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and MARIA R. CASTILLO VICARIO on behalf of themselves
and all others similarly situated and aggrieved

(Attorneys for Defendants Listed on the Next Page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

MANUEL HERNANDEZ and MARIA R.
CASTILLO VICARIO, as individuals and on
behalf of all others similarly situated,

Plaintiff,

v.

THIBIANT INTERNATIONAL, INC., a
California corporation; LEGENDARY
STAFFING, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 21STCV22067

[Assigned for all purposes to the Hon.
Lawrence P. Riff in Dept. 7]

**CLASS AND REPRESENTATIVE
ACTION**

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

Action Filed: June 11, 2021
Trial Date: None set

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1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiffs Manuel Hernandez and Maria R. Castillo Vicario (collectively “Plaintiffs”)
3 individually and on behalf of the Settlement Class, on the one hand; and defendants Thibiant
4 International, Inc. (“Thibiant”) and Legendary Staffing, Inc. (“Legendary, and with Thibiant,
5 “Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or
6 individually as “Party.”

7 **1. DEFINITIONS**

8 1.1. “Action” means the Plaintiffs’ lawsuit alleging wage and hour violations against
9 Defendants, captioned *Manuel Hernandez et. al. v. Thibiant International Inc. et al.*, Case No.
10 21STCV22067, initiated on June 11, 2021, and pending in Superior Court of the State of
11 California, County of Los Angeles and Plaintiffs’ representative action seeking PAGA civil
12 penalties against Defendants, captioned *Manuel Hernandez et. al. v. Thibiant International Inc.*
13 *et al.*, Case No. 21STCV42402, initiated on November 17, 2021 and pending in the Superior
14 Court of the State of California, County of Los Angeles.

15 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
16 appoint to administer the Settlement.

17 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
18 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
19 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
20 Preliminary Approval of the Settlement.

21 1.4. “Aggrieved Employee” means a person currently or formerly employed by defendant
22 Thibiant International, Inc., whether directly or placed through a staffing agency or under the
23 heading of a professional employer organization, including, without limitation, Legendary
24 Staffing, Inc., as non-exempt, hourly-paid employees in California at any time during the PAGA
25 Period.

26 1.5. “Class” means all persons currently or formerly employed by defendant Thibiant
27 International, Inc. whether directly or placed through a staffing agency or under the heading of a
28 professional employer organization, including, without limitation, defendant Legendary Staffing,

1 Inc. as hourly-paid, non-exempt in California at any time during the Class Period.

2 1.6. "Class Counsel" means David D. Bibiyan, Jeffrey D. Klein of Bibiyan Law Group, P.C.

3 1.7. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean
4 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and
5 expenses, respectively, incurred to prosecute the Action.

6 1.8. "Class Data" means Class Member identifying information in Defendants' custody,
7 possession, or control, including the Class Member's (1) name; (2) last known address(es); (3)
8 last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of
9 employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

10 1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either
11 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
12 Class Member who qualifies as an Aggrieved Employee).

13 1.10. "Class Member Address Search" means the Administrator's investigation and search for
14 current Class Member mailing addresses using all reasonably available sources, methods and
15 means including, but not limited to, the National Change of Address database, skip traces, and
16 direct contact by the Administrator with Class Members.

17 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
18 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
19 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
20 A and incorporated by reference into this Agreement.

21 1.12. "Class Period" means the period from June 11, 2017 through October 24, 2022.

22 1.13. "Class Representative" means the named Plaintiffs in the operative complaint in the
23 Action seeking Court approval to serve as a Class Representative.

24 1.14. "Class Representative Service Payment" means the payment to the Class Representative
25 for initiating the Action and providing services in support of the Action.

26 1.15. "Court" means the Superior Court of California, County of Los Angeles.

27 1.16. "Defendants" means named defendants Thibiant International, Inc. and Legendary
28 Staffing, Inc.

1 1.17. “Defense Counsel” means Christian Keeney, Patricia A. Matias, and Alis Moon of
2 Jackson Lewis, P.C; and Howard M. Knee and Caroline P. Donelan of Blank Rome LLP.

3 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting
4 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the
5 latest of the following occurrences: (a) if no Participating Class Member objects to the
6 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
7 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
8 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
9 affirms the Judgment and issues a remittitur.

10 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

11 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
12 of the Settlement.

13 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
14 Approval.

15 1.22. “Gross Settlement Amount” means \$480,000.00 (Four Hundred and Eighty Thousand
16 Dollars and Zero Cents) which is the total amount Defendants agree to pay under the Settlement,
17 except as provided in Paragraph 8.1 below and any and all employer-side payroll taxes owed on
18 the Wage Portions of the Individual Class Payments. Except as set forth herein, the Parties shall
19 each bear their own attorneys’ fees and costs associated with the negotiation and execution of
20 this Agreement. The Gross Settlement Amount will be used to pay Individual Class Payments,
21 PAGA Penalties (including the Individual PAGA Payments and LWDA PAGA Payments), the
22 LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative
23 Service Payment, and Administrator’s Expenses.

24 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
25 Net Settlement Amount calculated according to the number of Workweeks worked during the
26 Class Period.

27 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
28 the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during

1 the PAGA Period.

2 1.25. "Judgment" means the judgment entered by the Court based upon Final Approval.

3 1.26. "LWDA" means the California Labor and Workforce Development Agency, the agency
4 entitled, under Labor Code section 2699, subd. (i).

5 1.27. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
6 under Labor Code section 2699, subd. (i).

7 1.28. "Net Settlement Amount" means the Gross Settlement Amount, less the following
8 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
9 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
10 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
11 paid to Participating Class Members as Individual Class Payments.

12 1.29. "Non-Participating Class Member" means any Class Member who opts out of the
13 Settlement by sending the Administrator a valid and timely Request for Exclusion.

14 1.30. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked
15 for Defendants for at least one day during the PAGA Period.

16 1.31. "PAGA Period" means the period from June 21, 2020 through the end of the Class Period.

17 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

18 1.33. "PAGA Notice" means plaintiffs' June 21, 2021 letter to defendants and the LWDA,
19 providing notice pursuant to Labor Code section 2699.3 subd. (a).

20 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
21 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$7,500.00) and the 75%
22 to the LWDA (\$22,500.00) in settlement of PAGA claims.

23 1.35. "Participating Class Member" means a Class Member who does not submit a valid and
24 timely Request for Exclusion from the Settlement.

25 1.36. "Plaintiffs" means Manuel Hernandez and Maria R. Castillo Vicario the named plaintiffs
26 in the Action.

27 1.37. "Plaintiffs' General Release" means the claims being released as described in Paragraph
28 5.1 below.

1 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the
2 Settlement.

3 1.39. "Preliminary Approval Order" means the proposed Order granting Preliminary Approval
4 and Approval of PAGA Settlement.

5 1.40. "Released Class Claims" means the claims being released as described in Paragraph 5.2
6 below.

7 1.41. "Released PAGA Claims" means the claims being released as described in Paragraph 5.4
8 below.

9 1.42. "Released Parties" means: Defendants and each of their former, present and future
10 owners, shareholders, parents, affiliates, and subsidiaries, and all of their current, former, and
11 future officers, directors, members, board and committee members, managers, employees,
12 consultants, partners, shareholders, affiliates, joint venturers, agents, mandatories, advisors,
13 predecessors, successors, assigns, accountants, lenders, equity or bond holders, insurers,
14 reinsurers, and/or legal representatives.

15 1.43. "Request for Exclusion" means a Class Member's submission of a written request to be
16 excluded from the Class Settlement signed by the Class Member.

17 1.44. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to
18 Class Members and Aggrieved Employees, and shall be the last date on which Class Members
19 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
20 Settlement. Class Members to whom Notice Packets are resent after having been returned
21 undeliverable to the Administrator shall have an additional 15 days beyond the Response
22 Deadline has expired.

23 1.45. "Settlement" means the disposition of the Action effected by this Agreement and the
24 Judgment.

25 1.46. "Workweek" means any week during which a Class Member was employed by and
26 worked for the Defendants in a non-exempt, hourly position during the Class Period in California,
27 based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).
28

2. RECITALS

2.1. On June 11, 2021, Plaintiffs commenced this Action by filing a Complaint alleging causes of actions against Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods, or compensation in lieu thereof; (4) failure to provide rest periods, or compensation in lieu thereof; (5) failure to pay due wages at separation from employment; (6) failure to provide compliant wage statements; (7) failure to timely pay wages; (8) failed to reimburse employees for business expenses; and (9) engaging in unfair competition ("Class Action"). The complaint filed in the Class Action is the operative complaint for purposes of the release of class claims in this Settlement and shall be referred to herein as the "Class Action Operative Complaint."

2.2. On June 21, 2021, Plaintiff filed a notice with the Labor Workforce and Development Agency ("LWDA") under Labor Code § 2699.3, and served on Defendants, stating an intention to seek civil penalties against Defendants ("PAGA Notice"). After sixty-five (65) days had passed without any communication from the LWDA, on November 17, 2021, Plaintiffs filed a separate representative PAGA Action in Los Angeles County Superior Court, Case NO. 21STCV42402 ("PAGA Action"). The complaint filed in the PAGA action is the operative complaint for purposes of the release of PAGA claims in this Settlement and shall be referred to herein as the "PAGA Action Operative Complaint." As part of the Settlement, the Parties hereby agree to stipulate to consolidate the Class Action and PAGA Action.

2.3. Thereafter, the Parties agreed to attend mediation.

2.4. Prior to mediation Plaintiffs obtained, through informal discovery: (1) a 10% sampling of time and payroll records for Legendary employees from June 11, 2017 through the present; (2) a 10% sampling of time and payroll records for employees directly hired by Thibiant during the PAGA Period through mediation; (3) data points from both Thibiant and Legendary which include number of pay periods worked in the Class and PAGA Periods, number of Workweeks in the Class and PAGA periods, along with the number of employed and terminated employees during the Class and PAGA periods; (4) sample arbitration agreements; and (5) all relevant policy documents.

2.5. On October 24, 2022, Plaintiffs attended mediation with Jeff Krivis, Esquire, a well-regarded mediator experienced in mediating complex labor and employment matters. The mediation was unsuccessful. However, the Parties continued negotiations in the months thereafter and were able to reach this Agreement.

2.6. Plaintiffs' 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*").

2.7. The Court has not granted class certification.

2.8. 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. Defendants promise to pay \$480,000.00 as the Gross Settlement Amount, unless increased pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer-side payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have 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 Defendants.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To Plaintiffs: Class Representative Service Payment to each Class Representative or named plaintiff of not more than \$7,500.00 each, for a total of \$15,000.00 to Plaintiffs, in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative or named plaintiff is entitled to receive as a Participating Class Member. Defendants will not oppose Plaintiffs' 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 endeavor to 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. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which, unless escalated pursuant to Paragraph 8.1 of this Agreement, is currently estimated to be \$168,000.00 and a Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment 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 Plaintiffs' 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 assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments. There will be no additional charge of any kind to either the Class Members or request for additional consideration from Defendants for such work unless, Defendants materially breach this Agreement,

including any term regarding funding, and further efforts are necessary from Class Counsel to remedy said breach, including, without limitation, moving the Court to enforce the Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$13,500.00 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 \$13,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. 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.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% 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. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for 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.

3.2.4.2. 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.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of

1 \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00)
2 allocated to the LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual
3 PAGA Payments.

4 3.2.5.1. The Administrator will calculate each Individual PAGA
5 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share
6 of PAGA Penalties \$7,500.00 by the total number of PAGA Pay Periods worked
7 by all Aggrieved Employees during the PAGA Period and (b) multiplying the
8 result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved
9 Employees assume full responsibility and liability for any taxes owed on their
10 Individual PAGA Payment.

11 3.2.5.2. If the Court approves PAGA Penalties of less than the
12 amount requested, the Administrator will allocate the remainder to the Net
13 Settlement Amount. The Administrator will report the Individual PAGA
14 Payments on IRS 1099 Forms.

15 **4. SETTLEMENT FUNDING AND PAYMENTS**

16 4.1. Class Workweeks and Aggrieved Employee PAGA Pay Periods. Based on a review of
17 its records to date, Defendants estimate there are 1,150 Class Members who collectively worked
18 a total of 24,000 Workweeks, and 778 of Aggrieved Employees who worked a total of 29,992
19 PAGA Pay Periods.

20 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the
21 Settlement, Defendants will deliver the Class Data to the Administrator, in the form of a
22 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
23 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement
24 and for no other purpose, and restrict access to the Class Data to Administrator employees who
25 need access to the Class Data to effect and perform under this Agreement. Defendants have a
26 continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted
27 class member identifying information and to provide corrected or updated Class Data as soon as
28 reasonably feasible. Without any extension of the deadline by which Defendants must send the

1 Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
2 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class
3 Data.

4 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
5 Amount, and also fund the amounts necessary to fully pay Defendants' share of employer-side
6 payroll taxes owed on the Wage Portion of the Individual Class Payments by transmitting the
7 funds to the Administrator no later than 14 days after the Effective Date.

8 4.4. Payments from the Gross Settlement Amount. Within 7 days after Defendants fund the
9 Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments,
10 all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses
11 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and
12 the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment,
13 the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment
14 shall not precede disbursement of Individual Class Payments, and the Individual PAGA
15 Payments.

16 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
17 Individual PAGA Payments and send them to the Class Members via First Class U.S.
18 Mail, postage prepaid. The face of each check shall prominently state the date (not less
19 than 180 days after the date of mailing) when the check will be voided. The
20 Administrator will cancel all checks not cashed by the void date. The Administrator
21 will send checks for Individual Settlement Payments to all Participating Class Members
22 (including those for whom Class Notice was returned undelivered). The Administrator
23 will send checks for Individual PAGA Payments to all Aggrieved Employees including
24 Non-Participating Class Members who qualify as Aggrieved Employees (including
25 those for whom Class Notice was returned undelivered). The Administrator may send
26 Participating Class Members a single check combining the Individual Class Payment
27 and the Individual PAGA Payment. Before mailing any checks, the Settlement
28 Administrator must update the recipients' mailing addresses using the National Change

1 of Address Database.

2 4.4.2. The Administrator must conduct a Class Member Address Search for all other
3 Class Members whose checks are returned undelivered without USPS forwarding
4 address. Within 7 days of receiving a returned check the Administrator must re-mail
5 checks to the USPS forwarding address provided or to an address ascertained through
6 the Class Member Address Search. The Administrator need not take further steps to
7 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
8 The Administrator shall promptly send a replacement check to any Class Member whose
9 original check was lost or misplaced, requested by the Class Member prior to the void
10 date.

11 4.4.3. For any Class Member whose Individual Class Payment check or Individual
12 PAGA Payment check is uncashed and cancelled after the void date, the Administrator
13 shall transmit the funds represented by such checks to the California Controller's
14 Unclaimed Property fund in the name of the Class Member thereby leaving no "unpaid
15 residue" subject to the requirements of California Code of Civil Procedure Section 384.

16 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
17 not obligate Defendants to confer any additional benefits or make any additional
18 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
19 specified in this Agreement.

20 **5. RELEASE OF CLAIMS**

21 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
22 and on the date when Defendants fully fund the entire Gross Settlement Amount and fund all
23 employer-side payroll taxes owed on the Wage Portion of the Individual Class Payments,
24 Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as
25 follows:

26 5.1. Plaintiffs' General Release. Plaintiffs and his or her respective former and present
27 spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns
28 generally release and forever discharge Released Parties from all claims, transactions, or

1 occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been,
2 alleged, based on the facts contained, in the Class Action Operative Complaint and (b) all PAGA
3 claims that were, or reasonably could have been, alleged based on facts contained in the PAGA
4 Action Operative Complaint, and Plaintiffs' PAGA Notice; and (c) any other claims, debts,
5 liabilities, demands, damages, obligations, actions and causes of actions, of any nature
6 whatsoever, whether known or unknown, or suspected or unsuspected, arising out of or in
7 connection with their employment with Defendants, the separation of such employment, or any
8 other act, omission or event occurring between the Parties at any time prior to the Effective date.
9 This general release includes, without limitation: (i) all claims for violation of any federal, state
10 or local statute, ordinance or regulation relating to employment benefits, leaves of absence, or
11 discrimination, harassment, retaliation or whistleblowing in employment, specifically including,
12 without limitation, the California Fair Employment and Housing Act, the California Family
13 Rights Act, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the
14 Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Genetic
15 Information Nondiscrimination Act, the Americans with Disabilities Act, and the Employee
16 Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the
17 Securities Act, the Immigration Reform and Control Act the Worker Adjustment and Retraining
18 Notification Act of 1988, the California Worker Adjustment and Retraining Notification Act, the
19 Uniformed Service Employment and Reemployment Rights Act, and any regulation of any
20 administrative agency or governmental authority relating to employment benefits or
21 discrimination or harassment or retaliation in employment; (ii) all claims for failure to pay
22 minimum or overtime wages, failure to timely pay wages, failure to provide accurate itemized
23 wage statements, failure to maintain accurate records, failure to reimburse business expenses,
24 failure to provide meal periods or rest breaks, failure to provide paid sick leave, failure to post
25 notice of paydays and time and place of payment, and any claim for violations of the California
26 Labor Code, California's Business and Professions Code § 17200 et seq., and the applicable
27 California Industrial Welfare Commission Wage Order; (iii) any non-statutory tort or contractual
28 claim, including all claims for breach of oral, implied or written contract, breach of implied

1 covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress,
2 and conversion; (iv) all claims for wrongful termination of employment; (v) all claims for wages,
3 penalties and/or benefits; and (vi) all claims for attorneys' fees and costs. Plaintiff's General
4 Release does not extend to any claims or actions to enforce this Agreement, or to any claims for
5 vested benefits, unemployment benefits, disability benefits, social security benefits, workers'
6 compensation benefits that arose at any time, or based on occurrences outside the Class Period.
7 Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to,
8 the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that
9 Plaintiffs' General Release shall be and remain effective in all respects, notwithstanding such
10 different or additional facts or Plaintiffs' discovery of them.

11 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For
12 purposes of Plaintiffs' General Release only, Plaintiffs expressly waive and relinquish
13 the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
14 which reads:

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

19 5.2. Release by Participating Class Members: For the duration of the Class Period, all
20 Participating Class Members, on behalf of themselves and their respective former and present
21 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
22 Parties from all claims that were alleged, or reasonably could have been alleged, based on the
23 facts stated in the Class Action Operative Complaint including: (1) all claims for failure to pay
24 overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to
25 provide compliant meal periods, or compensation in lieu thereof; (4) all claims for failure to
26 provide compliant rest periods, or compensation in lieu thereof (5) all claims for the failure to
27 pay wages due upon termination or resignation; (6) all claims for non-compliant wage statements;
28 (7) all claims for failure to timely pay wages; (8) all claims for failure to reimburse employees for

business expenses and (9) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the Class Action Operative Complaint.

5.3. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.4. Release by Aggrieved Employees: For the duration of the PAGA Period, all Aggrieved Employees 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 claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the PAGA Action Operative Complaint and the PAGA Notice, including, claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor Code sections Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 432, 510, 512, 1102.5, 1174, 1194, 1197, 2802, and 2810.5.

6. 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 current checklist for Preliminary Approvals.

6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare to deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including, as applicable: (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

1 procedures for protecting the security of Class Data; amounts of insurance coverage for any data
2 breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential
3 conflicts of interest with Class Members; and the nature and extent of any financial relationship
4 with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs
5 confirming willingness and competency to serve and disclosing all facts relevant to any actual or
6 potential conflicts of interest with Class Members; (v) a signed declaration from each Class
7 Counsel firm attesting to its competency to represent the Class Members; its timely transmission
8 to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section
9 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement
10 (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential
11 conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff
12 and Class Counsel Declaration shall aver that they are not aware of any other pending matter or
13 action asserting claims that will be extinguished or adversely affected by the Settlement.

14 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
15 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
16 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
17 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
18 Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the
19 Administrator.

20 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
21 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
22 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
23 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
24 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
25 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
26 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
27 Court's concerns.
28

1 **7. SETTLEMENT ADMINISTRATION**

2 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve
3 as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc., agrees
4 to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
5 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
6 represent that they have no interest or relationship, financial or otherwise, with the Administrator
7 other than a professional relationship arising out of prior experiences administering settlements.

8 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
9 Identification Number for purposes of calculating payroll tax withholdings and providing reports
10 state and federal tax authorities.

11 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
12 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
13 468B-1.

14 7.4. Notice to Class Members

15 7.4.1. No later than three (3) business days after receipt of the Class Data, the
16 Administrator shall notify Class Counsel that the list has been received and state the
17 number of Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in
18 the Class Data.

19 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
20 days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
22 the Class Notice with Spanish translation, substantially in the form attached to this
23 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
24 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
25 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
26 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
27 update Class Member addresses using the National Change of Address database.

28 7.4.3. Not later than 3 business days after the Administrator’s receipt of any Class Notice

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

7 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
8 and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional
9 15 days beyond the 45 days otherwise provided in the Class Notice for all Class
10 Members whose notice is re-mailed. The Administrator will inform the Class Member
11 of the extended deadline with the re-mailed Class Notice.

12 7.4.5. If the Administrator, Defendants or Class Counsel is contacted by or otherwise
13 discovers any persons who believe they should have been included in the Class Data
14 and should have received Class Notice, the Parties will expeditiously meet and confer,
15 in good faith, to agree on whether to include them as Class Members. If the Parties
16 agree, such persons will be Class Members entitled to the same rights as other Class
17 Members, and the Administrator will send, via email or overnight delivery, a Class
18 Notice requiring them to exercise options under this Agreement not later than 15 days
19 after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are
20 later.

21 7.5. Requests for Exclusion (Opt-Outs).

22 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
23 must send the Administrator, by mail, a signed written Request for Exclusion not later
24 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
25 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
26 from a Class Member or his/her representative that reasonably communicates the Class
27 Member's election to be excluded from the Settlement and includes the Class Member's
28 name, address and email address or telephone number. To be valid, a Request for

1 Exclusion must be timely postmarked by the Response Deadline.

2 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
3 fails to contain all the information specified in the Class Notice. The Administrator
4 shall accept any Request for Exclusion as valid if the Administrator can reasonably
5 ascertain the identity of the person as a Class Member and the Class Member's desire
6 to be excluded. The Administrator's determination shall be final and not appealable or
7 otherwise susceptible to challenge. If the Administrator has reason to question the
8 authenticity of a Request for Exclusion, the Administrator may demand additional proof
9 of the Class Member's identity. The Administrator's determination of authenticity shall
10 be final and not appealable or otherwise susceptible to challenge.

11 7.5.3. Every Class Member who does not submit a timely and valid Request for
12 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
13 to all benefits and bound by all terms and conditions of the Settlement, including the
14 Participating Class Members' releases under Paragraphs 5.2 and 5.3 of this Agreement,
15 regardless whether the Participating Class Member actually receives the Class Notice
16 or objects to the Settlement.

17 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
18 Non-Participating Class Member and shall not receive an Individual Class Payment or
19 have the right to object to the class action components of the Settlement. Because future
20 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
21 Participating Class Members who are Aggrieved Employees are deemed to release the
22 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
23 PAGA Payment.

24 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
25 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
26 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
27 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge
28 the allocation by communicating with the Administrator via 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 PAGA 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 PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7. Objections to Settlement

7.7.1. 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.

7.7.2. Participating Class Members may send written objections to the Administrator, by mail. In the alternative, 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 15 days for Class Members whose Class Notice was re-mailed).

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

7.8. 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.

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will 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

1 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
2 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
3 the Final Approval and the Judgment. The Administrator will also maintain and monitor
4 an email address and a toll-free telephone number to receive Class Member calls, faxes
5 and emails.

6 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
7 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
8 Not later than 5 days after the expiration of the deadline for submitting Requests for
9 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
10 containing (a) the names and other identifying information of Class Members who have
11 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
12 other identifying information of Class Members who have submitted invalid Requests
13 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
14 (whether valid or invalid).

15 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
16 reports to Class Counsel and Defense Counsel that, among other things, tally the number
17 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
18 Exclusion (whether valid or invalid) received, objections received, challenges to
19 Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for
20 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
21 Weekly Reports must include provide the Administrator’s assessment of the validity of
22 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
23 received.

24 7.8.4. Workweek and/or PAGA Pay Period Challenges. The Administrator has the
25 authority to address and make final decisions consistent with the terms of this
26 Agreement on all Class Member challenges over the calculation of Workweeks and/or
27 PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or
28 otherwise susceptible to challenge.

1 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file
2 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
3 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
4 due diligence and compliance with all of its obligations under this Agreement,
5 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
6 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
7 number of Requests for Exclusion from Settlement it received (both valid or invalid),
8 the number of written objections and attach the Exclusion List. The Administrator will
9 supplement its declaration as needed or requested by the Parties and/or the Court. Class
10 Counsel is responsible for filing the Administrator's declaration(s) in Court.

11 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
12 disburses all funds in the Gross Settlement Amount, the Administrator will provide
13 Class Counsel and Defense Counsel with a final report detailing its disbursements by
14 employee identification number only of all payments made under this Agreement. At
15 least 7 days before any deadline set by the Court, the Administrator will prepare, and
16 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
17 Court attesting to its disbursement of all payments required under this Agreement. Class
18 Counsel is responsible for filing the Administrator's declaration in Court.

19 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

20 Based on their records, Defendants estimate that, as of the date of the end of the Class
21 Period, (1) there were 1,150 Class Members and 24,000 Total Workweeks during the Class
22 Period and (2) there were 778 Aggrieved Employees who worked 29,992 PAGA Pay Periods
23 during the PAGA Period.

24 8.1. Increase in Workweeks. Defendants represent that there were no more than 24,000
25 Workweeks worked by Class Members during the Class Period. In the event the number of
26 Workweeks worked was in fact greater than 24,000 by 5%, or 1,200 more Workweeks, then the
27 GSA shall be increased proportionally by the Workweeks worked in the Class Period in excess
28 of 25,200 multiplied by the Workweek Value. The Workweek Value shall be calculated by

1 dividing the GSA by 24,000 Workweeks. The Parties agree that the Workweek Value amounts
2 to and the settlement amounts to \$20 per Workweek (\$480,000 / 24,000 Workweeks). Thus, for
3 example, should there be 26,000 Workweeks worked by Class Members in the Class Period, then
4 the GSA shall be increased by \$16,000 ((26,000 Workweeks – 25,200 Workweeks) x \$20/per
5 Workweek.)

6 **9. MOTION FOR FINAL APPROVAL**

7 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
8 final approval of the Settlement that includes a request for approval of the PAGA settlement
9 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
10 Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor to provide drafts
11 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
12 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
13 any disagreements concerning the Motion for Final Approval.

14 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
15 by a Participating Class Member, including the right to file responsive documents in Court no
16 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
17 by the Court.

18 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
19 Approval on any material change to the Settlement (including, but not limited to, the scope of
20 release to be granted by Class Members), the Parties will expeditiously work together in good
21 faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final
22 Approval. The Court’s decision to award less than the amounts requested for the Class
23 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
24 Expenses Payment, and/or Administrator Expenses Payment, shall not constitute a material
25 modification to the Agreement within the meaning of this paragraph.

26 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
27 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
28 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,

and (iii) addressing such post-Judgment matters as are permitted by law.

9.4. Waiver of 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.

9.5. 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 a 50-50 basis, any additional Administration Expenses reasonably incurred after 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.

10. 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.

11. ADDITIONAL PROVISIONS

11.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims.

1 Nothing in this Agreement is intended or should be construed as an admission by Defendants
2 that any of the allegations in the Operative Complaint have merit or that Defendants have any
3 liability for any claims asserted; nor should it be intended or construed as an admission by
4 Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class
5 certification and representative treatment is for purposes of this Settlement only. If, for any
6 reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants
7 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
8 available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class
9 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
10 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
11 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
12 Settlement and this Agreement).

13 11.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and
14 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
15 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
16 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
17 or indirectly, specifically or generally, to any person, corporation, association, government
18 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
19 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
20 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
21 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
22 government agency. Each Party agrees to immediately notify each other Party of any judicial or
23 agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel,
24 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
25 conversation or other communication, before the filing of the Motion for Preliminary Approval,
26 any with third party regarding this Agreement or the matters giving rise to this Agreement except
27 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
28 restrict Class Counsel's communications with Class Members in accordance with Class

1 Counsel's ethical obligations owed to Class Members.

2 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
3 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
4 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
5 ability to communicate with Class Members in accordance with Class Counsel's ethical
6 obligations owed to Class Members.

7 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
8 together with its attached exhibits shall constitute the entire agreement between the Parties
9 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
10 inducements made to or by any Party.

11 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
12 represent that they are authorized by Plaintiffs and Defendants, respectively, to take all
13 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
14 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
15 terms of this Agreement including any amendments to this Agreement.

16 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
17 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
18 Settlement Agreement, submitting supplemental evidence and supplementing points and
19 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
20 or content of any document necessary to implement the Settlement, or on any modification of the
21 Agreement that may become necessary to implement the Settlement, the Parties will seek the
22 assistance of a mediator and/or the Court for resolution.

23 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
24 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
25 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
26 action, or right released and discharged by the Party in this Settlement.

27 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
28 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied

1 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
2 Part 10, as amended) or otherwise.

3 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
4 modified, changed, or waived only by an express written instrument signed by all Parties or their
5 representatives, and approved by the Court.

6 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
7 the benefit of, the successors of each of the Parties.

8 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
9 governed by and interpreted according to the internal laws of the state of California, without
10 regard to conflict of law principles.

11 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
12 this Agreement. This Agreement will not be construed against any Party on the basis that the
13 Party was the drafter or participated in the drafting.

14 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
15 during Action and in this Agreement relating to the confidentiality of information shall survive
16 the execution of this Agreement.

17 11.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal.
18 Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by
19 Defendants in connection with the mediation, other settlement negotiations, or in connection with
20 the Settlement, may be used only with respect to this Settlement, and no other purpose, and may
21 not be used in any way that violates any existing contractual agreement, statute, or rule of court.

22 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
23 inserted for convenience of reference only and does not constitute a part of this Agreement.

24 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
25 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
26 weekend or federal legal holiday, such date or deadline shall be on the first business day
27 thereafter.

28 11.17. 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.

11.18. 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 the entire period of this settlement process.

11.19. Severability. In the event that one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

IT IS SO AGREED:


 Manuel Hernández (Sep 29, 2023 16:44 PDT)

For Plaintiff, Manuel Hernandez

For Defendant, Thibiant International, Inc.

For Plaintiff, Castillo Vicario

For Defendant, Legendary Staffing, Inc.

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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.

11.18. 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 the entire period of this settlement process.

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IT IS SO AGREED:

For Plaintiff, Manuel Hernandez

For Plaintiff, Castillo Vicario

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DocuSigned by:

Nicolas Beugnot

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For Defendant, Thibiant International, Inc.
Nicolas Beugnot, Chef des affaires juridiques et
Secrétaire Corporatif Chief Legal Officer and
Corporate Secretary

For Defendant, Legendary Staffing, Inc.

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Vedang J. Patel

David D. Bibiyan
Vedang J. Patel
Counsel for Manuel Hernandez
and Maria R. Castillo Vicario on
behalf of themselves
and all others similarly situated and
aggrieved

Christian Keeney
Patricia A. Matias
Alis Moon
Counsel for Defendant Legendary
Staffing, Inc



Caroline P. Donelan
Counsel for Defendant Thibiant
International, Inc.

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

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7 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
8 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
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10 process.

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12 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
13 illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel
14 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
15 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
16 Agreement.

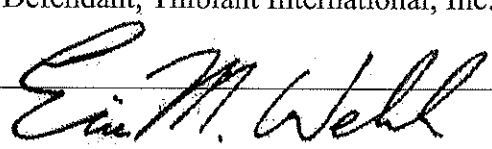
17
18 **IT IS SO AGREED:**

19
20
21 _____
22 For Plaintiff, Manuel Hernandez

For Defendant, Thibiant International, Inc.

23
24 _____
25 Maria R Castillo Vicario (Sep 29, 2023 16:51 PDT)

For Plaintiff, Castillo Vicario

26 
27 _____
28 For Defendant, Legendary Staffing, Inc.

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Approved as to form only:

Vedang J. Patel

David D. Bibiyan
Vedang J. Patel
Counsel for Manuel Hernandez
and Maria R. Castillo Vicario on
behalf of themselves
and all others similarly situated and
aggrieved


Christian Keeney
Patricia A. Matias
Alis Moon
Counsel for Defendant Legendary
Staffing, Inc

Caroline P. Donelan
Counsel for Defendant Thibiant
International, Inc.