expenses pursuant to Labor Code section 2802, unfair competition and unfair business practices pursuant to Business and Professions Code Section 17200 et seq., interest and costs pursuant to California Civil Code Section 3287 and California Labor Code Section 218.6, statutory or common law rights to attorneys' fees and costs, including those pursuant to California Labor Code Section 1194 et seq.; claims under the Private Attorneys General Act of 2004, Labor Code section 2699 et seq., and the alleged violation or breach of any other state or federal statute, rule and or regulation; including all applicable Industrial Welfare Commission Wage Orders, and all similar causes of action, including but not limited to, any claim for restitution, equitable relief, interest, penalties, costs or attorneys' fees in connection with any of the foregoing, negligent infliction of emotional distress, intentional infliction of emotional distress, and defamation; any "wrongful discharge," "constructive discharge," and "retaliation" claims; any claims relating to any breach of public policy; any legal restrictions on Defendants' right to discharge employees; and any federal, state, or other governmental statute, regulation, or ordinance, including, without limitation: (1) Title VII of the Civil Rights Act of 1964 (race, color, religion, sex, and national origin discrimination or harassment, including retaliation for reporting discrimination or harassment); (2) 42 U.S.C. § 1981 (discrimination); (3) Equal Pay Act, 29 U.S.C. § 209(d)(1) (equal pay); (4) Americans with Disabilities Act, 42 U.S.C. § 12100 et seq. (disability discrimination); (5) Family and Medical Leave Act, 29 U.S.C. § 2601 et seq. (family/medical leave); (6) California Fair Employment and Housing Act, Cal. Government Code § 12900 et seq. (discrimination or harassment in employment and/or housing, including discrimination or harassment based on race, religious creed, color, national origin, ancestry, disability, marital status, sex (including pregnancy), or age, including retaliation for reporting discrimination or harassment); (7) California Family Rights Act, Cal. Government Code § 12945.1 et seq. (family/medical leave); (8) California Labor Code, including Section 1720 et seq., or any Industrial Welfare Commission Wage Order; (9) Executive Order 11246 (race, color, religion, sex, and national origin discrimination or harassment); (10) Executive Order 11141 (age discrimination); (11) Sections 503 and 504 of the Rehabilitation Act of 1973 (handicap discrimination); (12) the Fair Labor Standards Act; and (13)

Employee Retirement Income Security Act, 29 U.S.C. § 1000 et seq. (employee benefits).

41. It is also understood and agreed by Defendants that this release does not limit Plaintiff from filing and seeking damages for any Workers' Compensation claims and/or unemployment insurance claims that are currently pending, or may be filed in the future.

42. Class Representative expressly waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of the State of California and does so understanding and acknowledging the significance of the waiver of Section 1542. Section 1542 of the Civil Code of the State of California states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

43. Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of all parties, Class Representative and Class Counsel expressly acknowledge that this Settlement Agreement is intended to include in its effect, without limitation, all claims that Class Representative knew of, as well as all claims that he does not know or suspect to exist in his favor against the Releasees, or any of them, for the time period from the beginning of time to the execution of this Settlement Agreement, and that this Settlement Agreement contemplates the extinguishment of any such Class Representative's claims.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

44. The Parties shall submit this Joint Stipulation of Class and Representative 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 and Representative Action Settlement, the Parties 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, Settlement Administration Costs, and the Class Representative's Service Payment, should be

- 1 finally approved as fair, reasonable, and adequate as to the members of the Class;
- 2 (b) Certifying a Class;
- 3 (c) Approving as to form and content the proposed Class Notice;
- 4 (d) Directing the mailing of the Class Notice;
- 5 (e) Preliminarily approving the Settlement, including Class and PAGA claims, subject
- 6 only to the objections of Class Members as to the Class Settlement and final review
- 7 by the Court;
- 8 (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the
- 9 proposed Class Members; and,
- 10 (g) Appointing ILYM Group, Inc., as the Settlement Administrator and order the
- 11 Settlement Administrator to issue Class Notices as outlined above.

12 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

13 45. In conjunction with the hearing of a motion for final approval by the Court of the

14 Settlement provided for in this Joint Stipulation of Class and Representative Action Settlement, Class

15 Counsel will provide to Defendants' Counsel for review and approval and then submit to the Court a

16 proposed final order and judgment containing provisions sufficient to accomplish the following:

- 17 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
- 18 adequate, and directing consummation of its terms and provisions;
- 19 (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- 20 (c) Approving the Settlement Administration Costs;
- 21 (d) Approving the Service Payment to the Class Representative;
- 22 (e) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting
- 23 duties under the Settlement.
- 24 (f) Adjudging Plaintiff and Class Counsel may adequately represent the Final
- 25 Settlement Class for the purpose of entering into and implementing the Agreement;
- 26 (g) Entering a final judgment in the action as to all PAGA and Class Claims and
- 27 related issues;
- 28 (h) Adjudging that notwithstanding the submission of a timely request for exclusion,

1 Class Members are still bound by the settlement and release of the Released PAGA
2 Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46
3 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to
4 the Released PAGA Claims, and further affirms that the State's claims for civil
5 penalties pursuant to PAGA are also extinguished;

- 6 (i) Directing the posting of the final judgment on a website maintained by the
7 Settlement Administrator for a period of not less than 90 calendar days after entry
8 of final judgment.

9 Any revised final judgments will also be provided to Defendants' Counsel for review and approval before
10 they are submitted to the Court.

11 **NULLIFICATION AND TERMINATION**

12 46. This Settlement will be null and void if any of the following occur: (a) the Court should for
13 any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to
14 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than
15 adjustments made to the attorney's fees and costs or granting of the Service Payment; (c) the Court should
16 for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or
17 rendered void; or (e) the Settlement does not become final for any other reason.

18 47. If 25% or more of the Class Members opt out of this Settlement, then Plaskolite in its sole
19 discretion may terminate, nullify and void this Settlement within twenty-one (21) calendar days after
20 expiration of the opt-out period. The Settlement Administrator shall provide Defendants' Counsel with the
21 information necessary to effectuate this provision on a regular basis, but no less frequently than on a
22 monthly basis. To terminate this Settlement under this paragraph, Plaskolite's Counsel must give
23 Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later than 20 court days after the
24 Response Deadline. If this option is exercised by Plaskolite, Plaskolite shall pay the costs incurred by the
25 Settlement Administrator for the settlement administration.

26 48. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
27 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
28 proceedings shall have any force or effect and no party shall be bound by any of its terms, and (iii) all

Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court.

PARTIES' AUTHORITY

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

MUTUAL FULL COOPERATION

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

NO PRIOR ASSIGNMENTS

51. The Parties and their respective counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

NO ADMISSION OF LIABILITY

52. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Defendants deny all the claims and contentions alleged by the Plaintiff in this case. Defendants has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

53. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare

rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

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

Class Counsel:

Kane Moon
H. Scott Leviant
Lilit Tunyan
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
kane.moon@moonyanglaw.com
scott.leviant@moonyanglaw.com
lilit.tunyan@moonyanglaw.com

Counsel for Plaskolite:

Cory D. Catignani
Andrew C. Smith
**VORYS, SATER, SEYMOUR AND
PEASE LLP**
4675 MacArthur Court, Suite 700
Newport Beach, California 92660
Telephone: (949) 526-7604
Facsimile: (949) 383-2385
cdcatignani@vorys.com
acsmith@vorys.com

Counsel for Innovative

Chris C. Scheithauer
CALL & JENSEN, APC
610 Newport Center Drive
Suite 700
Newport Beach, CA 92660
Telephone (949) 717-3000

CONSTRUCTION

55. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arm's-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

56. 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.

1 **MODIFICATION**

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

5 **INTEGRATION CLAUSE**

6 58. This Settlement contains the entire agreement between the Parties relating to the
7 Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements,
8 understandings, representations, and statements, whether oral or written and whether by a party or such
9 party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

10 **WAIVER OF APPEALS**

11 59. The Parties agree to waive appeals and to stipulate to class certification for purposes of
12 implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the
13 amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the
14 Gross Settlement Amount as attorney's fees.

15 **BINDING ON ASSIGNS**

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

18 **CLASS COUNSEL SIGNATORIES**

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

23 **COUNTERPARTS**

24 62. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
25 and when each party has signed and delivered at least one such counterpart, each counterpart shall be
26 deemed an original, and, when taken together with other signed counterparts, shall constitute one
27 Settlement, which shall be binding upon and effective as to all Parties.
28

63. The Class Representative and Class Counsel agree they will not make any disparaging comments about Defendants 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. If contacted by the media or third parties, they will only discuss information publicly available. Nothing herein will restrict Class Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Class Counsel's qualifications and experience. Further, the Parties understand and agree that Plaintiff's counsel may disclose this Settlement if ordered to do so by the Court, e.g., post any settlement documents/orders on their respective websites and/or provide information to Settlement Class Members about this Settlement. 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 Class Notice if a Class Member requests details about the proposed Settlement, and (3) a warning that the terms of the proposed Settlement have not yet been approved by the Court. Prior to preliminary approval, the Class Representative is prohibited from discussing the terms or the fact of the settlement with third parties other than (1) a spouse or (2) accountants or lawyers as necessary for tax purposes. At all times, the Class Representative is prohibited from communicating about the terms or the fact of the settlement on any form of social media. Class Counsel will not include or use the settlement for any marketing or promotional purposes other than as expressly allowed above.

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

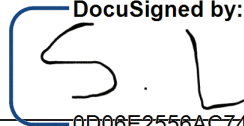
1 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint
2 Stipulation of Class Action Settlement between Plaintiff and Defendants as set forth below:

3 IT IS SO STIPULATED.

4
5 **Plaintiff & Class Representative:**

6
7 Dated: April 29, 2022

By: _____

DocuSigned by:


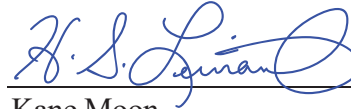
0D06E2556AC7451...
SALVADOR LOMELI JR.

8
9 **Plaintiff's Counsel:**

10 Dated: April 29, 2022

MOON & YANG, APC

11
12 By: _____



Kane Moon
H. Scott Leviant
Lilit Tunyan

13
14 Attorneys for Plaintiff SALVADOR LOMELI
15 JR.

16 **Defendants:**

17 Dated: April ___, 2022

PLASKOLITE LLC and PLASKOLITE WEST LLC

18
19 By: _____

Print Name

20
21 _____
Signature

22
23 _____
Title

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

3 IT IS SO STIPULATED.

4
5 **Plaintiff & Class Representative:**

6
7 Dated: May __, 2022

By: _____
SALVADOR LOMELI JR.

8
9 **Plaintiff's Counsel:**

10 Dated: May __, 2022

MOON & YANG, APC

11
12 By: _____
Kane Moon
H. Scott Leviant
Lilit Tunyan
13
14 Attorneys for Plaintiff SALVADOR LOMELI
15 JR.

16 **Defendants:**

17 Dated: May 19, 2022

PLASKOLITE LLC and PLASKOLITE WEST LLC

18
19 By: Peter Lynch
Print Name
20 [Signature]
Signature
21
22 CFO
23 Title
24
25
26
27
28

1 Dated: May __, 2022

INNOVATIVE RESOURCE MANAGEMENT, INC.

2
3 By: _____
Print Name

4
5 _____
Signature

6
7 _____
Title

8 **Defendants' Counsel:**

9 Dated: May 19, 2022

VORYS, SATER, SEYMOUR AND PEASE LLP

10
11 By: Cory D. Caignani
Cory D. Caignani
Andrew C. Smith

12
13 Attorneys for Defendants PLASKOLITE LLC
and PLASKOLITE WEST LLC

14
15 Dated: May __, 2022

CALL & JENSEN

16
17 By: _____
Chris C. Scheithauer
Morgan E. Podruski

18
19 Attorneys for Defendant INNOVATIVE
RESOURCE MANAGEMENT, INC.

20
21 Dated: May __, 2022

THE GIMINO LAW OFFICE

22
23 By: _____
Peter J. Gimino III

24
25 Attorneys for Defendant INNOVATIVE
RESOURCE MANAGEMENT, INC.

1 Dated: May 9, 2022

INNOVATIVE RESOURCE MANAGEMENT, INC.

2 By: SANDY QUINTERO
3 Print Name

4 Quintero
5 Signature

6 CHIEF EXECUTIVE OFFICER
7 Title

8 Defendants' Counsel:

9 Dated: May __, 2022

VORYS, SATER, SEYMOUR AND PEASE LLP

10 By: _____
11 Cory D. Catignani
12 Andrew C. Smith

13 Attorneys for Defendants PLASKOLITE LLC
14 and PLASKOLITE WEST LLC

15 Dated: May 9, 2022

CALL & JENSEN

16 By: [Signature]
17 Chris C. Scheithauer
18 Morgan E. Podruski

19 Attorneys for Defendant INNOVATIVE
20 RESOURCE MANAGEMENT, INC.

21 Dated: May 19, 2022

THE GIMINO LAW OFFICE

22 By: [Signature]
23 Peter J. Gimino III

24 Attorneys for Defendant INNOVATIVE
25 RESOURCE MANAGEMENT, INC.

Exhibit “A”

NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Lomeli v. Plaskolite LLC, et al.
Los Angeles Superior Court Case No. 21STCV14611

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

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF PLASKOLITE LLC, PLASKOLITE WEST, LLC (collectively “Plaskolite”) AND INNOVATIVE RESOURCE MANAGEMENT, INC. (“Innovative”) (PLASKOLITE and INNOVATIVE are collectively referred to as “Defendants”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN APRIL 16, 2017 AND [DATE OF PRELIMINARY APPROVAL] (THE “CLASS PERIOD”), 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 and representative action lawsuit entitled *Lomeli v. Plaskolite LLC, et al.*, Los Angeles Superior Court Case No. 21STCV14611 (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Class Notice”) is to describe the Action and to inform you of your rights and options in connection with the Action and proposed Settlement. The proposed Settlement will resolve all claims in the Action.

YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT: Your estimated Individual Settlement Payment is <<Estimated Payment>>, which includes your payment from the Class settlement in the estimated amount of <<Estimated Individual Settlement Class Payment>> and, because you [ARE/ARE NOT] a member of the PAGA Employee group, your payment from the PAGA settlement in the estimated amount of <<Estimated Individual PAGA Settlement Payment>>.

A hearing concerning final approval of the proposed Settlement will be held before Hon. William F. Highberger on <<FA DATE>>, at <<FA TIME>>, in Department 6 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, to determine whether the Settlement is fair, adequate and reasonable. As a Settlement 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 – GET MONEY	If you do nothing, you will be considered a “Settlement Class Member” in the Settlement 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. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	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 (“Opt-Out Request”). As a result, you will not receive any benefits under the Settlement (other than based on the PAGA Claim). Opt-Out Requests must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Settlement, you may mail a written explanation of why you don’t like 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 an Opt-Out Request if you wish to object. Written objections must be submitted by <<RESPONSE DEADLINE>>.

Who is affected by this proposed Settlement?

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

All non-exempt employees of Defendants who worked in California during the Class Period. The “Class Period” is April 16, 2017 through [DATE OF PRELIMINARY APPROVAL].

According to Defendants’ records, you are a member of the settlement class (“Class Member”). PAGA Employees will automatically receive their *pro rata* share of the \$15,000 allocated from the PAGA Allocation to PAGA Employees, cannot opt-out of the release of PAGA Claims, and will be bound by the release of the PAGA Claims even if they opt-out of the Settlement. Defendants’ records indicate you [ARE/ARE NOT] a PAGA Employee who worked in the State of California at any time during the PAGA Period of April 16, 2020 through [DATE OF PRELIMINARY APPROVAL].

What is this case about?

In the Action, Plaintiff Salvador Lomeli Jr. (“Plaintiff”) alleges on behalf of himself and the Class that Defendants: (1) failed to pay minimum and regular rate wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to timely pay all wages at termination; (6) failed to reimburse necessary business expenses; (7) failed to furnish accurate itemized wage statements; (8) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (9) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*]. Plaintiff seeks unpaid wages, actual, consequential and incidental losses and damages, special damages, liquidated damages, injunctive relief, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

Defendants deny 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. Defendants contend that their conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendants (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendants. 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 Defendants’ defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Kane Moon
H. Scott Leviant
Lilit Tunyan
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125
scott.leviant@moonyanglaw.com
lilit.tunyan@moonyanglaw.com

Plaskolite’s Counsel

Cory D. Catignani
Andrew C. Smith
**VORYS, SATER, SEYMOUR
AND PEASE LLP**
4675 MacArthur Court, Suite 700
Newport Beach, California 92660
Telephone: (949) 526-7604
Facsimile: (949) 383-2385
cdcatignani@vorys.com
acsmith@vorys.com

Innovative’s Counsel

Chris C. Scheithauer
Call & Jensen, APC
610 Newport Center Dr.
Suite 700
Newport Beach, CA 92660
Telephone (949) 717-3000
cscheithauer@calljensen.com
jsandoval@calljensen.com

What are the Settlement terms?

Subject to final Court approval, Plaskolite will pay \$470,000 (the “Gross Settlement Amount”) for: (a) Individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Enhancement to Plaintiff (\$7,500 to be requested); (c) the Court-approved attorneys’ fees and costs to Class Counsel (“Class Counsel’s Fees and Expenses”) (\$156,666.67 in fees and up to \$20,000 in costs to be requested); (e) \$60,000 in civil penalties pursuant to the PAGA (the “PAGA Allocation”); and (f) payment to the Settlement Administrator for settlement administration services (“Administrative Expenses”) (estimated to be \$8,990.00.)

Individual Settlement Payments. Class Members who do not timely and properly request to be excluded from the Settlement (the “Settlement Class Members”) will receive a share of the Net Settlement Amount (the

“Settlement Class Payment”), and Class Members who are also PAGA Employees will receive a share of the \$15,000 from the PAGA Allocation allocated to PAGA Employees (the “PAGA Settlement Payment”), regardless of whether they request exclusion from the Settlement (the total payment to a Class Member is their “Individual Settlement Payment”).

The “Net Settlement Amount” will be calculated by deducting from the Gross Settlement Amount the Class Counsel’s Fees and Expenses, the Class Representative Enhancement, \$45,000 from the PAGA Allocation paid to the LWDA (“PAGA Penalty Payment”), and the Administrative Expenses. The Individual Settlement Payments will be compromised of the Settlement Class Payments to each eligible Settlement Class Member and the PAGA Settlement Payment to each eligible PAGA Employee.

The Settlement Class Payment shall be divided among all Settlement Class Members on a *pro rata* basis based upon the total number of work weeks worked by each Settlement Class Member during the Class Period. The portion of the Net Settlement Amount paid to a Settlement Class Member = Net Settlement Amount (minus \$15,000 set aside for all PAGA Settlement Payment) × [the work weeks worked by a Settlement Class Member ÷ the work weeks worked by all Settlement Class Members].

The PAGA Settlement Payment shall be divided among all PAGA Employees on a *pro rata* basis based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period. The portion of the PAGA Settlement Payment paid to a PAGA Employee = \$15,000 × [the pay periods worked by a PAGA Employee (during the PAGA Period) ÷ the pay periods worked by all PAGA Employees (during the PAGA Period)].

Your estimated Individual Settlement Payment is <<Estimated Settlement Payment>> and the number of work weeks you worked during the Class Period based on your hire and/or termination dates is <<Work Weeks>>. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of work weeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<RESPONSE DEADLINE>> (the “Response Deadline”) at:

ILYM GROUP, INC.
[ADDRESS]

You must produce documentary evidence supporting your contention. Defendants’ records will be presumed correct unless you prove otherwise by credible evidence. If you dispute the accuracy of Defendants’ records used to calculate work weeks, and the counsel both parties and the Settlement Administrator cannot resolve the dispute informally, the matter will be referred to the court for final resolution. The Court will resolve and decide all work week disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated Individual Settlement Payment is incorrect because your work weeks (the number of weeks you worked within the Class Period) are wrong, your deadline to dispute this is <<RESPONSE DEADLINE>>.

For tax reporting purposes, the Settlement Class Payments to Class Members will be allocated 20% as wages, 80% as penalties and interest. The PAGA Settlement Payment will be allocated 100% as 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 Individual Settlement Payments allocated as civil penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Plaskolite.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the check’s issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller’s Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. In such event, the Settlement Class Members and PAGA Employees shall nevertheless remain bound by the Settlement.

Within 20 calendar days of receipt of the Gross Settlement Amount from Plaskolite, the Settlement Administrator will distribute the Individual Settlement Payments to all Settlement Class Members and PAGA Employees. The

“Effective Date” is when : (1) the Court has held a formal fairness hearing and entered a final Order and Judgment certifying the Settlement Class and approving the Stipulation of Settlement and ten (10) calendar days have passed since the Court has entered a final Order and Judgment certifying the Settlement Class and approving the Stipulation of Settlement; or (2) in the event there are written objections filed prior to the final fairness hearing which are not later withdrawn or denied, the later of the following events: ten (10) business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court’s final Order approving the Stipulation of Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court’s final Order approving the Stipulation of Settlement has been filed, ten (10) business days after any appeal, writ or other appellate proceedings opposing the Stipulation of Settlement has been finally and conclusively dismissed with no right to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court’s order approving the Settlement is completely final, and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

Payments to Settlement Class Members and PAGA Employees will issue only AFTER the payment by Plaskolite of the Gross Settlement Amount to the Settlement Administrator. **PLEASE BE PATIENT AND UPDATE THE SETTLEMENT ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.**

None of the Parties or their attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. 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’s Fees and Expenses, the Class Representative Enhancement, Administrative Expenses, the PAGA Penalty Payment. Class Counsel will ask the Court to award attorneys’ fees up to \$156,666.67 (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 Enhancement made to Plaintiff, not to exceed \$7,500, for his efforts in bringing the Action on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$20,000. The PAGA Penalty Payment in the amount of \$60,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$45,000 PAGA Allocation.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement and Plaskolite’s payment of all sums due pursuant to 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 Defendants and their subsidiaries, affiliates, parents, agents, employees, partners, directors, officer, attorneys, trustees, insurers, representatives, predecessors, successors, and assigns, agents, payroll services, staffing services, and joint employers (collectively “Releasees”).

(b) Date Release Becomes Effective. The Released Claims will be released upon the later of (1) the Settlement’s Effective Date, or (2) the satisfaction of Plaskolite’s obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, and Plaskolite has paid all amounts owing 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) all claims alleged in the operative complaint or that could have been alleged based on the facts therein, including claims for failure to pay minimum wages (Cal. Labor Code §§ 204, 1194, 1194.2, and 1197); failure to pay overtime (Cal. Labor Code §§ 1194 and 1198); failure to provide meal periods (Cal. Labor Code §§ 226.7, and 512); failure to authorize and permit rest breaks (Cal. Labor Code § 226.7); failure to indemnify necessary business expenses (Cal. Labor Code § 2802); failure to timely pay final wages at termination (Cal. Labor Code §§ 201 – 203); failure to provide accurate itemized wage statements (Cal. Labor Code § 226); unfair business

practices (Cal. Business and Profession Code §§ 17200, et seq.); civil penalties under the Private Attorneys General Act (Cal. Labor Code §§ 2699, et seq.); the Fair Labor Standards Act; and all other civil and statutory penalties, including but not limited to statutory, constitutional, contractual damages, unpaid costs, penalties, punitive damages, interest, attorneys' fees, litigation costs, restitution, and equitable relief; and

2) in addition, as to all Class Members employed during the Released PAGA Claims Period, whether requesting exclusion from the Settlement or not, all claims arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent that the claims could have been made in the Action based on the facts and allegations pled in Plaintiff's administrative exhaustion letter submitted to the LWDA and any Complaint in this matter (i.e., the Released PAGA Claims).

No Class Member employed during the Released PAGA Claims Period can request exclusion from the settlement of the PAGA Claim. If you are a Class Member, and this Settlement is approved, you will release the PAGA Claim even if you timely and properly file an Opt-Out Request. The PAGA Employees are bound by the release of the PAGA Claims regardless of whether they cash their PAGA Payment Check.

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 be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, 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, **you do not need to take any action.** By remaining in the Class and receiving settlement monies to resolve your class claims, 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 Defendants, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way and you have selected to remain in the Class, you can ask the Court to deny approval of the Settlement by submitting an objection. You can't object to the release of the PAGA Claim or object to the PAGA Settlement Payment. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no additional settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You may object to the Settlement in writing or by appearing at the Final Approval Hearing, either in-person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. Written objections should be sent to the Settlement Administrator at ILYM GROUP, INC., [ADDRESS]. If you submit a written objection, it should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; (4) the case and number (*Lomeli v. Plaskolite LLC*, et al., Los Angeles Superior Court Case No. 21STCV14611); and (5) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. 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 Final Approval 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.** If you submit a written objection and then request exclusion from, and opt out of, the Class Settlement, you would be deemed to have waived your objection.

Information about how to attend the Final Approval Hearing telephonically or by video are included below.

Regardless of the form, an objection, alone will not satisfy the requirement that a 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 B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (PAGA Employees Still Will Receive Their Share of the PAGA Employee Payment). You may not seek exclusion from the PAGA portion of this Settlement. However, if you do not want to be part of the Class Settlement, you must submit a written request to be excluded from the Class Settlement to the Settlement Administrator at ILYM GROUP, INC., [ADDRESS]. In order to be valid, your written request to be excluded from the Class Settlement must be signed and include your full 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 want be excluded from the Class Action Settlement in *Lomeli v. Plaskolie LLC*, Los Angeles County Superior Court Case No. 21STCV14611.”

Your written request to be excluded from the Class 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 Class 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 Settlement 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 Class Settlement by the deadline to request exclusion, you will have no further role in the Action as it relates to the Class claims. You will not be able to complain to the Court about any aspect of the Class Settlement and any written objection to the Class Settlement would not be considered valid. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement, except for any payment you may be receive from the PAGA portion of this 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 Fees and Expenses, the Class Representative Enhancement, the Administrative Expenses, and the PAGA Allocation on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department 6 of the Los Angeles Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment. The Final Approval Hearing may be continued without further notice to Class Members.

If you wish to attend the Final Approval Hearing telephonically or by remote video, visit <https://my.lacourt.org/laccwelcome> for instructions on how to do so. You will need to use the Case Number for this case (21STCV14611) to schedule a telephonic or video appearance.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website by the Settlement Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

How can I get additional information?

This Class 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 H. Scott Leviant 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 Los Angeles Superior Court. Because of the Los Angeles Superior Court’s COVID-19 pandemic procedures, in order to view documents filed in the lawsuit, Class Members may be required to make an appointment with the Court to view documents. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above.

You may also view documents filed in this case, including the complete Settlement, on the Court’s website at: www.lacourt.org/casesummary/ui/index.aspx?casetype=civil. NOTE: If you choose to access documents online, the Court will charge you a fee. Class Counsel can provide you copies of settlement documents at no charge.

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

Exhibit “B”

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

1055 W. SEVENTH ST., SUITE 1880
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Kane Moon, Esq.
Kane.moon@moonyanglaw.com

July 23, 2021

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

VIA CERTIFIED MAIL

Plaskolite, LLC
400 W. Nationwide Blvd.
Columbus, OH 43219

VIA CERTIFIED MAIL

Plaskolite West, LLC
400 W. Nationwide Blvd.
Columbus, OH 43219

VIA CERTIFIED MAIL

Innovative Resource Management Inc.
Agent for service of process: Sandy Quintero
7922 E. Rosecrans Avenue Unit T
Paramount California 90723

Amended Notice of Labor Code Violations and PAGA Penalties

Re: ***Salvador Lomeli, Jr. v. Plaskolite, LLC and Plaskolite West, LLC***

To Whom It May Concern:

Please be advised that my office has been retained by Salvador Lomeli, Jr. ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers, Plaskolite, LLC, Plaskolite West, LLC and Innovative Resource Management Inc. (collectively "Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of Plaintiff individually as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and

former aggrieved employees who worked for Defendant in California as an hourly paid, nonexempt employee at any time within the applicable statutory period (hereafter, the “Aggrieved Employees”).

Plaintiff and the Aggrieved Employees of Defendant suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff worked for Defendant as a general worker from approximately May 2019 to June 2020, primarily in Los Angeles County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and in excess of 8 each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Plaintiff and the Aggrieved Employees were required to work off-the-clock. For example, Plaintiff and the Aggrieved Employees were required to undergo COVID temperature screening prior to clocking into work each workday, which included a line that formed in order to go

through the test, all uncompensated. Plaintiff and the Aggrieved Employees were also required to wait in line in order to clock into work each workday. If Plaintiff and the Aggrieved Employees arrived late, they would receive a disciplinary point, and so Plaintiff and the Aggrieved Employees were required to arrive early. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s).

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendant are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendant, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendant's records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendant. As a direct result, Plaintiff and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's knowing failure to comply with the Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

As a result, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the purchase of safety equipment such as back support belts and lifting belts. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

Defendant's conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendant their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to 30 days maximum pursuant to Labor Code § 203.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay

period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

Defendant intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly identify hourly rates, the failure to correctly list gross wages earned, and the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendant violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendant also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendant violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and
8. Labor Code § 204 by failing to pay all earned wages two times per month.

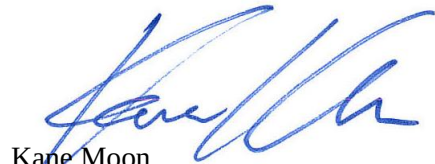
Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

MOON & YANG, APC



Kane Moon
Attorney at Law

LWDA
Notice of Labor Code Violations and PAGA
July 23, 2021
Page 9 of 9