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13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **IN AND FOR THE COUNTY OF SAN DIEGO**
16

17 ERIC JACOBS, an individual, on behalf of
18 himself and on behalf of all persons similarly
19 situated,

20 Plaintiffs,

21 vs.

22 CAL-STATE AUTO PARTS, INC., a
23 California Corporation; and DOES 1 through
24 50, inclusive,

25 Defendants.

CASE NO.: **37-2021-00031418-CU-OE-CTL**
[Consolidated with Case No.
37-2021-00031457-CU-OE-CTL]

DECLARATION OF KYLE
NORDREHAUG IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT

Hearing Date: October 6, 2023

Hearing Time: 8:30 a.m.

Judge: Hon. Ronald F. Frazier

Dept.: 65

Action Filed: July 22, 2021

Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiff Eric Jacobs ("Plaintiff") in this matter. As such, I am fully familiar
4 with the facts, pleadings and history of this matter. The following facts are within my own personal
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein.

6 2. This declaration is being submitted in support of Plaintiff's unopposed motion for
7 preliminary approval of the proposed class action settlement with Defendant Cal-State Auto Parts,
8 Inc. ("Defendant"), which motion seeks entry of an order: (1) preliminarily approving the proposed
9 settlement of this class action with Defendant; (2) for settlement purposes only, conditionally
10 certifying the Class, which is comprised of "all individuals who were employed by Defendant in
11 California and classified as hourly, non-exempt employees at any time during the Class Period",
12 which is July 22, 2017 through October 28, 2022; (3) provisionally appointing Plaintiff as the
13 representative of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R.
14 Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class
15 Counsel; (5) approving the form and method for providing class-wide notice; (6) directing that
16 notice of the proposed settlement be given to the class; (7) appointing ILYM Group as
17 Administrator, and (8) scheduling a final approval hearing date for February 16, 2024 to consider
18 Plaintiff's motion for final approval of the settlement and entry of the Judgment, and Plaintiff's
19 motion for approval of attorneys' fees and expenses. Attached hereto as Exhibit #1 is a copy of the
20 fully executed Class Action and PAGA Settlement Agreement ("Agreement") along with exhibits
21 thereto. The form of the Agreement is based upon the Los Angeles County Superior Court model
22 form for a class and PAGA settlement. This Declaration incorporates by reference the definitions in
23 the Agreement, and all terms defined therein shall have the same meaning as set forth in the
24 Agreement.

25
26 Fairness of Settlement

27 3. As consideration for this Settlement, the Gross Settlement Amount is Nine Hundred
28 Sixty Thousand Dollars (\$960,000) (the "Gross Settlement Amount") to be paid by Defendant, as

1 set forth in the Agreement. The Gross Settlement Amount will settle all issues pending in the
2 Action between the Parties and will be made in full and final settlement of the Released Class
3 Claims in exchange for the payments to Participating Class Members from the Net Settlement
4 Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys' fees and
5 costs, (c) Class Representative Service Payment, and (d) the PAGA Penalties payment to the
6 LWDA and the Aggrieved Employees. (Agreement at ¶ 1.22.) The Gross Settlement Amount does
7 not include the employer's share of payroll taxes which will be separately paid by Defendants. (Id.)
8 The Settlement is all-in with no reversion to Defendants and no need to submit a claim form. (Id.)

9 4. The relief provided in the Settlement will benefit all members of the Class. The
10 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
11 Payments to the Class Members are all determined under a neutral methodology. Each
12 Participating Class Member will receive the same opportunity to participate in and receive payment
13 through a neutral formula that is based upon the Workweeks for that individual.

14 5. On July 21, 2022, the Parties participated in an all-day mediation session presided
15 over by Jeffrey Krivis, a respected and experienced mediator of wage and hour class actions. In
16 preparation for the mediation, Defendant provided Class Counsel with payroll and employment data
17 and other information regarding the Class Members, various internal documents, and other
18 compensation and employment-related materials. Class Counsel analyzed the data with the
19 assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to the
20 mediator. The final settlement terms were negotiated and set forth in the Agreement now presented
21 for this Court's approval. Importantly, Plaintiff and Class Counsel believe that this Settlement is
22 fair, reasonable and adequate.

23 6. Based upon 647 Class Members who collectively worked 67,436 Workweeks, the
24 Gross Settlement Amount provides a value of \$1,483 per Class Member and \$14 per Workweek and
25 after deductions the Net Settlement Amount provides an average recovery of \$880.98 per Class
26 Member and a recovery of \$8.45 per Workweek. The final number of Class Members and
27 workweeks was verified by Defendant as required by the Settlement in the Declaration of Richard
28 DeBlasi, a true and correct copy of which is attached hereto as Exhibit #3. The calculations to

1 compensate for the amount due for the Class at the time of the mediation were calculated by Berger
2 Consulting, Plaintiff's damage expert. As to the Class whose claims are at issue in this Action,
3 Plaintiff used the expert to analyze the data and determine the potential unpaid wages for the
4 employees. The maximum potential damages were calculated to be \$211,239 for the alleged unpaid
5 wages due to off the clock work, \$2,408,041 for alleged meal period damages based upon a 54.6%
6 potential violation rate observed in the shifts analyzed, \$882,190 for alleged rest period damages
7 based upon a 20% violation rate, \$77,685 for alleged unreimbursed business expenses for personal
8 cell phone usage at \$5 per month. Decl. Nordrehaug, ¶6. As a result, the total damage valuation
9 was calculated that Defendant was subject to a maximum damage claim in the amount of
10 \$3,579,155. As to potential penalties, Plaintiff calculated that potential waiting time penalties were
11 a maximum of \$1,125,927 and potential wage statement penalties were \$172,300.¹ Defendant
12 vigorously disputed Plaintiff's calculations and exposure theories. Consequently, the Gross
13 Settlement Amount represents more than 26% of the potential maximum damages at issue for the
14 Class in this case, assuming these amounts could all be proven in full at trial.² The above maximum
15 calculations should then be adjusted in consideration for both the risk of class certification and the
16 risk of establishing class-wide liability on all claims. Given the amount of the Settlement as
17 compared to the potential value of the claims, the Settlement is most certainly fair and reasonable.

18
19 Procedural History of the Litigation

20 7. On April 9, 2021, Plaintiff filed with the LWDA and served on Defendant a
21

22 ¹ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
23 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses
24 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages
25 for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and
26 Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th
576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a
good faith dispute as to whether and when the wages were due.").

27 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included
28 the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed
below at ¶ 33.

1 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover
2 civil penalties on behalf of Aggrieved Employees for various Labor Code violations ("PAGA
3 Notice"). A true and correct copy of the PAGA Notice is attached hereto as Exhibit #4. On July
4 22, 2021, Plaintiff filed a separated Representative Action against Defendant in the Superior Court
5 of the State of California, County of San Diego ("Plaintiff's PAGA Action"). Plaintiff's Complaint
6 asserted one cause of action against Defendant for Civil Penalties Pursuant to Labor Code § 2699,
7 et seq. for violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3,
8 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations,
9 Title 8, Section 11040, Subdivision 5(A)-(B).

10 8. On July 22, 2021, Plaintiff filed a Class Action Complaint against Defendant in the
11 Superior Court of the State of California, County of San Diego (hereinafter the "Action"). This
12 Class Action Complaint asserted class claims against Defendant for: (1) unfair competition in
13 violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay minimum wages in violation
14 of California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay overtime wages in violation of
15 California Labor Code §§ 510, 1194 & 1198; (4) failure to provide required meal periods in
16 violation of California Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in
17 violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to reimburse employees for required
18 expenses in violation of California Labor Code § 2802; and, (7) failure to provide accurate itemized
19 wage statements in violation of California Labor Code § 226. On September 15, 2021, Defendant
20 filed an Answer to Plaintiff's Class Action Complaint asserting Fifty-Eight (58) affirmative
21 defenses.

22 9. As part of this Settlement, the Parties stipulated for Plaintiff to file a First Amended
23 Complaint in the Action that consolidates the PAGA Action into the Action and adds the claim
24 alleged in the PAGA Action. Plaintiff's First Amended Complaint was filed on February 3, 2023.
25 The First Amended Complaint is the operative complaint in the Action (the "Operative
26 Complaint").

27 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
28 including production of documents, class data, and other information, allowing for the full and

1 complete analysis of liabilities and defenses to the claims in the Action. Plaintiff obtained
2 extensive informal discovery, which included the production and analysis documents. The
3 information for mediation obtained by Plaintiff included: (1) data concerning the class composition;
4 (2) a 20% sampling of payroll and time punch data; (3) Defendant's wage and hour policies and job
5 descriptions; (4) the employment file for the Plaintiff; and, (5) samples of wage statements provided
6 by Defendant. As such, Class Counsel received the data and information for the Class, which was
7 sufficient for Plaintiff's expert to prepare the valuations of the claims for the Class.

8 11. Class Counsel has extensive experience in litigating wage and hour class actions in
9 California. The Parties have vigorously litigated the Action since inception. During the course of
10 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and
11 Defendant have engaged in substantial research and investigation in connection with the Action.
12 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
13 and utilized an expert to perform an analysis of the data and valuation of the claims.

14 12. Plaintiff and Defendant agreed to discuss resolution of the Action through a
15 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
16 documents and information in connection with the Action. On July 21, 2022, the Parties
17 participated in an all-day mediation presided over by Jeffrey Krivis, a respected and experienced
18 mediator of wage and hour class actions. Following the mediation, each side, represented by its
19 respective counsel, were able to agree to settle the Action based upon a mediator's proposal which
20 was memorialized in a memorandum of understanding executed September 12, 2022. The Parties
21 then negotiated the final terms of the settlement as set forth in the Agreement. At all times, the
22 negotiations were arm's length and contentious.

23 13. Although a settlement has been reached, Defendant denies any liability or
24 wrongdoing of any kind associated with the claims alleged in the Actions and further deny that, for
25 any purpose other than settlement, the Action is appropriate for class and/or representative
26 treatment. Defendant contends, among other things, that it has properly compensated the Class
27 Members on a salary basis and complied at all times with the California Labor Code, applicable
28 Wage Order, and all other laws and regulations. Further, Defendant contends that class certification

1 is inappropriate for any reason other than for settlement. Plaintiff contends that Defendant violated
2 California wage and hour laws. Plaintiff further contends that the Action is appropriate for class
3 certification on the basis that the claims meet the requisites for class certification. Without
4 admitting that class certification is proper, Defendant has stipulated that the above Class may be
5 certified for settlement purposes only. (Agreement at ¶ 2.9.) The Parties agree that certification for
6 settlement purposes is not an admission that class certification is proper. Further, the Agreement is
7 not admissible in this or any other proceeding as evidence that the Class could be certified absent a
8 settlement. Solely for purposes of settling the Action, the Parties stipulate and agree that the
9 requisites for establishing class certification with respect to the Class are satisfied.

10 14. Class Counsel has conducted a investigation into the facts of the class action. Class
11 Counsel engaged in a thorough review and analysis of the relevant documents and data with the
12 assistance of an expert. Accordingly, the agreement to settle did not occur until Class Counsel
13 possessed sufficient information to make an informed judgment regarding the likelihood of success
14 on the merits and the results that could be obtained through further litigation. In addition, Class
15 Counsel previously negotiated settlements with other employers in actions involving nearly
16 identical issues and analogous defenses. Based on the foregoing data and their own independent
17 investigation, evaluation and experience, Class Counsel believes that the settlement with
18 Defendants on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the
19 best interest of the Class in light of all known facts and circumstances, including the risk of
20 significant delay, defenses asserted by Defendants, and potential appellate issues.

21
22 Settlement Terms and Plan of Allocation

23 15. The Gross Settlement Amount is Nine Hundred Sixty Thousand Dollars (\$960,000).
24 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the
25 following elements: (1) payment of the Individual Class Payments to the Participating Class
26 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
27 Administration Expenses Payment; (4) the Class Representative Service Payment to Plaintiff; and
28 (5) the PAGA Penalties payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not

1 include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount
2 shall be all-in with no reversion to Defendants. (Agreement at ¶ 3.1.)

3 16. Within fifteen (15) days of the Effective Date, Defendant shall deposit the Gross
4 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual
5 Class Payments to Participating Class Members along with the other Court-approved distributions
6 shall be made by the Administrator within fourteen (14) days after Defendant funds the Gross
7 Settlement Amount. (Agreement at ¶ 5.1.)

8 17. The amount remaining in the Gross Settlement Amount after the deduction of
9 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, Class
10 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses
11 Payment, and the Administration Expenses Payment (called the "Net Settlement Amount") shall be
12 allocated to Class Members as their Individual Class Payments. (Agreement at ¶¶ 1.28 and 3.2.)
13 From the Net Settlement Amount, the Individual Class Payment for each Participating Class
14 Member will be calculated by (a) dividing the Net Settlement Amount by the total number of
15 Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying
16 the result by each Participating Class Member's Workweeks. (Agreement at ¶ 3.2(e).) Workweeks
17 will be based on Defendant's records, however Class Members will have the right to challenge the
18 number of Workweeks.

19 18. Class Members may choose to opt-out of the Settlement by following the directions
20 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be
21 deemed Participating Class Members who will be bound by the Settlement and will be entitled to
22 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees,
23 including those who submit an opt-out request, will still be paid their allocation of the PAGA
24 Penalties and will remain subject to the release of the Released PAGA Claims regardless of their
25 request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the
26 Class Members of their right to object to the Settlement and/or dispute their Workweeks.
27 (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

28 19. A Participating Class Member must cash his or her Individual Class Payment check

1 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
2 180 days will be voided and any funds from such uncashed checks will be paid to the California
3 Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid
4 residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b), as
5 the entire Net Settlement Amount will be paid out to Participating Class Members or Aggrieved
6 Employees, whether or not they all cash their checks.

7 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the
8 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid
9 for settlement administration in an amount not to exceed \$20,000. (Agreement at ¶ 3.2(c).)

10 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
11 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
12 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
13 Class Counsel Litigation Expenses Payment in an amount not to exceed \$20,000. (Agreement at ¶
14 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000
15 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

16 22. Subject to Court approval, Twenty Thousand Dollars (\$20,000) will be paid from the
17 Gross Settlement Amount for PAGA penalties under the California Private Attorneys General Act,
18 Cal. Labor Code Section 2698, *et seq.* ("PAGA"). Pursuant to the express requirements of Labor
19 Code § 2699(i), the PAGA Payment shall be allocated as follows: 75% (\$15,000) shall be allocated
20 to the Labor Workforce Development Agency ("LWDA") as its share of the civil penalties and and
21 25% (\$5,000) allocated to the Individual PAGA Payments to be distributed to the Aggrieved
22 Employees based on the number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As
23 set forth in the accompanying proof of service, the LWDA has been served with this motion and the
24 Agreement.

25
26 Risks of Continued Litigation and Standards for Approval

27 23. Plaintiff and Class Counsel recognize the expense and length of continuing to litigate
28 and trying this Action against Defendants through possible appeals which could take several years.

1 Class Counsel has also taken into account the uncertain outcome and risk of litigation, especially in
2 complex class actions such as this Action. Class Counsel is also mindful of and recognize the
3 inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Based
4 upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in
5 the Agreement is in the best interest of the Class Members.

6 24. Here, a number of defenses asserted by Defendant present serious threats to the
7 claims of the Plaintiff and the other Class Members. Defendant asserted that Defendant's practices
8 complied with all applicable Labor laws. Defendant argued that all work time was paid for.
9 Defendants contend that their meal and rest period policies fully complied with California law and
10 that Defendant's timekeeping system recorded meal periods, and was not required to record rest
11 periods. As to expenses reimbursement, Defendant contended that there was no failure to pay for
12 business expenses and any cell phone usage was merely convenient and voluntary such that
13 reimbursement was not legally required. Finally, Defendant could argue that the Supreme Court
14 decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiff's claims, on
15 liability, value, and class certifiability as to the meal and rest period claims. Defendant also argues
16 that based on its facially lawful practices, Defendant acted in good faith and without willfulness,
17 which if accepted would negate the claims for waiting time penalties and/or inaccurate wage
18 statements. If successful, Defendant's defenses could eliminate or substantially reduce any
19 recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant
20 maintains these defenses have merit and therefore present a serious risk to recovery by the Class.

21 25. There was also a significant risk that, if the Action was not settled, Plaintiff would be
22 unable to obtain a certified class and maintain the certified class through trial, and thereby not
23 recover on behalf of any employees other than himself. At the time of the mediation, Defendant
24 forcefully opposed the propriety of class certification, arguing that individual issues precluded class
25 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
26 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-
27 wide recovery even where the class has been certified. While other cases have approved class
28 certification in wage and hour claims, class certification in this action was hotly disputed and the

1 maintenance of a certified class through trial was by no means a foregone conclusion.

2 26. This settlement is therefore certainly entitled to preliminary approval. Were this
3 case to go to trial, the Plaintiff and the other Class Members would need to prove, among other
4 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

5 27. Plaintiff will apply to the Court for Class Representative Service Payment in
6 consideration for his service and for the risks undertaken on behalf of the class. (Agreement at ¶
7 3.2(a).) Plaintiff performed his duties admirably by working with Class Counsel for more than two
8 years. At the time of final approval, the Declaration of the Plaintiff will be submitted in support.
9 For purposes of this preliminary approval stage, the requested service award of \$10,000 is well
10 within the accepted range of awards for purposes of preliminary approval. *See e.g. Mathein v. Pier*
11 *1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where
12 average class member payment was \$351); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S.
13 Dist. LEXIS 173698 (N.D. Cal. 2014) (approving \$10,000 service award where class member
14 recovery was \$375); *Rausch v. Hartford Fin. Servs. Grp.*, 2007 U.S. Dist. LEXIS 14740, 2007 WL
15 671334 (D. Or. 2007) (approving award of \$10,000 where class member recoveries were as little as
16 \$150); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06,
17 2008) (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v.*
18 *UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D.Cal. Jan. 27 2007) (awarding \$25,000 service
19 award in overtime class action and a pool of \$100,000 in enhancements). As explained in *Glass*,
20 service awards are routinely awarded to class representatives to compensate the employees for the
21 time and effort expended on the case, for the risk of litigation, for the fear of suing an employer and
22 retaliation there from, and to serve as an incentive to vindicate the statutory rights of all employees.
23 2007 WL 221862 at *16-17. Below, I provided a long list of similar Court-approved service
24 awards.

25 28. The stage of the proceedings at which this Settlement was reached also militates in
26 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
27 conducted a thorough investigation into the facts of the class action. Class Counsel began
28 investigating the Class Members' claims before the Action were filed. Class Counsel conducted a

1 review and analysis of the relevant documents and data. Class Counsel was also experienced with
2 the claims at issue here, as Class Counsel previously litigated and settled similar claims in other
3 actions. Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient
4 information to make an informed judgment regarding the likelihood of success on the merits and the
5 results that could be obtained through further litigation.

6 29. Based on the foregoing data and their own independent investigation and evaluation,
7 Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the
8 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
9 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
10 asserted by Defendant, and numerous potential appellate issues. There can be no doubt that
11 Counsel for both parties possessed sufficient information to make an informed judgment regarding
12 the likelihood of success on the merits and the results that could be obtained through further
13 litigation.

14
15 Class Certification Issues

16 30. Plaintiff contends that the proposed settlement meet all of the requirements for class
17 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
18 the Court may appropriately approve the Class as defined in the Agreement. This Court should
19 conditionally certify the Class for settlement purposes only, defined as follows:

20 All individuals who were employed by Defendant in California and classified as
21 hourly, non-exempt employees at any time during the Class Period.

22 (Agreement at ¶ 1.5.)

23 The Class Period is from July 22, 2017 through October 28, 2022. (Agreement at ¶ 1.13.)

24 a. **Numerosity** - Here, Plaintiff asserts that the 647 current and former
25 employees that comprise the Class can be identified based on Defendant's records and are
26 sufficiently numerous for class certification. This final figure for Class Members was verified by
27 the Declaration attached hereto as Exhibit #3.

28 b. **Common Issues Predominate** - Here, Plaintiff contends that common

1 questions of law and fact are present, specifically the common questions of whether Defendant's
2 employment practices were lawful, whether Defendant failed to provide meal and rest periods to
3 Class Members, whether Class members were lawfully compensated for all hours worked, whether
4 Defendant failed to provide required expense reimbursement, and whether Class Members are
5 entitled to damages and penalties as a result of these practices. Plaintiff contends that certification
6 of this Class is appropriate because Defendant allegedly engaged in uniform practices with respect
7 to the Class Members. As a result, these common questions of liability could be answered on a
8 class wide basis.

9 c. **Typicality** - In the Action, Plaintiff contends that the typicality requirement
10 is fully satisfied. Plaintiff, like every other member of the Class, were employed by Defendant as
11 an hourly, non-exempt employee, and, like every other member of the Class, was subject to the
12 same employment practices. Plaintiff, like every other member of the Class, also claims owed
13 compensation as a result of the Defendant's uniform company policies and practices. Thus, the
14 claims of Plaintiff and the members of the Class arise from the same course of conduct by
15 Defendant, involve the same issues, and are based on the same legal theories.

16 d. **Adequacy** - Plaintiff contends that the Class Members are adequately
17 represented here because Plaintiff and representing counsel (a) do not have any conflicts of interest
18 with other class members, and (b) will prosecute the case vigorously on behalf of the Class. This
19 requirement is met here. First, Plaintiff is well aware of his duties as the representative of the Class
20 and has actively participated in the prosecution of this case to date. Plaintiff effectively
21 communicated with Class Counsel, provided documents and information to Class Counsel, and
22 participated in the investigation and resolution of the Action. The personal involvement of the
23 Plaintiff was essential to the prosecution of the Action and the monetary settlement reached.
24 Second, Plaintiff retained competent counsel who are experienced in employment class actions and
25 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiff and those
26 of the Class. Both the Plaintiff and the Class Members seek monetary relief under the same set of
27 facts and legal theories.

28 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal

1 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
2 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
3 experience. We have handled a number of class actions and complex cases and have acted both as
4 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
5 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
6 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
7 employment law class actions, including claims for misclassification, overtime, expense
8 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
9 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
10 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
11 adequate counsel by the courts throughout California. We have been approved as experienced class
12 counsel by both state and federal courts in California in contested class certification proceedings. A
13 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
14 settlement is defined as “all individuals who were employed by Defendant in California and
15 classified as hourly, non-exempt employees at any time during the Class Period.” I have reviewed
16 my firm’s cases and representation of other plaintiffs and there is no conflict or representation
17 which would prevent my firm from representing the interests of the Class this case. My firm only
18 represents employees, and not employers. My firm has never represented Defendant nor any
19 affiliate of the Defendant. My firm’s only interest in the subject matter of this litigation is to ensure
20 a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the
21 claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other
22 employees and classes as the claims are all against different and distinct employers. I can think of
23 no conflict that would arise in our representation of the Class and our adequate representation of the
24 Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery
25 for the Class. Moreover, neither the Plaintiff nor Class Counsel have any affiliation with the
26 Administrator for this settlement. Thus, the adequacy requirement for my firm is satisfied.

27 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
28 respective counsel and to be approved by the Court, includes all relevant information and is based

1 upon this Court's model form. (See Exhibit "A" to the Agreement.) A Spanish translation of the
2 Class Notice will be included in the mailing. (Agreement at ¶ 1.11.) The Class Notice, drafted
3 jointly and agreed upon by the Parties through their respective counsel and to be approved by the
4 Court, includes all relevant information. (See Exhibit "A" to the Agreement.) The Class Notice will
5 include, among other information: (i) information regarding the Action; (ii) the impact on the rights
6 of the Class Members if they do not opt out, including a description of the applicable release; (iii)
7 information to the Class Members regarding how to opt out and how to object to the Settlement;
8 (iv) the estimated Individual Class Payment for each of the Class Members; (iii) the amount of
9 attorneys' fees and expenses to be sought; (v) the amount of the Plaintiff's service award request;
10 and (vi) the anticipated expenses of the Administrator. The Class Notice will state that the Class
11 Members shall have forty-five (45) days from the date that the Notice is mailed to them (the
12 "Response Deadline") to request exclusion (opt-out) or to submit an objection. (Agreement at ¶¶
13 1.42, 8.5, 8.7.) Class Members shall be given the opportunity to object to the Settlement and/or
14 requests for attorneys' fees and expenses and to appear at the Final Approval Hearing. (Agreement
15 at ¶ 8.7.) Class Members who do not submit a timely and proper request to opt-out will
16 automatically receive a payment of their Individual Class Payment. This notice program was
17 designed to meaningfully reach the Class Members and it advises them of all pertinent information
18 concerning the Settlement.

19
20 33. The PAGA Claim -

21 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
22 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
23 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
24 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
25 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
26 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
27 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
28 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that

1 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
2 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
3 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
4 class members." (LWDA Response at p.4).

5 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
6 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between
7 \$653,900 and \$1,307,800 for a single violation in every one of the estimated 13,078 pay periods at
8 issue in the PAGA Period, depending on whether the violation was \$50 per pay period as in the case
9 of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor
10 Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum
11 rate per pay period but without stacking.³ The PAGA allocation in the Settlement is \$20,000. This
12 allocation is justified by several important considerations. First, the PAGA claim was subject to the
13 same risks as the underlying class claims. Second, Defendant asserted additional defenses to the
14 PAGA claim, not only as to liability but also as to the amount of the penalties. Defendant could
15 also argue that no penalties prior to the PAGA notification should be awarded, and I am aware of
16 one Court which has so ruled. These additional defenses present a risk to the PAGA claim and the
17 potential that some or all of the PAGA penalties sought may not be awarded. Second, in
18 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court of Appeal affirmed a
19 judgment which only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any
20 PAGA penalties awarded could be significantly less than Plaintiff's calculation even where Plaintiff
21 prevailed on the PAGA claim. Even if we assume that violations for all 13,078 pay periods were
22 established, using the valuation from *Carrington* results in a potential recovery of only \$65,390
23 under PAGA. This means that the PAGA allocation in the Agreement is a reasonable recovery
24 when compared to this potential PAGA recovery. Fourth, the interests of PAGA are also served by

25
26 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
27 The valuation of between \$653,900 and \$1,307,800 is the civil penalty amount without stacking. If
28 stacking is permitted, then the valuation increases with each additional penalty added to each pay
period. Plaintiff, however, is not aware of any PAGA award which permitted stacking and in the
cases cited herein, only one penalty per pay period was assessed.

1 the Class recovery under the reasoning of the LWDA in *O'Connor v. Uber*.

2 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
3 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
4 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
5 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class
6 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
7 Courts typically approve lower PAGA settlement amounts in the range of between 0.27 to 2 percent
8 of the total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal.
9 2015) (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
10 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
11 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
12 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
13 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
14 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL
15 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9
16 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13
17 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million
18 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009)
19 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*
20 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement
21 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,
22 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount
23 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay,*
24 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000
25 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted
26 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*
27 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000
28 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*

1 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)
2 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*
3 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or
4 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441
5 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
6 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.
7 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of
8 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case
9 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement
10 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.
11 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement
12 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case
13 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement
14 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)
15 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
16 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
17 0.34% of \$1,450,000 settlement amount).

18
19 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
20 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
21 reasonable, and at the time of final approval, my firm will present lodestar to further support the
22 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
23 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
24 of the class action awards obtained by Class Counsel in similar employment actions throughout the
25 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
26 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
27 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
28 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*

1 Cases (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
2 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
3 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil
4 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
5 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
6 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
7 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
8 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
9 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
10 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class
11 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
12 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
13 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
14 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
15 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
16 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
17 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
18 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
19 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a
20 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*
21 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson
22 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in
23 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge Richard
24 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,
25 in *Etteadgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of
26 California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee
27 award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
28 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson

1 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
2 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
3 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.
4 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court
5 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee
6 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*
7 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.
8 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in
9 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge
10 Keri Katz awarded a one-third fee award in a wage and hour class action settlement. On February
11 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.
12 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class
13 settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior
14 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a
15 wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings
16 County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee
17 award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank*
18 (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a
19 one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands*
20 *Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley
21 approved a one-third fee award in a wage and hour class settlement. On July 26, 2023, in *Crown*
22 *Energy Wage and Hour Cases*, Los Angeles Superior Court, Case No. JCCP5037), Judge Yvette
23 Palazuelos approved a one-third fee award in a wage and hour class settlement. A fee award equal
24 to one-third of the common fund is therefore reasonable in light of the fees that have been awarded
25 in other similar cases.

26
27 35. Class Representative Service Payment - The reasonableness of the requested service
28 award is also established by reference to the amounts that other California courts have found to be

1 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,
2 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service
3 award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
4 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
5 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
6 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
7 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
8 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service
9 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.
10 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);
11 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
12 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
13 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
14 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
15 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
16 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
17 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
18 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
19 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
20 2011)(awarding \$10,000 service award together with additional compensation for their general
21 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
22 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
23 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
24 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
25 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
26 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
27 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
28 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*

1 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
2 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
3 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
4 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
5 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
6 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
7 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
8 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
9 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
10 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
11 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange
12 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
13 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
14 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
15 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
16 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.
17 1, 2018) (awarding \$10,000 service award).

18
19 36. Potentially Related Other Actions - I am unaware of any other related cases pending
20 against Defendant which would be impacted by this settlement. I have searched the LWDA
21 database which evidences that there are no other currently pending PAGA notices served against
22 Defendant (other than PAGA notice served in this case).

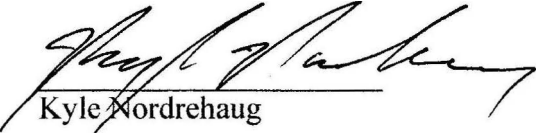
23
24 37. Administration - After seeking bids from qualified administrators, the estimate from
25 ILYM Group is was selected, as it provided for an estimate of \$15,790 to perform the settlement
26 administration for a Class of up 700, with any difference between the actual expenses and the
27 budget of \$20,000 to be retained in the Net Settlement Amount for distribution to the Class. I have
28 used ILYM Group successfully as the administrator in more than twenty class settlements in the last

1 few years and know them to be competent and experienced. My firm has no relationship or
2 connection with ILYM Group, and thus no conflict of interest exists. Attached hereto as Exhibit #5
3 is a true and correct copy of the Declaration from ILYM which includes the administration estimate
4 from ILYM Group.

5
6 Service on the LWDA:

7 38. At the same time as the filing and service of this declaration, I am also serving the
8 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA
9 Settlement Agreement. This service is verified by the accompanying proof of service.

10
11 I declare under penalty of perjury under the laws of the State of California that the foregoing
12 is true and correct. Executed this 28th day of July, 2023, at La Jolla, California.

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16 Kyle Nordrehaug
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CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Eric Jacobs (“Plaintiff”) and defendant Cal-State Auto Parts, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” collectively means the Plaintiff’s lawsuits alleging wage and hour violations against Defendant captioned: (1) *Jacobs v. Cal-State Auto Parts, Inc.*, Case No. 37-2021-00031418-CU-OE-CTL, initiated on July 22, 2021 and pending in Superior Court of the State of California, County of San Diego, and (2) *Jacobs v. Cal-State Auto Parts, Inc.*, Case No. 37-2021-00031457-CU-OE-CTL, initiated on July 22, 2021 and pending in Superior Court of the State of California, County of San Diego.
- 1.2. “Administrator” means ILYM Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” means all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” and/or “PAGA Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in

connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English, with a Spanish translation, in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from July 22, 2017 through October 28, 2022 or preliminary approval, whichever is sooner.
- 1.14. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.
- 1.16. “Court” means the Superior Court of California, County of San Diego

- 1.17. “Defendant” means Cal-State Auto Parts, Inc.
- 1.18. “Defense Counsel means Roger Mansukhani, George P. Soares, and Darin R. Webb of Gordon Rees Scully Mansukhani, LLP.
- 1.19. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means Nine Hundred Sixty Thousand Dollars (\$960,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least on day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from July 22, 2020 through October 28, 2022 or preliminary approval, whichever is sooner.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s April 9, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiff” means Eric Jacobs, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.38. “Released Class Claims” means all class claims pled or could have been pled based on the factual allegations contained in the Operative Complaint or Plaintiff’s Class

Action which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, and expressly exclude all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or class claims based on facts occurring outside the Class Period.

- 1.39. "Released PAGA Claims" means all PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint or Plaintiff's PAGA Action and PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees. The Released PAGA Claims do not include, and expressly exclude, other PAGA claims, underlying wage and hour claims, claims for vested benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, worker's compensation, and PAGA claims outside of the PAGA Period.
- 1.40. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.
- 1.41. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.42. "Response Deadline" means 45 calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.43. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.44. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

Plaintiff's Class Action

- 2.1. On July 22, 2021, Plaintiff commenced this Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of San Diego ("Plaintiff's Class Action"). Plaintiff's Complaint asserted claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802, and
- (g) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226.

2.2. On September 15, 2021, Defendant filed an Answer to Plaintiff's Class Action Complaint asserting Fifty-Eight (58) affirmative defenses.

Plaintiff's PAGA Action

2.3. On July 22, 2021, Plaintiff filed a separated Representative Action against Defendant in the Superior Court of the State of California, County of San Diego ("Plaintiff's PAGA Action"). Plaintiff's Complaint asserted one cause of action against Defendant for Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B)

2.4. On September 15, 2021, Defendant filed an Answer to Plaintiff's PAGA Complaint asserting Fifty-Four (54) affirmative defenses.

Amended Consolidated Complaint

2.5. The parties will stipulate to consolidate Plaintiff's Class Action and Plaintiff's PAGA Action through the filing of a First Amended Complaint in the Class Action. This First Amended Complaint is the operative complaint in the Action (the "Operative Complaint"). Plaintiff will seek approval of the settlement in Plaintiff's Class Action as the lower numbered case.

2.6. Defendant denies the allegations in the Operative Complaint, Plaintiff's Class Action and Plaintiff's PAGA Action, denies any failure to comply with the laws identified in in Operative Complaint, Plaintiff's Class Action and Plaintiff's PAGA Action and denies any and all liability for the causes of action alleged.

Mediation and Settlement

2.7. On July 21, 2022, the Parties participated in an all-day mediation presided over by

Jeffrey Krivis, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties with the exception of the individual settlement agreement between Plaintiff and Defendant and any confidentiality or trade secret agreements entered into between Plaintiff and Defendant.

- 2.8. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.9. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.10. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$960,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant. The Parties agree that the payment constitutes restitution, remediation, or an amount paid to come into compliance with a law.

3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.

- (a) To Plaintiff: In addition to the individual settlement to Plaintiff addressed below at paragraph 6.1(b), Plaintiff will apply to the Court for a Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3), which is currently estimated to be \$320,000, and a Class Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- (c) To the Administrator: An Administrator Expenses Payment not to exceed \$20,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of

\$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.

- i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
 - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- i. Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING

4.1. Class Figures and Workweeks. Based on its records, Defendant has represented that the Class consists there are 630 Class Members who collectively worked a total of 64,164 Workweeks.

4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the

Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 15 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date, which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60

days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.
- 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement, and shall not reduce such contributions or bonuses.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:
 - 6.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint, Plaintiff's Class Action and/or Plaintiff's PAGA Action and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and/or Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that

Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

- (a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release herein above and Plaintiff's release of other claims herein below, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- (b) Plaintiff's Other Claims. Plaintiff represents that he has additional individual claims against Defendant. Plaintiff is separately settling these individual claims pursuant to the terms of an Individual Agreement (the "Individual Agreement") and this Agreement. The individual settlement paid to Plaintiff is in addition to the Gross Settlement Amount. If the Court requires the Parties to submit the terms of the Individual Agreement to obtain approval of this Settlement, the Parties agree that the Individual Agreement will be submitted in camera or under seal to the Court.

6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.

6.4. Release by PAGA Counsel. PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

7. MOTION FOR PRELIMINARY APPROVAL. The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's procedures and instructions.

7.1. Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending

matter or action asserting claims that will be extinguished or adversely affected by the Settlement. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

- 7.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement
- 7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by

telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected ILYM Group to serve as the Administrator and verified that, as a condition of appointment, ILYM Group agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 8.4. Notice to Class Members.
- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
 - (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently

estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

- (c) Not later than 7 days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails

to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
 - (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
 - (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.
- 8.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise
- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.
 - (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
 - (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all

Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator's Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 8.1 above. Should the number of workweeks identified in paragraph 4.1 above increase by more than 10% by October 29, 2022, the Defendant will have the option to either (a) increase the gross

settlement proportionally or (b) to shorten the release period so that there is no increase in the amount.

10. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that the signing of any Arbitration Agreement by any Class Member does not impact this Agreement. Any Class Member who signs an Arbitration Agreement is not excluded from the Settlement as a result of signing an Arbitration Agreement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Withdrawal shall be by written notice to Class Counsel (email will suffice). Invalid Requests for Exclusion will have no effect on this threshold for an election. The Parties and their Counsel agree not to take any action to encourage any Class Members to opt-out of and/or object to the Settlement.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment

is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this

Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of Mediator Krivis for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement

negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.

- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Roger M. Mansukhani
George P. Soares
Darin R. Webb
Gordon Rees Scully Mansukhani, LLP
101 W. Broadway, Suite 2000
San Diego, CA 92101
Telephone: (619) 230-7447
Facsimile: (619) 696-7124
E-Mail: rmansukhani@grsm.com

gsoares@grsm.com
dwebb@grsm.com

13.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of signing the Memorandum of Understanding until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Jan 1, 2023

Eric Jacobs

Eric Jacobs (Jan 1, 2023 08:42 PST)

Plaintiff Eric Jacobs

Dated: _____

[name]

For Defendant Cal-State Auto Parts, Inc.

Dated: Jan 1, 2023

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of signing the Memorandum of Understanding until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Eric Jacobs

Dated: 12-7-2022

R. J. DeBlasi
Richard J. DeBlasi
For Defendant Cal-State Auto Parts, Inc.

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 12/29/2022

Ram M. Mansukhani
Roger M. Mansukhani
George P. Soares
Daren R. Webb
Gordon Rees Scully Mansukhani, LLP
Attorney for Defendant

EXHIBIT A
[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

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

**(Jacobs v. Cal-State Auto Parts, Inc., Superior Court of the State of California,
County of San Diego Case No. 37-2021-00031418-CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO
NOT ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Individual Class Payment is: \$<<[REDACTED]>>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval by the Court, the payment will be mailed to you at the same address as this Class Notice. In exchange for the Individual Class Payment, you will release the Released Class Claims as detailed in Section 4 below. If your address has changed, you must notify the Administrator as explained in Section 6 below.
Exclude Yourself [The Response Deadline is _____, 2023]	To exclude yourself, you must send a written request for exclusion to the Administrator as provided below. If you request exclusion, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion. If you choose to exclude yourself, you must notify the Administrator as explained in Section 7 below by the Response Deadline.
Object [The Response Deadline is _____, 2023]	Write to the Court about why you do not agree with the Settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below. The Final Approval Hearing is scheduled for _____, 2023 at _____ a.m. in Department 65 of the Superior Court for the County of San Diego located at 330 West Broadway, San Diego, CA 92101.

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the Settlement you must take action by certain deadlines. If you want to participate in the Settlement as proposed, you do not need to do anything to obtain your share of the Settlement. Defendant will not retaliate against you for any actions you take with respect to the Settlement.

1. Why Did I Receive this Notice?

A proposed class action settlement (“Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Diego (the “Court”) has been reached between Eric Jacobs (“Plaintiff”) and Defendant Cal-State Auto Parts, Inc. (“Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement, the terms of which are set forth in the Class Action and PAGA Settlement Agreement (“Agreement”).

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the Class Period.

The Class Period is July 22, 2017 through October 28, 2022.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this Class Action Lawsuit About?

On July 22, 2021, Plaintiff filed a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Diego alleging class claims against Defendant for: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods, failure to provide required rest periods, failure to reimburse employees for required expenses, and failure to provide accurate itemized statements. On July 22, 2021, Plaintiff filed a separate action which alleged a single representative cause of action for civil penalties under the Private Attorneys General Act, Cal. Labor Code §§ 2698, *et seq.* (“PAGA”). The parties will stipulate to consolidate Plaintiff’s Class Action and Plaintiff’s PAGA Action through the filing of a First Amended Complaint in the Class Action.

On _____, 2022, as part of this Settlement, Plaintiffs filed the First to consolidate the class claims with the representative PAGA claim. This lawsuit is referred to as the “Action” and the First Amended Complaint is the “Operative Complaint” in the Action.

Defendant denies and disputes all such claims and asserts that it has no liability to the Plaintiff or the Class Members. Specifically, Defendant contends that Plaintiff and the Class Members were properly compensated for all hours worked and were paid all wages owed under applicable law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Plaintiff and Class Members received wage statements satisfying statutory requirements; Defendant reimbursed Plaintiff and Class Members for all necessary business related expenses; timely paid all wages due, including at the time of separation; and therefore it is not liable for any of the damages or penalties claimed or that could be claimed in the Action. Further, Defendant contends that this Action cannot be maintained as a class or PAGA representative action. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, which expressly denies any and all liability.

The Court has not ruled on the merits of Plaintiff’s claims and has not formed any opinions concerning the merits of Plaintiff’s claims. The Court has only determined that there is sufficient

evidence to suggest that the Settlement may be fair, reasonable, and adequate. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP to serve as Class Counsel.

3. What are the Terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of Nine Hundred Sixty Thousand Dollars (\$960,000) to fund the settlement of this Action. The Gross Settlement Amount includes all payments of Individual Class Payments to Participating Class Members, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the PAGA Penalties. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant.

Within fifteen (15) days of the Effective Date, Defendant will fund the Gross Settlement Amount by depositing the money with the Administrator. The “Effective Date” is the date the Judgment is entered, or if there are objections or any appeal, the date the Judgment is no longer subject to appeal. Fourteen (14) days after the settlement is funded, the Administrator will mail checks for the Individual Class Payments to Participating Class Members.

Amounts to be Paid From the Gross Settlement Amount. The proposed payments subject to Court approval will be deducted from the Gross Settlement Amount before Individual Class Payments are made to Class Members who do not request exclusion (“Participating Class Members”):

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$20,000, for expenses including, without limitation, expenses of notifying Class Members of the Settlement, processing opt outs, distributing Individual Class Payments and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third (1/3) of the Gross Settlement Amount, which is presently \$320,000, and an additional amount to reimburse actual litigation costs incurred in an amount not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payment. Class Representative Service Payment in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook. The amount stated is what Plaintiffs will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A PAGA Penalties payment of \$20,000 relating to the claim for civil penalties under the PAGA, with 75% (\$15,000) allocated to the LWDA PAGA Payment

and 25% (\$5,000) will be distributed as Individual PAGA Payments to the Aggrieved Employees based on their respective PAGA Pay Periods worked during the PAGA Period (July 22, 2020 through October 28, 2022). “Aggrieved Employees” mean all individuals who were employed by Defendant in California and classified as hourly, non-exempt employees at any time during the PAGA Period. All Aggrieved Employees will be sent their Individual PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

Calculation of Payments to Class Members. After all of the payments of the Court-approved Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, called the “Net Settlement Amount”, shall be distributed as Individual Class Payments to Participating Class Members. The Net Settlement Amount is estimated to be at least \$ [REDACTED], based upon the above proposed deductions. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member, which shall be calculated by: (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks. A “Workweek” is any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty-Five Percent (25%) of each Participating Class Member’s Individual Class Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Seventy-Five Percent (75%) of each Participating Class Member’s Individual Class Payment is in settlement of claims for interest and penalties allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her; therefore, each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Defendant and the other Released Parties shall receive a release from the Participating Class Members of all Released Class Claims. The “Released Class Claims” are all class claims pled or could have been pled based on the factual allegations contained in the

Operative Complaint or Plaintiff's Class Action which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, and expressly exclude all other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or class claims based on facts occurring outside the Class Period.

Released PAGA Claims. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Defendant and the other Released Parties shall be entitled to a release from the State of California and the Aggrieved Employees of all Released PAGA Claims. The "Released PAGA Claims" are all PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint or Plaintiff's PAGA Action and PAGA letters sent by Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees. The Released PAGA Claims do not include, and expressly exclude, other PAGA claims, underlying wage and hour claims, claims for vested benefits, wrongful termination, discrimination, unemployment insurance, disability, social security, worker's compensation, and PAGA claims outside of the PAGA Period.

The "Released Parties" are Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

5. How Much Will my Payment Be?

Defendants' records reflect that you have worked << [REDACTED] >> Workweeks for Defendant during the Class Period (July 22, 2017 through October 28, 2022).

Based on this information, your estimated Individual Class Payment from the Net Settlement Amount is << [REDACTED] >>.

If you wish to challenge the information set forth above, then you must submit a written and signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the "Response Deadline" which is _____, 2023 [forty-five (45) days after the mailing of the Class Notice or 59 days after the Class Notice in the case of re-mailing].

Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Administrator shall pay all unclaimed funds to the California State Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check.

6. How Can I Receive a Payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Administrator. The Administrator can be contacted at: [REDACTED] or (800) [REDACTED].

The Court will hold a Final Approval Hearing on [REDACTED] at [REDACTED] to decide whether to approve the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to Plaintiff. If the Court approves the

Settlement and there are no objections or appeals, payments will be mailed by the Settlement Administrator approximately two months after the Final Approval Hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What If I Do Not Want to Be Part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or “opt out.” However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline of [REDACTED], 2023 [forty-five (45) days after the date of the Class Notice or 59 days after the Class Notice in the case of re-mailing]. The request to opt-out must be postmarked by this deadline and should: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Class and Released Class Claims in the *Jacobs v. Cal-State Auto Parts* lawsuit; (2) contain the name, address, and the telephone number or email address of the person requesting exclusion; (3) state the Class Member’s request to exclude himself or herself from the Settlement and to opt out of the Settlement; and (4) be signed by the Class Member or his or her lawful representative. Please include the name and number of the case, which is *Jacobs v. Cal-State Auto Parts*, Case No. 37-2021-00031418-CU-OE-CTL. The request to opt out must be signed by you. No other person may opt out for a living member of the Class.

The address for the Administrator is [REDACTED]. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. Written requests for exclusion that are submitted after the Response Deadline, or are incomplete or unsigned may be rejected; and if so, those Class Members will remain bound by the Settlement and the Released Class Claims described above.

8. How do I Tell the Court that I Do Not Agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys’ fees, the costs and/or the service payment, either in writing or in person. Objections that are in writing should state the Class Member’s name, address, telephone number, and the dates of employment by Defendant in California, and describe why you believe the Settlement is unfair. All written objections or other correspondence should also state the name and number of the case, which is *Jacobs v. Cal-State Auto Parts*, San Diego Superior Court Case No. 37-2021-00031418-CU-OE-CTL.

All written objections must be mailed to the Administrator at [REDACTED], no later than the Response Deadline which is [REDACTED], 2023.

Alternatively, Class Members may appear at the Final Approval Hearing on [REDACTED] at [REDACTED] to make an oral objection without submitting a written objection or to otherwise participate in the Final Approval Hearing. Check the Court’s website for the most current information concerning appearances and procedures - <https://www.sdcourt.ca.gov/sdcourt/generalinformation/covid-19info>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Individual Class Payment.

The contact information for the Parties' counsel is below:

Attorneys for Plaintiff, the Class and the Aggrieved

Employees:

Norman Blumenthal
Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel: 858-551-1223
Email: Kyle@bamlawca.com

Attorneys for Defendant:

George P. Soares
Gordon Rees Scully Mansukhani, LLP
101 W. Broadway, Suite 2000
San Diego, CA 92101

9. When and Where Will the Court Decide Whether to Approve the Settlement?

The Court will hold a Final Approval Hearing at [REDACTED] on [REDACTED], at the San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101, in Department 65 before Judge Ronald F. Frazier. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to the Plaintiff. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. If you are interested in participating in the Final Approval Hearing, you should confirm the date, time and location by contacting Class Counsel. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing. Hearing dates are posted on the Internet via the Register of Actions page for the California Superior Court for the County of San Diego (<https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>) and entering the Case No. 37-2021-00031418.

10. How Do I Receive More Information About the Settlement?

You may call the Administrator at [REDACTED] or write to *Jacobs v. Cal-State Auto Parts* Administrator, c/o [REDACTED]; or contact Class Counsel listed above.

This Class Notice summarizes the proposed Settlement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service payment, the motion for final approval, or other Settlement documents from Class Counsel's website where the documents will be posted at www.bamlawca.com under "Class Notices" for *Jacobs v. Cal-State Auto Parts*. You may also get more details by examining the Court's file on the Internet via the Register of Actions for the San Diego County Superior Court (<https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>) and entering the Case No. 37-2021-00031418. If you wish to view the Court files in person, you must go to the

Clerk's Office at the Hall of Justice, 330 West Broadway, San Diego, CA 92101. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Administrator of any change of address to ensure receipt of your settlement check.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. The expiration date will be printed on the check. The Administrator shall pay all unclaimed funds to the California Controller's Unclaimed Property Fund in the name of the individual who did not cash their check. Funds can be claimed by such individuals by submitting a claim at www.claimit.ca.gov or by calling 800-992-4647.
- If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ERIC JACOBS, an individual, on behalf of
himself and on behalf of all persons similarly
situated,

Plaintiff,

vs.

CAL-STATE AUTO PARTS, INC., a
California Corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **37-2021-00031418-CU-OE-CTL**

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date:
Hearing Time:

Judge: Hon, Ronald F. Frazier
Dept.: 65

Action Filed: July 22, 2021
Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter, having come before the Honorable Ronald F. Frazier of the Superior Court of
2 the State of California, in and for the County San Diego, on _____[DATE], for the motion
3 by Plaintiff Eric Jacobs (“Plaintiff”) for preliminary approval of the class settlement with
4 Defendant Cal-State Auto Parts, Inc. (“Defendant”). The Court, having considered the briefs,
5 argument of counsel and all matters presented to the Court and good cause appearing, hereby
6 GRANTS Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

7 **IT IS HEREBY ORDERED:**

8 1. The Court preliminarily approves the Class Action and PAGA Settlement
9 Agreement (“Agreement”) attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in
10 support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. This is based
11 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
12 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
13 Procedure and California Rules of Court, Rule 3.769.

14 2. This Order incorporates by reference the definitions in the Agreement, and all
15 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

16 3. The Gross Settlement Amount is Nine Hundred Sixty Thousand Dollars
17 (\$960,000). It appears to the Court on a preliminary basis that the settlement amount and terms
18 are fair, adequate, and reasonable as to all potential Class Members when balanced against the
19 probable outcome of further litigation and the significant risks relating to certification, liability and
20 damages issues. It further appears that investigation and research have been conducted such that
21 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
22 to the Court that settlement at this time will avoid substantial additional costs by all Parties, as
23 well as avoid the delay and risks that would be presented by the further prosecution of the Action.
24 It further appears that the Settlement has been reached as the result of serious and non-collusive,
25 arm’s-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,
26 adequate, and reasonable when balanced against the probable outcome of further litigation and the
27 significant risks relating to certification, liability, and damages issues.

1 4. The Agreement specifies for an attorneys' fees award not to exceed one-third (1/3)
2 of the Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000,
3 and proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed
4 \$10,000. The Court will not approve the amount of attorneys' fees and costs or the amount of any
5 service payment, until the Final Approval Hearing. Plaintiff will be required to present evidence
6 supporting these requests, including lodestar, at the time of final approval.

7 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to
8 certification of a class for settlement purposes only. This stipulation will not be deemed
9 admissible in this or any other proceeding should this Settlement not become final. For settlement
10 purposes only, the Court conditionally certifies the following Class: "all individuals who were
11 employed by Defendant in California and classified as hourly, non-exempt employees at any time
12 during the Class Period." The Class Period is July 22, 2017 through October 28, 2022.

13 6. The Court concludes that, for settlement purposes only, the Class meets the
14 requirements for certification under section 382 of the California Code of Civil Procedure in that:
15 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
16 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
17 community of interest amongst the members of the Class with respect to the subject matter of the
18 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class; (d)
19 the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a class
20 action is superior to other available methods for the efficient resolution of this controversy; and (f)
21 counsel for the Class is qualified to act as counsel for the Class, and the Plaintiff is an adequate
22 representative of the Class.

23 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
24 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik
25 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

26 8. The Court hereby approves, as to form and content, the Notice of Proposed
27 Settlement of Class Action and Hearing Date for Final Court Approval ("Class Notice") attached
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1 to the Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and
2 accurately inform the Class of all material elements of the proposed Settlement, of the Class
3 Members' right to be excluded from the Class by submitting a written opt out request, and of each
4 Class Member's right and opportunity to object to the Settlement. The Court further finds that the
5 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
6 and this Order meets the requirements of due process, is the best notice practicable under the
7 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
8 Court orders the mailing of the Class Notice by first-class U.S. Mail, pursuant to the terms set
9 forth in the Agreement.

10 9. The Court hereby appoints ILYM Group as the Administrator. No later than fifteen
11 (15) calendar days after preliminary approval of the Settlement is granted by the Court, Defendant
12 shall provide to the Administrator an electronic spreadsheet with the Class Data. The
13 Administrator will perform address updates and verifications as necessary prior to mailing the
14 Class Notice. Using best efforts to mail it as soon as possible, and in no event later than 14 days
15 after receiving the Class Data, the Administrator will mail the Class Notice to all Class Members
16 via first-class U.S. Mail.

17 10. The Court hereby preliminarily approves the proposed procedure for exclusion
18 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
19 from the Class as provided in the Class Notice by following the instructions for requesting
20 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
21 postmarked no later than the Response Deadline, which is forty-five (45) calendar days after the
22 date of the mailing of the Class Notice. If the Class Notice is re-mailed, the Response Deadline
23 for requests for exclusion will be extended an additional 14 days. Any such person who chooses
24 to opt out of and be excluded from the Class will not be entitled to any recovery under the
25 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
26 thereon. Class Members who have not requested exclusion shall be bound by all determinations
27 of the Court, the Agreement and the Judgment. A request for exclusion may only opt out that
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1 particular individual, and any attempt to effect an opt out of a group, class, or subclass of
2 individuals is not permitted and will be deemed invalid. Subject to the Court's final approval of
3 the Settlement, all Aggrieved Employees will be paid their Individual PAGA Payment and will
4 remain bound by the release of the Released PAGA Claims in the Agreement regardless of any
5 request for exclusion from the Class.

6 11. Any Class Member who has not opted out may appear at the Final Approval
7 Hearing and may object or express the Class Member's views regarding the Settlement, and may
8 present evidence and file briefs or other papers that may be proper and relevant to the issues to be
9 heard and determined by the Court as provided in the Notice. Class Members will have until the
10 Response Deadline to submit their written objections to the Administrator in accordance with the
11 instructions in the Class Notice. If the Class Notice is re-mailed, the Response Deadline for
12 written objections will be extended by an additional 14 days. Alternatively, Class Members may
13 appear at the Final Approval Hearing to make oral objections.

14 12. A Final Approval Hearing shall be held before this Court on _____
15 _____ at _____ in Department 65 at the San Diego County Superior Court to
16 determine all necessary matters concerning the Settlement, including: whether the proposed
17 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
18 adequate, and reasonable and should be finally approved by the Court; whether the Final Approval
19 Order and Judgment should be entered herein; whether the plan of allocation contained in the
20 Agreement should be approved as fair, adequate, and reasonable to the Class Members; and to
21 finally approve attorneys' fees and costs, the service payment, and the expenses of the
22 Administrator. All papers in support of the motion for final approval and the motion for attorneys'
23 fees, costs and service payment shall be filed with the Court and served on all counsel no later
24 than sixteen (16) court days before the hearing and both motions shall be heard at the Final
25 Approval Hearing.

26 13. Neither the Settlement nor any exhibit, document, or instrument delivered
27 thereunder shall be construed as a concession or admission by Defendant in any way that the
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1 claims asserted have any merit or that this Action was properly brought as a class or representative
2 action, and shall not be used as evidence of, or used against Defendant as, an admission or
3 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
4 omission by Defendant or with respect to the truth of any allegation asserted by any person.
5 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
6 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
7 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
8 deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to,
9 evidence of a presumption, concession, indication or admission by Defendant of any liability,
10 fault, wrongdoing, omission, concession or damage.

11 14. In the event the Settlement does not become effective in accordance with the terms
12 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
13 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
14 and the Parties shall revert to their respective positions before entering into the Agreement, and
15 expressly reserve their respective rights regarding the prosecution and defense of this Action,
16 including all available defenses and affirmative defenses, and arguments that any claim in the
17 Action could not be certified as a class action and/or managed as a representative action. In such
18 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
19 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
20 the Agreement with respect to the effect of the Agreement if it is not approved.

21 15. The Court reserves the right to adjourn or continue the date of the Final Approval
22 Hearing and all dates provided for in the Agreement without further notice to Class Members, and
23 retains jurisdiction to consider all further applications arising out of or connected with the
24 proposed Settlement.

25 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
26 further orders of the Court at the Final Approval Hearing.

27 **IT IS SO ORDERED.**

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Dated: _____

HONORABLE RONAL F. FRAZIER
JUDGE OF THE SUPERIOR COURT

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ERIC JACOBS, an individual, on behalf of
himself and on behalf of all persons similarly
situated l,

Plaintiff,

vs.

CAL-STATE AUTO PARTS, INC., a
California Corporation; and DOES 1 through
50, inclusive,

Defendants.

CASE NO.: **37-2021-00031418-CU-OE-CTL**

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date:
Hearing Time:

Judge: Hon, Ronald F. Frazier
Dept.: 65

Action Filed: July 22, 2021
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Eric Jacob (“Plaintiff”) for an order finally approving the Class
2 Action and PAGA Settlement Agreement (“Agreement”) with Defendant Cal-State Auto Parts,
3 Inc. (“Defendant”), and the motion for attorneys’ fees and costs, service payments, and the fees
4 and expenses of the Administrator, duly came on for hearing on _____ before the
5 Honorable Ronald F. Frazier.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
13 including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiffs and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Nine Hundred Sixty
16 Thousand Dollars (\$960,000) and the terms set forth in the Agreement are fair, reasonable, and
17 adequate.
- 18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On _____, the Court granted preliminary approval of the Settlement. At
26 this same time, the Court approved conditional certification of the Class for settlement purposes
27 only.

1 **Notice to the Class**

2 6. In compliance with the preliminary approval order, the Class Notice was mailed by
3 first class mail to members of the Class at their last known addresses on or about
4 _____. Mailing of the Class Notice to their last known addresses was the best notice
5 option under the circumstances and was reasonably calculated to communicate actual notice of the
6 litigation and the proposed Settlement to the Class. The Class Notice given to the Class Members
7 fully and accurately informed the Class Members of all material elements of the proposed
8 Settlement and of their opportunity to object to or comment thereon or to seek exclusion from the
9 Settlement; was valid, due, and sufficient notice to all Class Members; and complied fully with the
10 laws of the State of California, the United States Constitution, due process and other applicable
11 laws. The Class Notice fairly and adequately described the Settlement and provided Class
12 Members adequate instructions and a variety of means to obtain additional information.

13 7. The Response Deadline for opting out of the Class or submitting written objections
14 to the Settlement was _____, which was extended by an additional 14 days in the event
15 of a remailing. There was an adequate interval between notice and the deadline to permit Class
16 Members to choose what to do and act on their decision. A full opportunity has been afforded to
17 Class Members to participate in this hearing, and all Class Members and other persons wishing to
18 be heard have been heard. Class Members also have had a full and fair opportunity to exclude
19 themselves from the proposed Settlement and Class. Accordingly, the Court determines that all
20 Class Members who did not timely and properly submit a request for exclusion are bound by the
21 Settlement and this Final Approval Order and Judgment.

22 **Fairness Of Settlement**

23 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
24 48 Cal.App.4th 1794, 1801 (1996).

25 a. The settlement was reached through arm's-length bargaining between the
26 Parties during an all-day mediation before Jeffrey Krivis, a respected and experienced mediator of
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1 wage and hour class actions. There has been no collusion between the Parties in reaching the
2 proposed Settlement.

3 b. Plaintiff's investigation and discovery have been sufficient to allow the
4 Court and counsel to act intelligently.

5 c. Counsel for both Parties are experienced in similar employment class action
6 litigation. All counsel recommended approval of the Agreement.

7 d. The percentage of objectors and requests for exclusion is small. ____
8 objections were received. _____ requests for exclusion were received.

9 e. The participation rate was high. _____ Class Members will be mailed a
10 Settlement Share, representing ____% of the overall Class.

11 9. The consideration to be given to the Class Members under the terms of the
12 Agreement is fair, reasonable, and adequate considering the strengths and weaknesses of the
13 claims asserted in this Action and is fair, reasonable, and adequate compensation for the release of
14 Class Members' claims, given the uncertainties and significant risks of the litigation and the delays
15 which would ensue from continued prosecution of the Action.

16 10. The Agreement is approved as fair, adequate, and reasonable and in the best
17 interests of the Class Members.

18 **Attorneys' Fees and Costs**

19 11. An award of \$_____ for attorneys' fees, representing one-third (1/3) of
20 the Gross Settlement Amount, and \$_____ for litigation costs and expenses, is
21 reasonable, in light of the contingent nature of Class Counsel's fee, the hours worked by Class
22 Counsel, and the results achieved by Class Counsel. The requested awards have been supported
23 by Class Counsel's lodestar and billing statement.

24 **Class Representative Service Payment**

25 12. The Agreement provides for a Class Representative Service Payment of not more
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that a Class
27 Representative Service Payment in the amount of \$_____ to the Plaintiff is reasonable in light
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1 of the risks and burdens undertaken by the Plaintiff in the litigation and for his time and effort in
2 bringing and prosecuting this matter on behalf of the Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payments to be made to the
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
6 Class Representative Service Payment to the Plaintiff, distribute the PAGA Penalties, issue any
7 required tax reporting forms, calculate withholdings and perform other remaining duties set forth
8 in the Agreement. The Administrator has documented \$_____ in fees and expenses, and this
9 amount is reasonable in light of the work performed by the Administrator.

10 **PAGA Penalties**

11 14. The Agreement provides for PAGA Penalties of \$20,000 to be deducted out of the
12 Gross Settlement Amount, which shall be allocated \$15,000 to the LWDA PAGA Payment as the
13 LWDA's 75% share of the settlement of civil penalties paid pursuant to the PAGA and \$5,000 to
14 be distributed to the Aggrieved Employees based on their respective PAGA Pay Periods worked
15 during the PAGA Period (July 22, 2020 through October 28, 2022). Aggrieved Employees are all
16 individuals who were employed by Defendant in California and classified as hourly, non-exempt
17 employees at any time during the PAGA Period. The Court finds the PAGA Penalties to be
18 reasonable. All Aggrieved Employees will be sent their Individual PAGA Payment and will be
19 subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out
20 of the Settlement.

21 **II.**

22 **ORDERS**

23 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

24 1. The certification of the Class for the purposes of Settlement is confirmed. The
25 Class is defined as follows:

26 All individuals who were employed by Defendant in California and classified as
27 hourly, non-exempt employees at any time during the Class Period (July 22, 2017
28 through October 28, 2022).

2. All persons who meet the foregoing definition are members of the Class, except for those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

3. The Agreement is hereby finally approved as fair, reasonable, and adequate, and in the best interests of the Class.

4. Class Counsel are awarded attorneys' fees in the amount of \$_____ and costs in the amount of \$_____. Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff or members of the Class.

5. The payment of the Class Representative Service Payment in the amount of \$_____ to the Plaintiff is approved.

6. The payment of \$_____ to the Administrator for its fees and expenses is approved.

7. The PAGA Penalties of \$20,000 is approved and shall be allocated in accordance with the Agreement.

8. The Agreement and this Settlement are not an admission by Defendant, nor is this Final Approval Order and Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement is, may be construed as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or concession with regard to the denials or defenses by Defendant. Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in the Action as evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other

1 theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or the
2 Released PAGA Claims.

3 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
4 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
5 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
6 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
7 to individual Class Members.

8 10. If the Agreement does not become final and effective in accordance with the terms
9 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
10 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
11 revert to their respective positions before entering into the Agreement, and expressly reserve their
12 respective rights regarding the prosecution and defense of this Action, including all available
13 defenses and affirmative defenses, and arguments that any claim in the Action could not be
14 certified as a class action and/or managed as a representative action.

15 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

16 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
17 Plaintiff, and all members of the Class, shall take nothing in the Action.

18 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
19 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
20 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
21 arising from or in connection with the distribution of settlement benefits.

22 3. The Parties are authorized to agree to and adopt such amendments, modifications
23 and expansions of the Agreement and all exhibits attached thereto, which are consistent with this
24 Final Approval Order and Judgment and as approved by the Court.

25 4. Each Party shall bear his/its own attorneys' fees and costs, except as otherwise
26 provided in the Agreement and in this Final Approval Order and Judgment.

1 5. Effective on the date when Defendant fully funds the entire Gross Settlement
2 Amount, Defendant and the other Released Parties shall receive a release from the Participating
3 Class Members of all Released Class Claims. The “Released Class Claims” are all class claims
4 pled or could have been pled based on the factual allegations contained in the Operative
5 Complaint or Plaintiff’s Class Action which occurred during the Class Period. Except as expressly
6 set forth in this Agreement, Participating Class Members do not release any other claims, and
7 expressly exclude all other claims, including claims for vested benefits, wrongful termination,
8 violation of the Fair Employment and Housing Act, unemployment insurance, disability, social
9 security, workers’ compensation, or class claims based on facts occurring outside the Class Period.

10 6. Effective on the date when Defendant fully funds the entire Gross Settlement
11 Amount, Defendant and the other Released Parties shall be entitled to a release from the State of
12 California and the Aggrieved Employees of all Released PAGA Claims. The “Released PAGA
13 Claims” are all PAGA claims pled or could have been pled based on the factual allegations
14 contained in the Operative Complaint or Plaintiff’s PAGA Action and PAGA letters sent by
15 Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees, The Released
16 PAGA Claims do not include, and expressly exclude, other PAGA claims, underlying wage and
17 hour claims, claims for vested benefits, wrongful termination, discrimination, unemployment
18 insurance, disability, social security, worker’s compensation, and PAGA claims outside of the
19 PAGA Period.

20 7. Effective on the date when Defendant fully funds the entire Gross Settlement
21 Amount, Plaintiff and his or her respective former and present spouses, representatives, agents,
22 attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released
23 Parties from all claims, transactions, or occurrences that occurred during the Class Period,
24 including, but not limited to: (a) all claims that were, or reasonably could have been, alleged,
25 based on the facts contained, in the Operative Complaint, Plaintiff’s Class Action and/or
26 Plaintiff’s PAGA Action and (b) all PAGA claims that were, or reasonably could have been,

1 alleged based on facts contained in the Operative Complaint and/or Plaintiff's PAGA Notice
2 ("Plaintiff's Release").
3

4 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**
5

6 Dated: _____
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8 HONORABLE RONALD F. FRAZIER
9 JUDGE OF THE SUPERIOR COURT
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Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

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District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9th Circuit; Howard v. Southern California Permanente Medical Group, Los Angeles Superior Court, Case No. BC586369; Hughes v. Parexel International, Los Angeles County Superior Court, Case No. BC485950; Hurley v. Comcast of California/Colorado/Texas/Washington, Inc., Sonoma County Superior Court, Case No. SCV-253801; Irving v. Solarcity Corporation, San Mateo County Superior Court, Case No. CIV525975; Jacobs v. Nu Horizons - Settled Santa Clara County Superior Court, Case No. 111cv194797; Jefferson v. Bottling Group LLC (Pepsi) - Class Certification Granted, Orange County Superior Court, Case No. 30-2009-0018010; Jones v. E*Trade Mortgage, U.S. District Court, Southern District California Case No. 02-CV-1123 L (JAH); Kennedy v. Natural Balance - Dismissal Reversed on Appeal, San Diego Superior Court, Case No. 37-2007-00066201; Keshishzadeh v. Arthur J. Gallagher Service Co., U.S. District Court, Southern District of California, Case No. 09-cv-0168; Kinney v. AIG Domestic Claims / Chartis, U.S. District Court, Central District of California, Case No. 8:10-cv-00399; Kizer v. Tristar Risk Management, Orange County Superior Court, Case No. 30-2014-00707394-CU-OE-CXC; Kleinberg v. Reeve Trucking Company, Inc., San Diego County Superior Court, Case No. 37-2015-00001601-CU-OE-CTL; Kove v. Old Republic Title, Alameda County Superior Court, Case No. RG09477437; Krellcom v. Medley Communications, Inc., San Diego County Superior Court, Case No. 37-2013-00050245-CU-OE-CTL; Ladd v. Extreme Recovery, LP, Contra Costa County Superior Court, Case No. MSC11-02790; Langille v. EMC, U.S. District Court, Southern District of California, Case No. 09-cv-0168; Lawson v. Marquee Staffing, Los Angeles County Superior Court, Case No. 37-2012-00103717-

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Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinart of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnite LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd’s 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case NO. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central

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Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior Court, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

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7 Attorneys for Defendant
CAL-STATE AUTO PARTS, INC.

9 SUPERIOR COURT OF CALIFORNIA

10 COUNTY OF SAN DIEGO

11 ERIC JACOBS, an individual, on behalf of)
himself and on behalf of all persons similarly)
12 situated,)

13 Plaintiff,)

14 vs.)

15 CAL-STATE AUTO PARTS, INC., a)
California Corporation; and DOES 1 through)
16 50, inclusive,)

17 Defendants.)

CASE NO. 37-2021-00031418-CU-OE-CTL

**DECLARATION OF RICHARD
DEBLASI IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Judge: Hon. Ronald F. Frazier
Dept: C-65

Complaint filed: July 22, 2021
Trial: Not Set

DECLARATION OF RICHARD DEBLASI

18 I, Richard DeBlasi, declare as follows:

20 1. I am the President of Defendant Cal-State Auto Parts, Inc. ("Defendant"). I have
21 personal knowledge of the facts stated below and if requested, I could and would testify
22 competently thereto.

23 2. I am providing this Declaration in support of the Plaintiff's Motion for
24 Preliminary Approval of Class Action Settlement.

25 3. During the class period, Defendant has employed 647 non-exempt, hourly
26 employees who collectively worked a total of 67,436 Workweeks.
27
28

1 4. The parties have chosen ILYM Group as the third party administrator. Cal-State
2 Auto Parts, Inc. has no conflict of interest with ILYM Group. Cal-State Auto Parts, Inc. has
3 never worked with ILYM Group before, and is unaware of any relationship to anyone at
4 ILYM Group.

5 5. Cal-State Auto Parts, Inc. is not aware of any other pending matter or action
6 asserting claims that will be extinguished or adversely affected by the settlement.

7
8 I provide this declaration under the penalty of perjury under the laws of the State of
9 California. Executed at 1361 N. Red Gum Street, Anaheim, California on February 22, 2023

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12 Richard DeBlasi
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WRITERS EXT:

1004

April 9, 2021

CA2350

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Cal-State Auto Parts, Inc.
Certified Mail #70200640000213197721
Richard J. Deblasi
1361 N. Red Gum Street
Anaheim, CA 92806

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Defendant Cal-State Aut Parts, Inc. in California and classified as non-exempt employees during the time period of April 9, 2020 until a date as determined by the Court. Our offices represent Plaintiff Eric Jacobs (“Plaintiff”), and other Aggrieved Employees in a lawsuit against Defendant Cal-State Auto Parts, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California as a driver since February 2019 and classified as a non-exempt employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See*

Vaquero v. Stoneledge Furniture, LLC, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Defendant violated Section 226(a)(8) by failing to list the correct legal entity that is the employer of Plaintiff and other Aggrieved Employees. Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 351, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The filing fee of \$75 was paid online to the LWDA. The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

1 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
2 Norman B. Blumenthal (State Bar #068687)
3 Kyle R. Nordrehaug (State Bar #205975)
4 Aparajit Bhowmik (State Bar #248066)
5 2255 Calle Clara
6 La Jolla, CA 92037
7 Telephone: (858)551-1223
8 Facsimile: (858) 551-1232

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

9 ERIC JACOBS, an individual, on behalf of
10 himself and on behalf of all persons similarly
11 situated,

Plaintiff,

vs.

13 CAL-STATE AUTO PARTS, INC., a
14 California Corporation; and DOES 1 through
15 50, inclusive,

Defendants.

CASE NO.: 37-2021-00031418-CU-OE-CTL

**DECLARATION OF SEAN HARTRANFT
RE: QUALIFICATIONS OF ILYM
GROUP, INC. AS SETTLEMENT
ADMINISTRATOR**

Hearing Date:
Hearing Time:

Judge: Hon, Ronald F. Frazier
Dept.: 65

Action Filed: July 22, 2021
Trial Date: Not set

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I, Sean Hartranft, declare as follows:

1. I am a resident of the United States of America and am over the age of 21. I am the Senior Vice President of Sales for ILYM Group, Inc., (herein referred to as “ILYM Group”), a professional class action services provider. I am preparing this declaration at the request of Plaintiff’s Counsel. I have personal knowledge of the facts herein, and, if called upon to testify, I could and would testify competently to such facts.

2. ILYM Group has extensive experience in disseminating class action notices and administering class action settlements, including direct mail services, telephone, and web-based support, database management, opt-out processing, and settlement fund distribution services for class actions ranging in size from 26 to 4.5 million Class Members. Attached hereto, as **Exhibit A**, is a true and correct copy of ILYM Group's current CV, reflecting our primary competencies as they relate to class action administration. ILYM Group maintains the highest level of confidentiality. The class data and all forms of communication received by ILYM Group, Inc. will be held in strict confidentiality and will not be disclosed. ILYM Group will set up a login for Defense Counsel to transmit the class data through our encrypted secure portal. Attached hereto, as **Exhibit B** is ILYM Group's Security Summary and Protocol. ILYM Group is insured with E&O and Cyber Insurance policies.

3. The attorneys or parties have no ownership interest, or relationship with ILYM, other than as a customer/service provider relationship.

4. If appointed by the Court to disseminate the class notice in this case, ILYM Group's duties will include but are not limited to: (a) conducting address traces to locate class member addresses as necessary; (b) mailing the class notice to all class members; (c) handling inquiries from class members concerning the class notice; (d) maintain a website which has information about the Settlement and links to the settlement documents, and (e) performing other such duties as the parties and/or the Court may direct.

5. Upon appointment, ILYM Group will provide a mailing address and toll-free telephone number to receive correspondence and inquiries from class members. After receiving the class data

1 file from Defendant, which should contain the class members' names, last known addresses, and
2 social security numbers, ILYM Group will upload the data into our database and check for
3 duplicates and other possible discrepancies.

4 6. As part of the preparation for mailing the class notice, ILYM Group will process class
5 members' names and addresses against the National Change of Address ("NCOA") database,
6 maintained by the United States Postal Service ("USPS"), to update and confirm the mailing
7 addresses of the class members before the mailing of the class notice. To the extent an updated
8 address is found in the NCOA database, ILYM Group will use the updated address for mailing the
9 class notice. If ILYM Group does not locate an updated address in the NCOA database, it will use
10 the original address provided by Defendant for mailing the class notice.

11 7. Should any class notices be returned to ILYM Group's office as undeliverable, ILYM
12 Group will attempt to locate an updated address using the NCOA database and/or other skip trace
13 efforts and will promptly re-mail the class notice.

14 8. Before sending out the notice, ILYM Group will fill in the specific date for the deadline
15 so that all class members will be apprised of exactly when all applicable forms will be due.
16 Depending on the deadlines set by the Court, i.e., a 45-day Notice period to opt-out, dispute, or file
17 an objection. At the expiration of the deadline, ILYM Group will inform all parties as to the
18 number and name of those individuals who filed a timely opt-out, dispute, or objection.

19 9. ILYM Group's Disbursement Process will include but is not limited to; (a) applying for
20 case EIN; (b) establishing a Qualified Settlement Fund ((QSF) Escrow Account), with
21 administering tasks including but limited to overview and reconciliation of account; (c) calculating
22 the individual settlement amounts; (d) preparing, administering and distributing settlement award
23 checks to the Participating Class Members, including necessary tax forms (W2 and/or 1099); (e)
24 calculating and withholding all applicable state and federal taxes; and (f) performing other such
25 duties as the Parties and/or the Courts direct. The above services are included in ILYM Group's
26 initial quote. Attached hereto, as **Exhibit C**, is a true and correct copy of ILYM Group's estimated
27 quote for this matter.

28 ///

1 10. ILYM Group's fees associated with the administration of this settlement will not exceed
2 \$15,790.00.

3 Under penalty of perjury under the laws of the State of California, I declare that the
4 foregoing is true and correct. Executed this 21st day of February 2023, at Tustin, California.
5

6
7 
8 Sean Hartranft
9

EXHIBIT “A”

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is a one of the fastest growing, Woman Owned Business (NAPW), in the industry and has become the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- Employment and Labor
- TCPA
- Antitrust
- Securities

Malta vs. Wells Fargo Home Mortgage Inc.

- TCPA Case with a class size of 5,200,000.

John Lofton, et al. v. Collecto, Inc.

- TCPA Case with a class size of 207,036.

Blaise Picchi et al., vs. World Financial Network Bank, et al.

- TCPA Case with a class size of 856,507. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.21% that did not have a valid address associated with the contact record.

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Robert Stone, et al. v. Universal Protection Services, LP, et al.

- Wage & Hour Case with a class size of 75,351.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.
- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID’s. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages. All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ’s) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels’ no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID's to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- **Distribution and Management:** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- **Check Printing and Mailing:** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- **Preparation, Filing and Reporting of Taxes:** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- **Data Manager Final Report:** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- **Project Manager Final Report:** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- **Affidavits:** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- **Document Retention:** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.

EXHIBIT “B”

ILYM GROUP Security Summary – White Paper

ILYM Group, in conjunction with our security and Information technology vendors, is committed to the continued security of all data handled on behalf of our client base. We at ILYM ensure that this data security is enforced in a number of ways including, but not limited to, clean desk policies, security training, and implementation of industry best practices that allow our data to be compliant with relevant industry standard security compliance levels. These enforced practices and policies allow us to ensure, to the best of our ability, that all ILYM and client data is protected as best as possible from unauthorized access, is kept secure and private, and is accessible only by authorized parties if/when needed or appropriate purposes. We at ILYM, our security vendors, and our Information Technology vendors all also undergo continued training to ensure that all best practices in compliance are kept as up to date as possible for continued data security.

ILYM also ensures client access data is only used when needed and that client data is only accessed/available to be accessed by those that need to and are trained to do so. Also, access to class member data is limited per role to what information is needed to perform said role so that class member info, and subsets of class member info, is not available unless it is explicitly needed, employee, vendors, and contractors alike. ILYM also ensures client data security by thoroughly vetting employees, vendors, and contractors before employment by way of checking references, industry experience, and, for those eligible for employment, doing background checks. Any employee, vendor, or contractor that does not meet proper requirements will not be eligible to work with ILYM Group.

ILYM follows the below best practices to ensure that all ILYM/Client data is properly secured:

- All data transmitted to/from clients encrypted with SSL or comparable encryption scheme
- All email communications protected via email encryption using SSL or comparable encryption scheme
- Data Loss Prevention, intrusion prevention, and user risk management facilities used to safeguard data leakage and/or unauthorized access to cloud or local data.
- Access to client/class member data, and subsets of client data, in cloud and locally is controlled by Role based access
- Strong passwords are in use for cloud, local, and VPN access
- 2fa is in use for all users for Cloud access and for cloud/local/VPN access for needed employees
- All devices used to store Client/Class member data are encrypted and/or have physical security in place to prevent data from being removed
- Office employs physical security to safeguard assets/data
- Identity and access management in place
- Discipline policy in place for violating of security/clean desk policies
- Terminated employees, vendors, or contractors access immediately severed on departure
- Antivirus, persistent threat monitoring, IPS/IDS, layer 7 firewalling, GeoBlocking, etc.. in use to protect all devices local and external
- All software and hardware (drivers, etc...) updated on proper schedule as per vendors requirements. OOB patches handled with automation
- Business continuity and Disaster recovery plans written

EXHIBIT “C”

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Cal State Auto

Requesting Attorneys Name: Kyle Nordrehaug
 E-Mail: kyle@bamlawca.com
 ILYM Contact: Sean Hartranft
 E-Mail: Sean@ilymgroupclassaction.com
 Contact Number: 949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	700
NCOA	Yes
Certified Spanish Translation	Yes
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	3	\$450.00
Programming of Class Database	Hourly	\$175.00	3	\$525.00
				Subtotal
				\$975.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	7	\$840.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	3	\$210.00
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Rate	\$100.00	1	\$100.00
Toll Free Customer Service Representative	Flat Fee	\$147.50	1	\$147.50
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
Weekly Reports	Flat Rate	\$750.00	1	Waived
				Subtotal
				\$2,967.50

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$2.00	700	\$1,400.00
USPS First Class Postage (6x9 Envelope)	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.50	140	\$350.00
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$2,470.00

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	6	\$900.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	6	\$750.00
Check, Stub & Release - Print & Mail (W-2 and/or 1099)	Per Check	\$1.50	700	\$1,050.00
USPS First Class Postage	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$2.00	70	\$140.00
Reminder Postcard, Includes Postage	Per Piece	\$1.00	245	\$245.00
Reminder Notice via Email and Social Media	Flat Fee	\$2.50	1	\$2.50
Preparation of Taxes	Hourly	\$120.00	15	\$1,800.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$6,807.50

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	6	\$600.00
Project Manager Final Reporting	Hourly	\$120.00	6	\$720.00
Process Unclaimed Funds to State Controller	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	4	\$500.00

Subtotal \$2,570.00

TOTAL CASE ESTIMATE: \$15,790.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.