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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO
LAINEZ, on behalf of themselves and on
behalf of all persons similarly situated,
and on behalf of the State of California, as
private attorney generals,

Plaintiff,

vs.

WWF OPERATING COMPANY, LLC, a
Limited Liability Company; DANONE
NORTH AMERICA PUBLIC BENEFIT
CORPORATION, a Corporation; DANONE
US, LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 21STCV20991

[Consolidated with Case No. 21PSCV00643
and Case No. 21PSCV01017]

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

Hearing Date: May 10, 2023

Hearing Time: 9:00 a.m.

Judge: Hon. Maren Nelson
Dept.: 17

Action Filed: June 4, 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 Salvador Venegas (“Plaintiffs”) in this matter. As such, I am fully
4 familiar with the facts, pleadings and history of this matter. The following facts are within my own
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated
6 herein.

7 2. This declaration is being submitted by Plaintiffs Salvador Venegas and Plaintiff
8 Sergio Lainez (collectively, “Plaintiffs”) in support of the motion for preliminary approval of the
9 proposed class action settlement with Defendants WWF Operating Company, LLC, Danone North
10 America Public Benefit Corporation and Danone US, LLC (“Defendants”), and seeks entry of an
11 order: (1) preliminarily approving the proposed settlement of this class action with Defendants;
12 (2) for settlement purposes only, conditionally certifying the Class, which is comprised of “all
13 individuals who are or previously were employed by Defendants WWF Operating Company, LLC,
14 Danone North America Public Benefit Corporation and Danone US, LLC in California who were
15 classified as hourly, non-exempt employees at any time during the Class Period”, which is from
16 June 4, 2017 through August 5, 2022; (3) provisionally appointing Plaintiffs as the representative of
17 the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit
18 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Edwin Aiwasian, Arby
19 Aiwasian, and Joanna Ghosh of Lawyers for Justice, P.C. as Class Counsel; (5) approving the form
20 and method for providing class-wide notice; (6) directing that notice of the proposed settlement be
21 given to the class; (7) appointing ILYM Group as Administrator, and (8) scheduling a final
22 approval hearing date to consider Plaintiffs’ motion for final approval of the settlement and entry of
23 the Judgment, and Plaintiffs’ motion for approval of attorneys' fees and expenses. Plaintiffs and
24 Defendants (collectively the “Parties”) have reached a full and final settlement of the
25 above-captioned action, which is embodied in the Class Action and PAGA Settlement Agreement
26 (“Agreement”), a true and correct copy of which is attached hereto as Exhibit #1. The form of the
27 Agreement is based upon the Los Angeles County Superior Court model form for a class and
28 PAGA settlement, and a true and correct redline showing a comparison to the model form is

1 attached as Exhibit #2. This Declaration incorporates by reference the definitions in the
2 Agreement, and all terms defined therein shall have the same meaning as set forth in the
3 Agreement.

4
5 Fairness of Settlement

6 3. As consideration for this Settlement, the Gross Settlement Amount is One Million
7 Two-Hundred Fifty Thousand Dollars (\$1,250,000) (the “Gross Settlement Amount”) to be paid by
8 Defendants, as set forth in the Agreement. The Gross Settlement Amount will settle all issues
9 pending in the Action between the Parties and will be made in full and final settlement of the
10 Released Class Claims, consisting of all payments to Participating Class Members from the Net
11 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys'
12 fees and costs, (c) Class Representative Service Payment, and (d) the PAGA Penalties payment to
13 the LWDA and the Aggrieved Employees. (Agreement at ¶ 1.22.) The Gross Settlement Amount
14 does not include the employer’s share of payroll taxes which will be separately paid by Defendants.
15 (Id.) The Settlement is all-in with no reversion to Defendants and no need to submit a claim form.
16 (Id.)

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

22 5. On March 9, 2022, the Parties participated in an all-day mediation session presided
23 over by Tripper Ortman, a respected and experienced mediator of wage and hour class actions. In
24 preparation for the mediation, Defendant provided to Plaintiffs and Class Counsel payroll and
25 employment data and other information regarding the Class Members, various internal documents,
26 and other compensation and employment-related materials. Class Counsel analyzed the data with
27 the assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to
28 the mediator. The final settlement terms were negotiated and set forth in the Agreement now

1 presented for this Court's approval. Importantly, Plaintiffs and Class Counsel believe that this
2 Settlement is fair, reasonable and adequate.

3 6. Based upon 337 Class Members who collectively worked 61,699 Workweeks, the
4 Gross Settlement Amount provides a value of \$3,709 per Class Member and \$20 per Workweek and
5 the Net Settlement Amount provides an average recovery of \$2,137 per Class Member and a
6 recovery of \$11,67 per Workweek.¹ The calculations to compensate for the amount due for the
7 Class at the time of the mediation were calculated by Berger Consulting, Plaintiffs' damage expert.
8 As to the Class whose claims are at issue in this Action, Plaintiffs used the expert to analyze the
9 data and determine the potential unpaid wages for the employees. The maximum potential damages
10 were calculated to be \$3,037 for the alleged unpaid wages due to the regular rate calculation,
11 \$3,879,793, for alleged meal period damages based upon a 4.8% potential violation rate observed in
12 the 176,032 shifts analyzed and after the deduction for meal premiums paid, \$3,974,722 for alleged
13 rest period damages based upon the same 4.8% violation rate, \$870,052 for alleged unpaid off-the-
14 clock work, \$132,562 for alleged unreimbursed business expenses for personal cell phone at \$10 per
15 month. As a result, the total damage valuation was therefore calculated that Defendants were
16 subject to a maximum damage claim in the amount of \$8,860,166. As to potential penalties,
17 Plaintiffs calculated that wage statement penalties were a maximum of \$680,000 and potential
18 waiting time penalties were between \$181,456 to \$742,320 depending on the predicate violation
19 giving rise to the non-payment of wages. Defendants vigorously disputed Plaintiffs' calculations
20 and exposure theories. Consequently, the Gross Settlement Amount of \$1,250,000 represents more
21 than 14% of the maximum value of the alleged damages at issue in this case at the time this
22 Settlement was negotiated.² Given the amount of the settlement as compared to the potential value
23 of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.

24
25 ¹ These preliminary figures are based upon the estimates in paragraph 4.1 of the Agreement.
26 Defendant is providing a declaration to verify the final figures, which will be submitted along with
any needed update to these figures.

27 ² Because the PAGA claim is not a class claim and primarily is paid to the State of California,
28 Plaintiffs have not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim is addressed herein below at ¶33.

1 Procedural History of the Litigation

2 7. On June 4, 2021, Plaintiff Salvador Venegas ("Plaintiff Venegas") commenced the
3 Venegas Class Action by filing a Complaint against Defendants in the Superior Court of the State of
4 California, County of Los Angeles, which asserted claims against Defendant for: (1) unfair
5 competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay minimum
6 wages in violation of California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay overtime
7 wages in violation of Cal. Labor Code § 510;(4) failure to provide required meal periods in
8 violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in
9 violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to provide accurate itemized wage
10 statements in violation of California Labor Code § 226; (7) failure to reimburse employees for
11 required expenses in violation of California Labor Code § 2802; and, (8) failure to provide wages
12 when due in violation of California Labor Code §§ 201, 202 and 203. On June 2, 2021, Plaintiff
13 Venegas served his PAGA Notice on Defendants and the LWDA, a true and correct copy of which
14 is attached hereto as Exhibit #4. On August 9, 2021, Plaintiff Venegas filed a representative action
15 complaint against Defendants in the Superior Court of the State of California, County of Los
16 Angeles, asserting a single cause of action for violation of the Private Attorneys General Act (Labor
17 Code §§ 2698. et seq.) ("PAGA"), Case No. 21PSCV00643 (hereinafter "Venegas PAGA Action")

18 8. On December 13, 2021, Plaintiff Sergio Lainez ("Plaintiff Lainez") filed a
19 Representative Action Complaint against Defendants in the Superior Court of the State of
20 California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case
21 No. 21PSCV01017 (hereinafter "Lainez PAGA Action"). On August 2, 2022, the Lainez PAGA
22 Action was consolidated with the lower numbered Venegas PAGA Action for all purposes.

23 9. The "Operative Complaint" is the consolidated complaint encompassing Plaintiffs'
24 Class and PAGA claims attached as "Exhibit D" to the Agreement. (Agreement at ¶ 1.30). As part
25 of this Settlement, on November 29, 2022 Plaintiffs filed the Operative Complaint against
26 Defendants asserting claims that Defendants: (1) Violated California Business and Professions
27 Code § 17200 et seq.; (2) Failed to pay minimum wages in violation of California Labor Code §§
28 1194, 1197, and 1197.1; (3) Failed to pay overtime wages in violation of California Labor Code §

1 510, et seq.; (4) Failed to provide required meal periods in violation of California Labor Code §§
2 226.7 & 512 and the applicable IWC Wage Order; (5) Failed to provide required rest periods in
3 violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order; (6) Failed
4 to provide accurate itemized wage statements in violation of California Labor Code § 226; (7)
5 Failed to reimburse employees for required expenses in violation of California Labor Code § 2802;
6 (8) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
7 and (9) Violated PAGA, Cal. Labor Code §§ 2698, et seq. (Agreement at ¶ 2.7).

8 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
9 including production of documents, class data, and other information, allowing for the full and
10 complete analysis of liabilities and defenses to the claims in the Action. The information for
11 mediation obtained by Plaintiffs included: (1) time punch data showing employees' meal periods
12 and their time worked; (2) Payroll data for employees; (3) Defendants' employee wage and hour
13 policies; (5) the employment files for the Plaintiffs; and, (7) samples of wage statements provided
14 by Defendants. The punch record data produced by Defendants and analyzed by Plaintiffs' expert
15 covered more than 60% of the shifts for the Class at the time of mediation (176,032 shifts out of
16 282,047 shifts). As such, Class Counsel received the data and information for the Class, which was
17 sufficient for Plaintiffs' expert to prepare the valuations of the claims for the Class.

18 11. Plaintiffs and Defendants agreed to discuss resolution of the Action through a
19 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
20 documents and information in connection with the Action. On March 9, 2022, the Parties
21 participated in an all-day mediation presided over by Tripper Ortman, a respected and experienced
22 mediator of wage and hour class actions. The Parties were unable to resolve the matter at
23 mediation. Thereafter the parties engaged in extensive discovery, including the production of
24 extensive business records, depositions of Plaintiff Venegas and Defendants' Persons Most
25 Knowledgeable, and Defendants' filing of a motion for summary adjudication. Following the
26 mediation, discovery and briefing on these issues, each side, represented by its respective counsel,
27 ultimately were able to agree to settle the Action based on a mediator's proposal which was
28 memorialized in the form of a Memorandum of Understanding. At all times, the negotiations were

1 arm's length and contentious.

2 12. The Parties continued to negotiate the terms of the settlement and prepared the long
3 form Agreement. Accordingly, for purposes of this Settlement, the "Class" is defined as "all
4 individuals who are or previously were employed by Defendants WWF Operating Company, LLC,
5 Danone North America Public Benefit Corporation and Danone US, LLC in California who were
6 classified as hourly, non-exempt employees at any time during the Class Period." (Agreement at ¶
7 1.5.) The Class Period is from June 4, 2017 through August 5, 2022. (Agreement at ¶ 1.13.) The
8 Class consists of approximately 337 Class Members who worked approximately 61,699 weeks.
9 (Agreement at ¶ 4.1.) The Agreement includes an escalator clause to increase the Gross Settlement
10 Amount should the workweeks increase by more than 10% above 40,000. Defendants are providing
11 a declaration to verify the final figures, which will be submitted along with any needed update to
12 these figures.

13 13. Although a settlement has been reached, Defendants deny any liability or
14 wrongdoing of any kind associated with the claims alleged in the Action and further denies that, for
15 any purpose other than settlement, the Action are appropriate for class treatment. Defendants
16 contend, among other things, that they have correctly compensated the Class Members and
17 complied at all times with the California Labor Code, applicable Wage Order, and all other laws
18 and regulations. Further, Defendants contend that class certification would be inappropriate for any
19 reason other than for settlement. Plaintiffs contend that Defendants violated California wage and
20 hour laws. Plaintiffs further contend that the Action is appropriate for class certification on the
21 basis that the claims meet the requisites for class certification. Without admitting that class
22 certification is proper, Defendants has stipulated that the above Class may be certified for
23 settlement purposes only. (Agreement at ¶ 2.10.) The Parties agree that certification for settlement
24 purposes is not an admission that class certification would be proper if the class certification issue
25 were litigated. Further, the Agreement is not admissible in this or any other proceeding as evidence
26 that the Class could be certified absent a settlement. Solely for purposes of settling the Action, the
27 Parties stipulate and agree that the requisites for establishing class certification with respect to the
28 Class are satisfied.

1 14. Class Counsel has conducted a thorough investigation into the facts of the class
2 action. Over the course of more than a year, Class Counsel diligently evaluated the Class
3 Members' claims against Defendant. Extensive formal discovery was performed, which included
4 several depositions and the production of more than ten thousand pages of documents. Prior to the
5 settlement negotiations, counsel for Defendants provided Class Counsel with access to necessary
6 information for the Class. Class Counsel engaged in a thorough review and analysis of the relevant
7 documents and data with the assistance of an expert. Accordingly, the agreement to settle did not
8 occur until Class Counsel possessed sufficient information to make an informed judgment regarding
9 the likelihood of success on the merits and the results that could be obtained through further
10 litigation. In addition, Class Counsel previously negotiated settlements with other employers in
11 actions involving nearly identical issues and analogous defenses. Based on the foregoing data and
12 their own independent investigation, evaluation and experience, Class Counsel believes that the
13 settlement with Defendants on the terms set forth in the Agreement is fair, reasonable, and adequate
14 and is in the best interest of the Class in light of all known facts and circumstances, including the
15 risk of significant delay, defenses asserted by Defendants, and potential appellate issues.

16
17 Settlement Terms and Plan of Allocation

18 15. The Gross Settlement Amount is One Million Two-Hundred Fifty Thousand Dollars
19 (\$1,250,000). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists
20 of the following elements: (1) payment of the Individual Class Payments to the Participating Class
21 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
22 Administration Expenses Payment; (4) the Class Representative Service Payments to Plaintiffs; and
23 (5) the PAGA Penalties. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not include
24 Defendants' share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be
25 all-in with no reversion to Defendants. (Agreement at ¶ 3.1.)

26 16. Within thirty (30) days of the Effective Date, Defendants shall deposit the Gross
27 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual
28 Class Payments to Participating Class Members along with the other Court-approved distributions

1 shall be made by the Administrator within fifteen (15) days after Defendants fund the Gross
2 Settlement Amount. (Agreement at ¶ 5.1.)

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

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

23 19. A Participating Class Member must cash his or her Individual Class Payment check
24 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
25 180 days will be voided and any funds from such uncashed checks will be paid to a Court-approved
26 nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy
27 Pres Recipient"). (Agreement at ¶ 5.4.)

28 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the

1 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid
2 for settlement administration in an amount not to exceed \$15,000. (Agreement at ¶ 3.2(c).)

3 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
4 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
5 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
6 Class Counsel Litigation Expenses Payment in an amount not to exceed \$53,000. (Agreement at ¶
7 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000
8 each to the two Plaintiffs as the Class Representative Service Payments. (Agreement at ¶ 3.2(a).)

9 22. Subject to Court approval, Twenty-Five Thousand Dollars (\$25,000) will be paid
10 from the Gross Settlement Amount for PAGA penalties under the California Private Attorneys
11 General Act, Cal. Labor Code Section 2698, et seq. ("PAGA"). Pursuant to the express
12 requirements of Labor Code § 2699(i), the PAGA Payment shall be allocated as follows: 75%
13 (\$18,750) shall be allocated to the Labor Workforce Development Agency ("LWDA") as its share
14 of the civil penalties and and 25% (\$6,250) allocated to the Individual PAGA Payments to be
15 distributed to the Aggrieved Employees based on the number of their respective PAGA Pay
16 Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompany proof of service, the LWDA has
17 been served with this motion and the Agreement.

18 19 Risks of Continued Litigation and Standards for Approval

20 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to
21 litigate and trying this Action against Defendants through possible appeals which could take several
22 years. Class Counsel has also taken into account the uncertain outcome and risk of litigation,
23 especially in complex class actions such as this Action. Class Counsel is also mindful of and
24 recognize the inherent problems of proof under, and alleged defenses to, the claims asserted in the
25 Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
26 Settlement set forth in the Agreement is in the best interest of the Class Members.

27 24. Here, a number of defenses asserted by Defendants present serious threats to the
28 claims of the Plaintiffs and the other Class Members. Defendants asserted that Defendants'

1 practices complied with all applicable Labor laws. Defendants argued that all work time was paid
2 for and that the regular rate was properly calculated when paying wages. Defendants contend that
3 their meal and rest period policies fully complied with California law and that Defendants'
4 timekeeping system recorded meal periods, and was not required to record rest periods. As to
5 expenses reimbursement, Defendants contended that there was no failure to pay for business
6 expenses and any cell phone usage was merely convenient and voluntary such that reimbursement
7 was not legally required. Finally, Defendants could argue that the Supreme Court decision in
8 *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on liability, value,
9 and class certifiability as to the meal and rest period claims. Defendants also argues that based on
10 their facially lawful practices, they acted in good faith and without willfulness, which if accepted
11 would negate the claims for waiting time penalties and/or inaccurate wage statements. If
12 successful, Defendants' defenses could eliminate or substantially reduce any recovery to the Class.
13 While Plaintiffs believe that these defenses could be overcome, Defendants maintain these defenses
14 have merit and therefore present a serious risk to recovery by the Class.

15 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
16 be unable to maintain a certified class through trial, and thereby not recover on behalf of any
17 employees other than themselves. At the time of the mediation, Defendants continued to forcefully
18 oppose the propriety of class certification, arguing that individual issues precluded class
19 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
20 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-
21 wide recovery even where the class has been certified. While other cases have approved class
22 certification in wage and hour claims, class certification in this action was hotly disputed and the
23 maintenance of a certified class through trial was by no means a foregone conclusion.

24 26. This settlement is therefore certainly entitled to preliminary approval. Were this
25 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
26 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

27 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
28 consideration for their service and for the risks undertaken on behalf of the class. (Agreement at ¶

1 3.2(a).) Plaintiffs performed their duties admirably by working with Class Counsel for more than
2 year. The Declaration of the Plaintiffs are submitted herewith in support. The Declarations of the
3 Plaintiffs are submitted herewith in support. For purposes of this preliminary approval stage, the
4 requested service award of \$10,000 is well within the accepted range of awards for purposes of
5 preliminary approval. See e.g. *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386
6 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment was \$351); *Holman v.*
7 *Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D. Cal. 2014) (approving \$10,000
8 service award where class member recovery was \$375); *Rausch v. Hartford Fin. Servs. Grp.*, 2007
9 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007) (approving award of \$10,000 where class
10 member recoveries were as little as \$150); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL
11 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in
12 overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D.Cal. Jan. 27 2007)
13 (awarding \$25,000 service award in overtime class action and a pool of \$100,000.00 in
14 enhancements). As explained in *Glass*, service awards are routinely awarded to class
15 representatives to compensate the employees for the time and effort expended on the case, for the
16 risk of litigation, for the fear of suing an employer and retaliation there from, and to serve as an
17 incentive to vindicate the statutory rights of all employees. 2007 WL 221862 at *16-17.

18 28. The stage of the proceedings at which this Settlement was reached also militates in
19 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has
20 conducted a thorough investigation into the facts of the class action. Class Counsel began
21 investigating the Class Members' claims before the Action were filed. Class Counsel conducted a
22 review and analysis of the relevant documents and data. Class Counsel was also experienced with
23 the claims at issue here, as Class Counsel previously litigated and settled similar claims in other
24 actions. Accordingly, the agreement to settle did not occur until Class Counsel possessed sufficient
25 information to make an informed judgment regarding the likelihood of success on the merits and the
26 results that could be obtained through further litigation.

27 29. Based on the foregoing data and their own independent investigation and evaluation,
28 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the

1 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
2 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
3 asserted by Defendants, and numerous potential appellate issues. There can be no doubt that
4 Counsel for both parties possessed sufficient information to make an informed judgment regarding
5 the likelihood of success on the merits and the results that could be obtained through further
6 litigation.

7
8 Class Certification Issues

9 30. Plaintiffs contend that the proposed settlement meet all of the requirements for class
10 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
11 the Court may appropriately approve the Class as defined in the Agreement. This Court should
12 conditionally certify the Class for settlement purposes only, defined as follows:

13 All individuals who are or previously were employed by Defendants WWF
14 Operating Company, LLC, Danone North America Public Benefit Corporation and
15 Danone US, LLC in California who were classified as hourly, non-exempt
employees at any time during the Class Period.

16 (Agreement at ¶ 1.5.)

17 The Class Period is from June 4, 2017 through August 5, 2022. (Agreement at ¶ 1.13.)

18 a. **Numerosity** - Here, Plaintiffs assert that the 337 current and former
19 employees that comprise the Class can be identified based on Defendants' records and are
20 sufficiently numerous for class certification.

21 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
22 questions of law and fact are present, specifically the common questions of whether Defendants'
23 employment practices were lawful, whether Defendants properly calculated the regular rate when
24 paying wages, whether the Defendants failed to provide meal and rest periods to Class Members,
25 whether Class members were lawfully compensated for all hours worked, whether Defendants
26 failed to provide required expense reimbursement, and whether Class Members are entitled to
27 damages and penalties as a result of these practices. Plaintiffs contends that certification of this
28 Class is appropriate because Defendants allegedly engaged in uniform practices with respect to the

1 Class Members. As a result, these common questions of liability could be answered on a class wide
2 basis.

3 c. **Typicality** - In this Action, Plaintiffs contend that the typicality requirement
4 is fully satisfied. Plaintiffs, like every other member of the Class, were employed by Defendants as
5 hourly, non-exempt employees, and, like every other member of the Class, was subject to the same
6 employment practices. Plaintiffs, like every other member of the Class, also claims owed
7 compensation as a result of the Defendants' uniform policies and practices. Thus, the claims of
8 Plaintiffs and the members of the Class arise from the same course of conduct by Defendants,
9 involve the same issues, and are based on the same legal theories.

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

22 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
23 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
24 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
25 experience. We have handled a number of class actions and complex cases and have acted both as
26 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
27 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
28 involving complex issues of law and fact. My firm is particularly experienced in wage and hour

1 employment law class actions, including claims for misclassification, overtime, expense
2 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
3 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
4 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
5 adequate counsel by the courts throughout California. We have been approved as experienced class
6 counsel by both state and federal courts in California in contested class certification proceedings. A
7 true and correct copy of the resume of my firm is attached hereto as Exhibit #3. The Class in this
8 settlement is defined as “all individuals who are or previously were employed by Defendants WWF
9 Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US,
10 LLC in California who were classified as hourly, non-exempt employees at any time during the
11 Class Period.” I have reviewed my firm’s cases and representation of other plaintiffs and there is no
12 conflict or representation which would prevent my firm from representing the interests of the Class
13 this case. My firm only represents employees, and not employers. My firm has never represented
14 Defendants nor any affiliate of the Defendants. My firm’s only interest in the subject matter of this
15 litigation is to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance
16 to the Class and the claims of the Class is not inconsistent with our allegiance to pursue the claims
17 on behalf of other employees and classes as the claims are all against different and distinct
18 employers. I can think of no conflict that would arise in our representation of the Class and our
19 adequate representation of the Class is evidenced by the successful prosecution of the class claims
20 to reach an excellent recovery for the Class. Thus, the adequacy requirement for my firm is
21 satisfied. In addition, Neither Plaintiffs nor my firm have any relationship with the Administrator,
22 nor any actual or potential conflicts of interest with Aggrieved Employees or the LWDA.

23 32. The Class Notice: The Class Notice, drafted jointly and agreed upon by the Parties
24 through their respective counsel and to be approved by the Court, includes all relevant information.
25 (See Exhibit “A” to the Agreement.) The Class Notice will include, among other information: (i)
26 information regarding the Action; (ii) the impact on the rights of the Class Members if they do not
27 opt out, including a description of the applicable release; (iii) information to the Class Members
28 regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class

1 Payment for each of the Class Members; (iii) the amount of attorneys' fees and expenses to be
2 sought; (v) the amount of the Plaintiffs' service award request; and (vi) the anticipated expenses of
3 the Administrator. A Spanish translation of the Class Notice will be included in the mailing.
4 (Agreement at ¶ 1.11.) The Class Notice will state that the Class Members shall have forty-five
5 (45) days from the date that the Notice is mailed to them (the "Response Deadline") to request
6 exclusion (opt-out) or to submit an objection. (Agreement at ¶¶ 1.42, 8.5, 8.7.) Class Members
7 shall be given the opportunity to object to the Settlement and/or requests for attorneys' fees and
8 expenses and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who
9 do not submit a timely and proper request to opt-out will automatically receive a payment of their
10 Individual Class Payment. This notice program was designed to meaningfully reach the Class
11 Members and it advises them of all pertinent information concerning the Settlement. The mailing
12 and distribution of the Class Notice satisfies the requirements of due process, and is the best notice
13 practicable under the circumstances and constitutes due and sufficient notice to all persons entitled
14 thereto.

15
16 33. The PAGA Claims -

17 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
18 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
19 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
20 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
21 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
22 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
23 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
24 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
25 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
26 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
27 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
28 class members." (LWDA Response at p.4).

1 b. **Valuation of the PAGA Claim for Aggrieved Employees.** For mediation,
2 Plaintiffs calculated the value of the alleged PAGA claim as to the Aggrieved Employees for civil
3 penalties to be between \$537,600 and \$1,075,200 for a single violation in every one of the 10,752
4 pay periods at issue at the time of mediation, depending on whether the violation was \$50 per pay
5 period as in the case of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for
6 violation of Labor Code § 1198. This valuation assumed that PAGA civil penalties would be
7 awarded at the maximum rate per pay period but without stacking. The PAGA allocation in the
8 Settlement is the amount of \$25,000. This allocation is justified by several important
9 considerations. First, the PAGA claim was subject to the same risks as the underlying class claims.
10 Second, Defendants asserted additional defenses to the PAGA claim, not only as to liability but also
11 as to the amount of the penalties. Defendants could also argue that no penalties prior to the PAGA
12 notification should be awarded, and I am aware of one Court which has so ruled. These additional
13 defenses present a risk to the PAGA claim and the potential that some or all of the PAGA penalties
14 sought may not be awarded. Third, civil penalties may not be awarded at the maximum rate. In
15 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which
16 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties
17 awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on
18 the PAGA claim. Even if we assume that violations for all 10,752 pay periods were established,
19 using the valuation from *Carrington* results in a more realistic recovery of \$53,760 under PAGA.
20 This means that the \$25,000 PAGA allocation is a reasonable percentage of this potential PAGA
21 recovery. Fourth, the interests of PAGA are also served by the Class recovery under the reasoning
22 of the LWDA in *O'Connor v. Uber*.

23 c. **Similar PAGA Settlements.** In reaching the settlement of the PAGA claim,
24 Class Counsel was also aware of what allocations other Courts have approved for similar PAGA
25 settlements as compared to the total settlement amount. A class settlement that allocates
26 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class
27 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
28 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the

1 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
2 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
3 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
4 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
5 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*
6 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
7 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL
8 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9
9 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13
10 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million
11 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009)
12 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*
13 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement
14 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,
15 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount
16 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*,
17 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000
18 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted
19 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*
20 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000
21 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*
22 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)
23 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*
24 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or
25 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441
26 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
27 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.
28 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of

1 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case
2 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement
3 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.
4 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement
5 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case
6 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement
7 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)
8 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
9 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
10 0.34% of \$1,450,000 settlement amount).

11
12 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
13 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
14 reasonable, and at the time of final approval, my firm will present lodestar to further support the
15 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
16 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
17 of the class action awards obtained by Class Counsel in similar employment actions throughout the
18 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
19 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
20 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
21 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
22 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
23 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
24 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil
25 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
26 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
27 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
28 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange

1 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
2 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
3 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class
4 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
5 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
6 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
7 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
8 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
9 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
10 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
11 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
12 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a
13 one-third fee award in a wage and hour class settlement. On November 17, 2021, in *Leon v. Sierra*
14 *Aluminum Company* (San Bernardino Superior Court Case No. CIVDS2010856) Judge David Cohn
15 awarded a one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's*
16 *Candies Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren
17 Nelson awarded a one-third fee award in a wage and hour class action settlement. On April 12,
18 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge
19 Richard Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May
20 23, 2022, in *Ettedgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District
21 of California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee
22 award in a wage and hour class action settlement. On July 13, 2022, in *Crum v. S&D Carwash*
23 *Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E.
24 Krueger awarded a one-third fee award in a wage and hour class action settlement. On August 10,
25 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-
26 2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a
27 wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*,
28 (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a

1 one-third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity*
2 *Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz
3 awarded a one-third fee award in a wage and hour class action settlement. A fee award equal to
4 one-third of the common fund is therefore reasonable in light of the fees that have been awarded in
5 other similar cases.

6
7 35. Class Representative Service Payment - The reasonableness of the requested service
8 award is also established by reference to the amounts that other California courts have found to be
9 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,
10 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service
11 award); *Aguilar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
12 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
13 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
14 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
15 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
16 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service
17 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.
18 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);
19 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
20 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
21 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
22 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
23 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
24 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
25 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
26 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
27 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
28 2011)(awarding \$10,000 service award together with additional compensation for their general

1 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
2 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
3 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
4 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
5 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
6 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
7 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
8 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
9 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
10 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
11 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
12 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
13 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
14 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
15 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
16 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
17 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
18 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
19 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange
20 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
21 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
22 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
23 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
24 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.
25 1, 2018) (awarding \$10,000 service award).

26
27 36. Settlement Administration - The estimate from ILYM Group was selected, as it was
28 the lowest and provided for a flat fee estimate of \$12,950 to perform the settlement administration

1 for a Class of up to 400, with any difference between the actual expenses and the budget of \$15,000
2 to be retained in the Net Settlement Amount for distribution to the Class. A true and correct copy
3 of the Declaration of Sean Hartranft which includes the administration estimate from ILYM Group
4 is attached hereto as Exhibit #5. I have used ILYM Group successfully as the administrator in more
5 than twenty class settlements in the last few years and know them to be competent and experienced.
6 My firm has no relationship or affiliation with ILYM Group.

7
8 37. Service on the LWDA - At the same time as the filing and service of this declaration,
9 Class Counsel is serving the LWDA with the entire motion for preliminary approval which includes
10 the Class Action Settlement Agreement. This service is verified by the accompanying proof of
11 service.

12
13 I declare under penalty of perjury under the laws of the State of California that the foregoing
14 is true and correct. Executed this 19th day of January, 2023, at La Jolla, California.

15
16 By: /s/ Kyle Nordrehaug
Kyle Nordrehaug

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Salvador Venegas and Sergio Lainez (together, “Plaintiffs”) and Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC (“Defendants”). Plaintiffs and Defendants are collectively referred to herein 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” means: (1) Plaintiff Salvador Venegas’ class-action lawsuit alleging wage and hour violations against Defendants captioned *Salvador Venegas v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21STCV20991 (“Venegas Class Action”) initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles; and, (2) Plaintiffs’ lawsuit seeking penalties pursuant to the Private Attorneys’ general Act, Labor Code §2698 et seq) against Defendants captioned *Salvador Venegas and Sergio Lainez v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21PSCV00643 and *Sergio Lainez v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21PSCV01017 (together, “Consolidated PAGA Action”), which will be combined with the Venegas Class Action in the Operative Complaint.
- 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 are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and

Edwin Aiwarzian, Arby Aiwarzian, and Joanna Ghosh of Lawyers *for* Justice, P.C. (“LFJ”).

- 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 Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendants), and dates of employment for the purposes of calculating the 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 June 4, 2017 through August 5, 2022.
- 1.14. “Class Representative” means Salvador Venegas and Sergio Lainez, the named Plaintiffs 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

Plaintiffs as Class Representatives in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendants' expenses, and for the general release of all claims by the Plaintiffs.

- 1.16. "Court" means the Superior Court of California, County of Los Angeles.
- 1.17. "Defendants" mean WWF Operating Company, LLC, Danone North America Public Benefit Corporation, and Danone US, LLC.
- 1.18. "Defense Counsel" means Robert S. Blumberg, Melanie Rollins, and Devon Mills of Littler Mendelson P.C.
- 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, and no appeal is filed, the day after the deadline for filing a notice of appeal from the Judgment; or (c) 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 and judgment 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 One Million Two-Hundred Fifty Thousand Dollars (\$1,250,000) which is the total amount to be paid by Defendants 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 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendants, 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 Defendants.
- 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 twenty-five percent (25%) of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the Court’s order and 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 seventy-five percent (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 portion of the Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “Operative Complaint” means the consolidated complaint encompassing Plaintiffs’ Class and PAGA claims filed in conjunction with this Agreement and attached as “Exhibit D” hereto.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee was employed by Defendants for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period of time from June 4, 2020 through August 5, 2022.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. “PAGA Notice” means Plaintiff Salvador Venegas’ June 3, 2021 letter to Defendants and the LWDA and Plaintiff Sergio Lainez’s September 29, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties of \$25,000 to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the Aggrieved Employees (\$6,250) and the seventy-five percent (75%) to LWDA

(\$18,750) in settlement of PAGA claims.

- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.37. “Plaintiffs” mean Salvador Venegas and Sergio Lainez, the named plaintiffs in the Actions.
- 1.38. “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.
- 1.39. “Released Class Claims” means all class claims being released as described in Paragraph 6.2 below.
- 1.40. “Released PAGA Claims” means all PAGA claims being released as described in Paragraph 6.3 below.
- 1.41. “Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class portion of the Settlement signed by the Class Member.
- 1.43. “Response Deadline” means forty-five (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 fourteen (14) calendar days beyond the expiration of the Response Deadline.
- 1.44. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.45. “Workweek” means any week during the Class Period in which a Class Member was employed by Defendants as a Class Member for at least one day.

2. RECITALS

- 2.1. On June 4, 2021, Plaintiff Salvador Venegas (“Plaintiff Venegas”) commenced the Venegas Class Action by filing a Complaint against Defendants in the Superior Court of the State of California, County of Los Angeles. Plaintiff Venegas' Class Complaint asserted claims that Defendants:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 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 provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.

2.2. On August 9, 2021, Plaintiff Venegas filed a representative action complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case No. 21PSCV00643 (hereinafter “Venegas PAGA Action”).

2.3. On December 13, 2021, Plaintiff Sergio Lainez (“Plaintiff Lainez”) filed a Representative Action Complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case No. 21PSCV01017 (hereinafter “Lainez PAGA Action”).

2.4. On August 2, 2022, the Lainez PAGA Action was consolidated with the lower numbered Venegas PAGA Action for all purposes.

2.5. On March 9, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, a respected mediator of wage and hour representative and class actions. The Parties were unable to resolve the matter at mediation. Thereafter the parties engaged in extensive discovery, including the production of extensive business records, depositions of Plaintiff Venegas and Defendants’ Persons Most Knowledgeable, and Defendants’ filing of a motion for summary adjudication. Following the mediation, discovery and briefing on these issues, 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.

2.6. In conjunction with this Agreement, the Parties will stipulate to allow Plaintiff Venegas leave to file the Operative Complaint in this Action seeking to consolidate the claims alleged in the complaint in the Venegas Class Action with the claims alleged in Consolidated PAGA Action.

2.7. In conjunction with this Agreement, on November 29, 2022 Plaintiffs filed the

Operative Complaint against Defendants asserting claims that Defendants:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 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 provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.
- (i) Violated PAGA, Cal. Labor Code §§ 2698, et seq.

2.8. Defendants deny the allegations in the Operative Complaint, and all underlying Complaints, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.

2.9. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that 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*").

2.10. 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 Defendants that the claims in the Action of Plaintiffs or the Class have merit or that Defendants bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' 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, Defendants reserve the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

2.11. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending class or PAGA matter or action asserting claims that will be extinguished or affected by the Settlement, other than the single plaintiff matter of *Shane Offenstein v Danone North America et al.* Mr. Offenstein will have the ability to opt out of this matter or have his wage claims released as part of this settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$1,250,000 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 Defendants to the Administrator. 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. 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 Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.
- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$416,666, and a Class Counsel Litigation Expenses Payment of not more than \$53,000. Class Counsel Fees Payment awarded shall be allocated seventy-five percent (75%) to BNBD and twenty-five percent (25%) to LFJ. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (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 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 Litigation 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 Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$15,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$15,000, 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 \$25,000 to be paid from the Gross Settlement Amount, with seventy-five percent (75%) (\$18,750) allocated to the LWDA PAGA Payment and twenty-five percent (25%) (\$6,250) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (\$6,250) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's PAGA 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. twenty-five percent (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. Seventy-five percent (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 Workweeks. Based on its records, Defendants have represented there were approximately 337 Class Members who worked 56,287 workweeks during the Class Period up until March 9, 2022. Defendants, therefore, estimated that the number of workweeks through the Class Period is approximately 61,699.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendants 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. Defendants have 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 Defendants 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. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within fifteen (15) days after Defendants fund 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 (not less than one hundred eighty (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. If a Participating Class Member's or Aggrieved Employee's check is not cashed within one hundred twenty (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 sixty (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 seven (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 a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("*Cy Pres* Recipient"). Upon the selection of a *Cy Pres* Recipient, the Parties, Class Counsel and Defense Counsel shall 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 Defendants 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.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:
 - 6.1. Plaintiffs' Release. Plaintiffs and their 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 and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's

PAGA Notice (“Plaintiffs’ Release”). Plaintiffs’ 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. Plaintiffs acknowledge that Plaintiffs 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 Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

- (a) Plaintiffs’ Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive 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.

- 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 all claims that were alleged, or reasonably could have been alleged based upon the facts alleged, in the Operative Complaint which occurred during the Class Period, including, any and all claims, actions, and causes of action, arising during the Class Period, for: (1) failure to pay wages, including minimum wages, for all time worked pursuant to California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders; (2) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (3) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to properly provide meal period premium payments; (4) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to provide rest period premium payments; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (9) violations of California Business & Professions Code sections 17200, *et seq.* Except as set forth in this Paragraph 6.2 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.

- 6.3. Release of PAGA Claims. All Aggrieved Employees and the State of California and 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 PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint and PAGA Notices sent by Plaintiffs that occurred during the PAGA Period, including PAGA claims for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 246 et. seq. 351, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and IWC Wage Orders 1-2001, 4-2001, and 16-2001. Except as set forth in this Paragraph 6.3 of this Agreement, the Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

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. Defendants' Responsibilities. Within fourteen (14) days of the full execution of this Agreement, Defendants 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, Defendants 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, Defendants shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

7.2. Plaintiffs' Responsibilities. Plaintiffs 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 Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs 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. (1)(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 nt. In their Declarations, Plaintiffs 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 thirty (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 PAGA Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than fourteen (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 seven (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 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline 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 fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class portion of the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional fourteen (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 until the Response Deadline (plus an additional fourteen (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 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 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 the Response Deadline (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 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 seven (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 PAGA 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 PAGA 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 PAGA 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 seven (7) days before the date by which Plaintiffs are 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 ten (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 seven (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 seven (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, Defendants provided figures as to the Class size as set forth in Paragraph 4.1 above. In regard hereto, Defendants are providing a declaration as set forth in Paragraph 7.1 above. Should the number of Workweeks in the Class Period increase by more than ten percent (10%) of the estimate stated herein in Paragraph 4.1 due to inaccurate information or a failure to disclose covered Class Members, Defendants will increase the Gross Settlement Amount by a proportionate additional amount for each additional workweek in excess of ten percent (10%).

10. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that if Defendants withdraw 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, Defendants will remain responsible for paying all Settlement Administration Expenses incurred as of the date Defendants make this election to withdraw. Defendants must notify Class Counsel and the Court of its election to withdraw not later than fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than sixteen (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(1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (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 five (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 Administration 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 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' 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, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendants' 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. Plaintiffs, Class Counsel, Defendants 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. Plaintiffs, Class Counsel, Defendants 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 Plaintiffs and Defendants, 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 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 a mediator and/or the Court for resolution.
- 13.7. No 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. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendants 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 Defendants 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 ninety (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, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendants.
- 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 Plaintiffs 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

Edwin Aiwarzian
Arby Aiwarzian
Joanna Ghosh
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel.: (818) 265-1020
Fax: (818) 265-1021
Email: edwin@calljustice.com
arby@calljustice.com

joanna@calljusticecc.com

To Defendants:

Robert S. Blumberg
Melanie Rollins
Devon Mills
Littler Mendelson P.C.
2049 Century Park East, Fifth Floor
Los Angeles, California 90067.3107
Tel.: (213) 443-4300
Fax: (213) 443-4299
E-mail: rblumberg@littler.com
mrollins@littler.com
dmills@littler.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 the entire period of this settlement process from the mediation on March 9, 2022 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 3, 2023

 (Jan 3, 2023 13:06 PST)

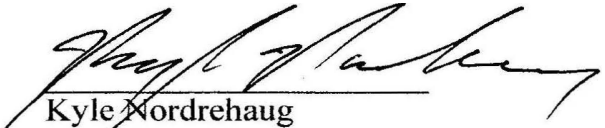
Plaintiff Salvador Venegas

Dated: _____
Plaintiff Sergio Lainez

Dated: _____
_____[name]
For Defendant WWF Operating Company, LLC

Dated: _____
_____[name]
For Defendant Danone North America Public Benefit Corporation

Dated: _____
_____[name]
For Defendant Danone US, LLC

Dated: 1/3/23

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Salvador Venegas

Dated: _____
Edwin Aiwarzian
Lawyers *for* Justice, PC
Attorneys for Plaintiff Sergio Lainez

Dated: _____
Robert S. Blumberg
Littler Mendelson P.C.
Attorney for Defendants WWF Operating Company, LLC, Danone
North America Public Benefit Corporation and Danone US, LLC

Dated: 12/02/2022

Electronically Signed:  2022-12-03 01:37:42 UTC - 47.144.86.147
Nintex AssureSign® 0556450-0b92-429a-a570-a600014b0e1d

Plaintiff Sergio Lainez

Dated: _____

[name]
For Defendant WWF Operating Company, LLC

Dated: _____

[name]
For Defendant Danone North America Public Benefit Corporation

Dated: _____

[name]
For Defendant Danone US, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Salvador Venegas

Dated: 12/05/2022



Edwin Aiwanian
Lawyers for Justice, PC
Attorneys for Plaintiff Sergio Lainez

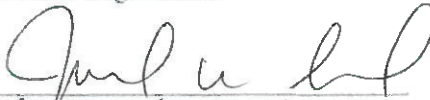
Dated: _____

Robert S. Blumberg
Littler Mendelson P.C.
Attorney for Defendants WWF Operating Company, LLC, Danone
North America Public Benefit Corporation and Danone US, LLC

Dated: _____

Plaintiff Sergio Lainez

Dated: 12/8/22



Joseph Carrard [name]

For Defendant WWF Operating Company, LLC

Dated: 12/7/22



[name]

For Defendant Danone North America Public Benefit Corporation

Dated: 12/6/22



Joseph Boy [name]

For Defendant Danone US, LLC

Dated: _____

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiff Salvador Venegas

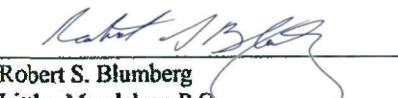
Dated: _____

Edwin Aiwarzian

Lawyers for Justice, PC

Attorneys for Plaintiff Sergio Lainez

Dated: 12/09/22



Robert S. Blumberg

Little Mendelson P.C.

Attorney for Defendants WWF Operating Company, LLC, Danone

North America Public Benefit Corporation and Danone US, LLC

EXHIBIT A

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

EXHIBIT “A”

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

***Venegas v. WWF Operating Company, LLC, Superior Court of the State of California,
County of Los Angeles, Case No. 21STCV20991***

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

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC (“Defendants”) for alleged wage and hour violations. The Action was filed by Plaintiffs Salvador Venegas and Sergio Lainez (“Plaintiffs”) and seeks payment of (1) wages and other relief Class of all individuals who are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the Class Period (June 4, 2017 through August 5, 2022) (“Class Members”), and (2) penalties under the California Private Attorney General Act (“PAGA”) for all individuals who are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the PAGA Period (June 4, 2020 through August 5, 2022) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payment payments to Class Members, and (2) a PAGA Settlement requiring Defendants to fund the PAGA Penalties to pay penalties to the California Labor and Workforce Development Agency (“LWDA”) and to Aggrieved Employees.

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$_____>> (less withholding) and your share of the PAGA Penalties is estimated to <<be \$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your share of the PAGA Penalties, then according to Defendants’ records you are not eligible for share of the PAGA Penalties under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendants’ records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay periods** during the PAGA Period. If you believe that you worked more workweeks and/or pay

periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or a share of the PAGA Penalties. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendants as described below in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment, however you will preserve your right to personally pursue Class Period wage claims against Defendants. If you are an Aggrieved Employee, you remain eligible for a share of the PAGA Penalties. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Class Claims). Additional information is set forth below.
You Can Opt-out of the Class Settlement but not the PAGA	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. If you request exclusion, you will receive no money from the Class Settlement and you will not be

Settlement The Response Deadline is _____.	bound by the Class Settlement. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by the Response Deadline (_____)	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 8 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 17 before Judge Maren Nelson. This hearing may change as explained below in Section 9. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice
You Can Challenge the Calculation of Your Workweeks / Pay Periods Witten Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment and your share of the PAGA Penalties (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number Class Period workweeks and number of PAGA Period pay periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Los Angeles (the “Court”), has been reached between Plaintiffs and Defendants and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

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

All individuals who are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the Class Period.

The “Class Period” is June 4, 2017 through August 5, 2022.

2. What is this class action lawsuit about?

On June 4, 2021, Plaintiff Salvador Venegas filed a class action complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, Case No. 20STCV39415 (hereinafter “Venegas Class Action”). Plaintiff Venegas asserted the following class claims against Defendants: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods and unpaid premiums, failure to provide required rest periods and unpaid premiums, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, and failure to provide wages when due.

August 9, 2021, Plaintiff Venegas filed a representative action complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of the Private Attorneys General Act (Labor Code §§ 2698. et seq.) (“PAGA”) Case No. 21PSCV00643 (hereinafter “Venegas PAGA Action”). On December 13, 2021, Plaintiff Sergio Lainez (“Plaintiff Lainez”) filed a Representative Action Complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case No. 21PSCV01017 (hereinafter “Lainez PAGA Action”). On August 2, 2022, the Lainez PAGA Action was consolidated with the lower numbered Venegas PAGA Action for all purposes.

These three lawsuits are referred to in this Class Notice as the “Action.” On November 29, 2022, as part of this Settlement, Plaintiffs filed the First Amended Consolidated Class and Representative Action Complaint in the Venegas Class Action to and consolidate the claims from the Lainez PAGA Action and the Venegas PAGA Action into the Venegas Class Action.

Defendants deny that they have done anything wrong and dispute all the claims in the Action. Specifically, Defendants contend that Plaintiffs and the Class Members were, at all times,

properly compensated for wages under California law; that Plaintiffs and the Class Members were provided with meal and rest periods in compliance with California law; that Defendants did not fail to pay to Plaintiffs or any Class Members any wages allegedly due at the time of their termination; the Defendants did not fail to reimburse Class Members for required expenses; that Defendants complied with California wage statement requirements; that Defendants did not violate California Business and Professions Code section 17200 *et seq.*; that Defendants are not liable for any of the penalties sought or that could be sought in the Action; and that this Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiffs to serve as the Class Representatives, and the law firms Blumenthal Nordrehaug Bhowmik De Blouw LLP and Lawyers for Justice, P.C. to serve as Class Counsel.

The Court has not ruled on the merits of Plaintiffs' claims. However, to avoid additional expense, inconvenience, and interference with the business operations of Defendants, the Parties concluded that it is in their best interests and the interests of the Class to settle the Action now on the terms summarized in this Class Notice. The Settlement was reached after mediation and arm's-length negotiations between the Parties. The Plaintiffs and Class Counsel think the settlement is in the best interest of all Class Members.

Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendants, which expressly deny all liability.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million Two-Hundred Fifty Thousand Dollars (\$1,250,000) (the “Gross Settlement Amount”) to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments to Class Members, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendants. Within thirty (30) days of the Judgment becoming Final, Defendants will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. “Final” means the date the Judgment is entered, unless there are objections in which case “Final” means when the Judgment is no longer subject to appeal. Fifteen (15) days after the Settlement is funded, the Settlement Administrator will mail checks for the Individual Class Payments to Participating Class Members

Court Approved Deductions from Gross Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of Individual Class Payments are made to Class Members who do not request exclusion (“Participating Class Members”). At the Final Approval Hearing, Plaintiffs and/or Class

Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- Administration Expenses Payment. Payment to the Settlement Administrator, estimated not to exceed \$15,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$416,666, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$53,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. Class Counsel Fees Payment awarded shall be allocated seventy-five percent (75%) to Blumenthal Nordrehaug Bhowmik De Blouw LLP and twenty-five percent (25%) to Lawyers *for* Justice, P.C. 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 Payments. A Class Representative Service Payment in an amount not more than \$10,000 to each of the two named Plaintiffs as service awards, which is a combined total of \$20,000 for Class Representative Service Payments, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. The amounts stated are what Plaintiffs will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$25,000 relating to Plaintiffs' claim under PAGA, \$18,750 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$6,250 will be distributed to the Aggrieved Employees as Individual PAGA Payments. The Settlement Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (\$6,250) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any pay period during which an Aggrieved Employee was employed by Defendants for at least one day during the PAGA Period, which is June 4, 2020 through August 5, 2022.

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

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Penalties, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the

remaining portion, the “Net Settlement Amount”, shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$_____. The Settlement Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will 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. “Workweek” means any week during the Class Period in which a Class Member was employed by Defendants as a Class Member for at least one day. The number of Workweeks will be based on Defendants’ records, however, Class Members may challenge the number of Workweeks as explained below.

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 Settlement 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 alleged statutory damages, expense reimbursement, non-taxable penalties, and interest 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 Defendants’ 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, and 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 and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

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

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks to a Court-approved

nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) (“Cy Pres Recipient”).

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full finding of the Gross Settlement Amount by Defendants, 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 all claims that were alleged, or reasonably could have been alleged based upon the facts alleged, in the Operative Complaint which occurred during the Class Period, including, any and all claims, actions, and causes of action, arising during the Class Period, for: (1) failure to pay wages, including minimum wages, for all time worked pursuant to California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders; (2) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (3) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to properly provide meal period premium payments; (4) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to provide rest period premium payments; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (9) violations of California Business & Professions Code sections 17200, *et seq.* Except as set forth in this paragraph, 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.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants and any other Released Party about the Released Class Claims resolved by this Settlement. It also means that all of the Court’s orders in the Actions will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount by Defendants, Aggrieved Employees and the State of California and 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 PAGA claims pled or could have been pled based on the factual allegations contained in the Operative Complaint and PAGA Notices sent by Plaintiffs that occurred during the PAGA Period, including PAGA claims for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 246 *et. seq.* 351, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to

Provide Seating), and IWC Wage Orders 1-2001, 4-2001, and 16-2001. Except as set forth in this paragraph, the Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendants and each of their 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 worked <<____>> Workweeks during the Class Period (June 4, 2017 through August 5, 2022).

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

[Defendants' records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (June 4, 2020 through August 5, 2022). Based on this information your estimated Individual PAGA Payment is <<____>>.]

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than the Response Deadline, which is _____ [forty-five (45) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Settlement Administrator.

6. How can I get 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 Settlement Administrator. The Settlement Administrator is: ILYM Group _____ (800) _____.

The Court will hold a Final Approval Hearing on _____ at _____ to decide whether to approve the Settlement and fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or “opt out.” **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendants for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless whether they submit a request for exclusion. **The PAGA Penalties is \$25,000, of which \$6,250 will be distributed to the Aggrieved Employees to be allocated based on their respective PAGA Pay Periods. Your share of the PAGA Penalties, if any, is set forth in Section 5 above.**

To opt out, you must submit to the Settlement Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Venegas v. WWF Operating Company* lawsuit. The request to opt-out should state the Class Member’s full name, address and email address or telephone number. Please include the name and number of the case, which is *Venegas v. WWF Operating Company, Inc.*, Case No. 21STCV20991. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendants are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys’ fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel’s website at www.bamlawca.com under “Class Notices” for *Venegas v. WWF Operating Company* or on the Court’s website (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 21STCV20991

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by

Class Counsel or Plaintiffs are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [forty-five (45) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Venegas v. WWF Operating Company*, Case No. 21STCV20991, and include your name, current address, email or telephone number, and approximate dates of employment for Defendants and sign the objection. The Settlement Administrator's contact information is as follows:

Settlement Administrator:

Name of Company: _____
Email Address: _____
Mailing Address: _____
Telephone Number: _____
Fax Number: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. If you do wish to appear at the hearing, a face mask must be worn over the nose and mouth at all times in all public courthouse spaces. You also have the option to appear at the hearing by audio or video. Instructions on how to do so are available on the Court's website at <https://www.lacourt.org/lacc/>. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

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

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410 West Arden Avenue, Suite 203
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COUNSEL FOR DEFENDANT:

Robert S. Blumberg
Melanie Rollins
Devon Mills
Littler Mendelson P.C.
2049 Century Park East, Fifth Floor
Los Angeles, California 90067.3107

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 17 of the Superior Court of California, County of Los Angeles, Spring Street Courthouse, 312 North Spring Street, Los Angeles, California 90012, before Judge Maren Nelson. 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 payments to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing in remotely using the Court Connect procedure at <https://www.lacourt.org/lacc/>. You may also appear in person, however, please note that a face mask must be worn over the nose and mouth at all times in all public courthouse spaces. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Venegas v. WWF Operating Company*. In addition, hearing dates are posted on the Internet via the Case Access page for the Los Angeles County Superior Court (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 21STCV20991.

10. How Can I Get More Information?

You may call the Settlement Administrator at _____ or write to *Venegas v. WWF Operating Company* Settlement Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Venegas v. WWF Operating Company*. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of Los Angeles (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering

the Case No. 21STCV20991. If you wish to view the Court files in person, you must make an appointment with the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail To Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such event, the Settlement Administrator shall direct all unclaimed funds to be paid to the *Cy Pres* Recipient.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO LAINEZ, on behalf of themselves and on behalf of all persons similarly situated, and on behalf of the State of California, as private attorney generals,

Plaintiff,

vs.

WWF OPERATING COMPANY, LLC, a Limited Liability Company; DANONE NORTH AMERICA PUBLIC BENEFIT CORPORATION, a Corporation; DANONE US, LLC, a Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **21STCV20991**
[Consolidated with Case No. 21PSCV00643 and Case No. 21PSCV01017]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Maren Nelson
Dept.: 17

Action Filed: June 4, 2021
Trial Date: Not yet set

This matter came before the Honorable Maren Nelson of the Superior Court of the State of California, in and for the County Los Angeles, on _____[DATE], for hearing on the unopposed motion by Plaintiffs Salvador Venegas and Plaintiff Sergio Lainez (collectively,

PRELIMINARY APPROVAL ORDER

1 “Plaintiffs”) for preliminary approval of the Settlement with Defendants WWF Operating
2 Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC
3 (“Defendants”). The Court, having considered the briefs, argument of counsel and all matters
4 presented to the Court and good cause appearing, hereby GRANTS Plaintiffs’ Motion for
5 Preliminary Approval of Class Action Settlement.

6
7 **IT IS HEREBY ORDERED:**

8 1. The Court preliminarily approves the Class Action and PAGA Settlement
9 Agreement (“Agreement” or “Settlement”) attached as Exhibit ____ to the Declaration of Kyle
10 Nordrehaug in Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.
11 This is based on the Court’s determination that the Settlement set forth in the Agreement is within
12 the range of possible final approval, pursuant to the provisions of Section 382 of the California
13 Code of Civil 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 that Defendants shall pay is One Million Two-
17 Hundred Fifty Thousand Dollars (\$1,250,000). It appears to the Court on a preliminary basis that
18 the settlement amount and terms are fair, adequate and reasonable as to all potential Class
19 Members when balanced against the probable outcome of further litigation and the significant
20 risks relating to certification, liability and damages issues. It further appears that investigation and
21 research have been conducted such that counsel for the Parties are able to reasonably evaluate
22 their respective positions. It further appears to the Court that the Settlement will avoid substantial
23 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
24 further prosecution of the Action. It further appears that the Settlement has been reached as the
25 result of serious and non-collusive, arms-length negotiations.

26 4. The Court preliminarily finds that the Settlement appears to be within the range of
27 reasonableness of a settlement that could ultimately be given final approval by this Court. The
28

1 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
2 preliminarily finds that the monetary settlement awards made available to the Class is fair,
3 adequate, and reasonable when balanced against the probable outcome of further litigation and the
4 significant risks relating to certification, liability, and damages issues.

5 5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
6 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$53,000, and a
7 proposed Class Representative Service Payment to the two Plaintiffs in an amount not to exceed
8 \$10,000 each, which is \$20,000 in total for the two named Plaintiffs. The Court will not approve
9 the amount of attorneys' fees and costs, nor the amount of any service award, until the Final
10 Approval Hearing. Plaintiffs will be required to present evidence supporting these requests,
11 including lodestar, prior to final approval.

12 6. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
13 representative treatment and certification of a class for settlement purposes only. This stipulation
14 will not be deemed admissible in this or any other proceeding should this Settlement not become
15 final. For settlement purposes only, the Court conditionally certifies the following Class: "all
16 individuals who are or previously were employed by Defendants WWF Operating Company,
17 LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who
18 were classified as hourly, non-exempt employees at any time during the Class Period." The Class
19 Period is from June 4, 2017 through August 5, 2022.

20 7. The Court concludes that, for settlement purposes only, the Class meets the
21 requirements for certification under section 382 of the California Code of Civil Procedure in that:
22 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
23 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
24 community of interest amongst the members of the Class with respect to the subject matter of the
25 litigation; (c) the claims of the Plaintiffs are typical of the claims of the members of the Class; (d)
26 the Plaintiffs will fairly and adequately protect the interests of the members of the Class; (e) a
27 class action is superior to other available methods for the efficient adjudication of this controversy;

1 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are
2 adequate representatives of the Class.

3 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik
5 of Blumenthal Nordrehaug Bhowmik De Blouw LLP and Edwin Aiwarzian, Arby Aiwarzian, and
6 Joanna Ghosh of Lawyers *for* Justice, P.C. as Class Counsel for the Class.

7 9. The Agreement provides for a PAGA Penalties out of the Gross Settlement
8 Amount of \$25,000, which shall be allocated \$18,750 to the Labor & Workforce Development
9 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
10 Agreement pursuant to the PAGA and \$6,250. “Aggrieved Employees” are all individuals who
11 are or previously were employed by Defendants WWF Operating Company, LLC, Danone North
12 America Public Benefit Corporation and Danone US, LLC in California who were classified as
13 hourly, non-exempt employees at any time during the PAGA Period. The PAGA Period is from
14 June 4, 2020 through August 5, 2022. Pursuant to Labor Code section 2699, subdivision (l)(2),
15 the LWDA will be provided notice of the Agreement and these settlement terms. The Court finds
16 the PAGA Penalties to be reasonable.

17 10. The Court hereby approves, as to form and content, the Class Notice attached to the
18 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately
19 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right
20 to be excluded from the Class by submitting a written opt-out request, and of each member’s right
21 and opportunity to object to the Settlement. The Court further finds that the distribution of the
22 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets
23 the requirements of due process, is the best notice practicable under the circumstances, and shall
24 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of
25 the Class Notice by first class mail, both in English and Spanish, pursuant to the terms set forth in
26 the Agreement. If a Class Notice Packet is returned because of an incorrect address, the
27 Administrator will promptly search for a more current address for the Class Member and re-mail
28

1 the Class Notice Packet to any new address for the Class Member no later than seven (7) business
2 days after the receipt of the undelivered Class Notice. The Administrator will also email a copy of
3 the re-mailed Class Notice to the Class Member if there is an available email address in the Class
4 Data.

5 11. The Court hereby appoints ILYM Group as the Administrator. No later than
6 fourteen (14) days after this Order, Defendants will provide to the Administrator an electronic
7 database containing the Class Data. The Administrator will perform address updates and
8 verifications as necessary prior to the first mailing. Using best efforts to mail it as soon as
9 possible, and in no event later than fourteen (14) days after receiving the Class Data, the
10 Administrator will mail the Class Notice Packet to all Class Members via first-class regular U.S.
11 Mail to their last known address.

12 12. The Court hereby preliminarily approves the proposed procedure for exclusion
13 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
14 from the Class as provided in the Class Notice by following the instructions for requesting
15 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
16 postmarked or received no later than forty-five (45) calendar days after the date of the mailing of
17 the Class Notice ("Response Deadline"). If a Class Notice Packet is re-mailed, the Response
18 Deadline for requests for exclusion will be extended an additional fourteen (14) days. An Request
19 for Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
20 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
21 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
22 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
23 shall be bound by all determinations of the Court, the Agreement and the Judgment. A request for
24 exclusion may only opt out that particular individual, and any attempt to effect an opt-out of a
25 group, class, or subclass of individuals is not permitted and will be deemed invalid.

26 13. Any Class Member who has not opted out may appear at the final approval hearing
27 and may object or express the Member's views regarding the Settlement, and may present
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1 evidence and file briefs or other papers that may be proper and relevant to the issues to be heard
2 and determined by the Court as provided in the Notice. Class Members will have until the
3 Response Deadline to submit their written objections to the Administrator. Written objections
4 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class
5 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an
6 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval
7 Hearing to make an oral objection.

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

21 15. Neither the Settlement nor any exhibit, document, or instrument delivered
22 thereunder shall be construed as a concession or admission by Defendants in any way that the
23 claims asserted have any merit or that this Action was properly brought as a class or representative
24 action, and shall not be used as evidence of, or used against Defendants as, an admission or
25 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
26 omission by Defendants or with respect to the truth of any allegation asserted by any person.
27 Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit,
28

1 document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
2 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or
3 deemed to be evidence for any purpose adverse to the Defendants, including, but not limited to,
4 evidence of a presumption, concession, indication or admission by Defendants of any liability,
5 fault, wrongdoing, omission, concession or damage.

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

16 17. The Court reserves the right to adjourn or continue the date of the final approval
17 hearing and all dates provided for in the Agreement without further notice to Class Members, and
18 retains jurisdiction to consider all further applications arising out of or connected with the
19 proposed Settlement.

20 **IT IS SO ORDERED.**

21 Dated: _____

22 _____
23 HON. MAREN NELSON
24 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
25
26
27
28

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO
LAINEZ, on behalf of themselves and on
behalf of all persons similarly situated,
and on behalf of the State of California, as
private attorney generals,

Plaintiff,

vs.

WWF OPERATING COMPANY, LLC, a
Limited Liability Company; DANONE
NORTH AMERICA PUBLIC BENEFIT
CORPORATION, a Corporation; DANONE
US, LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **21STCV20991**
[Consolidated with Case No. 21PSCV00643
and Case No. 21PSCV01017]

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

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Maren Nelson
Dept.: 17

Action Filed: June 4, 2021
Trial date: None Set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs Salvador Venegas and Plaintiff Sergio Lainez
2 (collectively “Plaintiffs”) for an order finally approving the Class Action Settlement Agreement
3 (“Agreement” or “Settlement”) with Defendants WWF Operating Company, LLC, Danone North
4 America Public Benefit Corporation and Danone US, LLC (“Defendants”), attorneys’ fees and
5 costs, service payment, and the expenses of the Administrator duly came on for hearing on
6 _____ before the Honorable Maren Nelson.

7
8 **I.**
9 **FINDINGS**

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

- 12 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 13 2. This Court has jurisdiction over the subject matter of this litigation pending before
14 the Superior Court for the State of California, in and for the County of Los Angeles, and over all
15 Parties to this litigation, including the Class.
- 16 3. Based on a review of the papers submitted by Plaintiffs and a review of the
17 applicable law, the Court finds that the Gross Settlement Amount of One Million Two-Hundred
18 Fifty Thousand Dollars (\$1,250,000) and the terms set forth in the Agreement are fair, reasonable,
19 and adequate.
- 20 4. The Court further finds that the Settlement was the result of arm’s length
21 negotiations conducted after Class Counsel had adequately investigated the claims and became
22 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
23 Settlement, and the assistance of an experienced mediator in the settlement process, among other
24 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

25 **Preliminary Approval of the Settlement**

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

1 only.

2 **Notice to the Class**

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

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

23 **Fairness of the Settlement**

24 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
25 48 Cal.App.4th 1794, 1801 (1996).

26 a. The settlement was reached through arm's-length bargaining between the
27
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1 Parties during an all-day mediation before Tripper Ortman, an experienced mediator of wage and
2 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

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

5 c. Counsel for all Parties are experienced in similar employment class action
6 litigation. Plaintiffs' 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 payment, 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 claims
13 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
14 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 of the
20 Gross Settlement Amount, and \$_____ for litigation costs and expenses, is reasonable,
21 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and
22 the results achieved by Class Counsel. The requested award has been supported by Class
23 Counsel's lodestar and billing statement.

24 **Class Representative Service Payments**

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

4 **Settlement Administration Expenses**

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

11 **PAGA Penalties**

12 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement
13 Amount of \$25,000, which shall be allocated \$18,750 to the Labor & Workforce Development
14 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this
15 Agreement pursuant to the PAGA and \$6,250 to be distributed to the Aggrieved Employees and
16 allocated by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%)
17 share of PAGA Penalties (\$6,250) by the total number of PAGA Pay Periods worked by all
18 Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's PAGA Pay
19 Periods. "Aggrieved Employees" are all individuals who are or previously were employed by
20 Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation
21 and Danone US, LLC in California who were classified as hourly, non-exempt employees at any
22 time during the PAGA Period. The PAGA Period is from June 4, 2020 through August 5, 2022.
23 Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA was provided notice of the
24 Agreement and these settlement terms and has not indicated any objection thereto. The Court
25 finds the PAGA Penalties to be reasonable.

1 II.

2 ORDERS

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

4 1. The Class is certified for the purposes of settlement only. The Class is hereby
5 defined as follows:

6 All individuals who are or previously were employed by Defendants WWF
7 Operating Company, LLC, Danone North America Public Benefit Corporation and
8 Danone US, LLC in California who were classified as hourly, non-exempt
employees at any time during the Class Period.

9 The "Class Period" is June 4, 2017 through August 5, 2022.

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

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

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

18 5. The payment of Class Representative Service Payments in the amount of \$_____
19 to each of the Plaintiffs is approved.

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

22 7. The PAGA Penalties of \$25,000 is approved to be distributed in accordance with
23 the Agreement.

24 8. Pursuant to Labor Code section 2699, subdivision (l)(2), Class Counsel shall
25 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
26 entry.

27 9. Neither the Agreement nor this Settlement is an admission by Defendants, nor is
28

1 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of
2 any wrongdoing by Defendants or that this Action is appropriate for class or representative
3 treatment (other than for settlement purposes). Neither this Final Approval Order and Judgment,
4 the Agreement, nor any document referred to herein, nor any action taken to carry out the
5 Agreement is, may be construed as, or may be used as an admission by or against Defendants of
6 any fault, wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement,
7 and any negotiations or proceedings related thereto, shall not in any event be construed as, or
8 deemed to be evidence of, an admission or concession with regard to the denials or defenses by
9 Defendants. Notwithstanding these restrictions, Defendants may file in the Action or in any other
10 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
11 records on file in the Action as evidence of the Settlement to support a defense of *res judicata*,
12 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
13 Released Class Claims and/or Released PAGA Claims.

14 10. Notice of entry of this Final Approval Order and Judgment shall be given to all
15 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
16 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
17 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
18 to individual Class Members.

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

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

27 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
28

1 Plaintiffs, and all members of the Class, shall take nothing in the Action.

2 2. The Court shall retain jurisdiction to construe, interpret, implement and enforce the
3 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
4 supervise and adjudicate any dispute arising from or in connection with the distribution of
5 settlement benefits.

6 3. All Parties shall bear their own attorneys' fees and costs, except as otherwise
7 provided in the Agreement and in this Final Approval Order and Judgment.

8 4. Effective on the date when Defendants fully fund the entire Gross Settlement
9 Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class
10 Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will
11 release claims against all Released Parties as follows:

12 (a) All Participating Class Members, on behalf of themselves and their
13 respective former and present representatives, agents, attorneys, heirs, administrators, successors,
14 and assigns, release Released Parties from all claims that were alleged, or reasonably could have
15 been alleged based upon the facts alleged, in the Operative Complaint which occurred during the
16 Class Period, including, any and all claims, actions, and causes of action, arising during the Class
17 Period, for: (1) failure to pay wages, including minimum wages, for all time worked pursuant to
18 California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders; (2) failure to
19 pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC
20 Wage Orders; (3) failure to provide meal periods pursuant to California Labor Code sections 226.7
21 and 512 and the IWC Wage Orders, or to properly provide meal period premium payments; (4)
22 failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the
23 IWC Wage Orders, or to provide rest period premium payments; (5) failure to pay all wages owed
24 at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6)
25 failure to pay all wages in a timely manner during employment pursuant to California Labor Code
26 section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements
27 pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to
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1 reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and
2 2802 and the IWC Wage Orders; and (9) violations of California Business & Professions Code
3 sections 17200, *et seq.* Except as set forth in this paragraph, Participating Class Members do not
4 release any other claims, including claims for vested benefits, wrongful termination, violation of
5 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
6 workers' compensation, or claims based on facts occurring outside the Class Period.

7 (b) All Aggrieved Employees and the State of California and LWDA are
8 deemed to release, on behalf of themselves and their respective former and present representatives,
9 agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all
10 PAGA claims pled or could have been pled based on the factual allegations contained in the
11 Operative Complaint and PAGA Notices sent by Plaintiffs that occurred during the PAGA Period,
12 including PAGA claims for violations of California Labor Code sections 201, 202, 203, 204,
13 226(a), 226.7, 227.3, 246 *et. seq.* 351, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1,
14 1198, 2800 and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-
15 (B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and
16 IWC Wage Orders 1-2001, 4-2001, and 16-2001. Except as set forth in this paragraph, the
17 Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims,
18 claims for wrongful termination, discrimination, unemployment insurance, disability and worker's
19 compensation, and claims outside of the PAGA Period.

20 (c) Plaintiffs and their respective former and present spouses, representatives,
21 agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge
22 Released Parties from all claims, transactions, or occurrences that occurred during the Class
23 Period, including, but not limited to: (a) all claims that were, or reasonably could have been,
24 alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that
25 were, or reasonably could have been, alleged based on facts contained in the Operative Complaint,
26 Plaintiff's PAGA Notice ("Plaintiffs' Release").

1 Plaintiffs’ Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs’
2 Release, Plaintiffs expressly waive and relinquishes the provisions, rights, and benefits, if
3 any, of section 1542 of the California Civil Code, which reads:

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

8 5. For any Class Member whose Individual Class Payment check or Individual PAGA
9 Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the
10 funds represented by such checks to a Court-approved nonprofit organization or foundation
11 consistent with Code of Civil Procedure Section 384(b) (“*Cy Pres* Recipient”). The *Cy Pres*
12 Recipient is _____.

13 6. The Court hereby enters judgment in the entire Action as of the filing date of this
14 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the
15 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction
16 over the interpretation, implementation, and enforcement of the Settlement and all orders entered
17 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

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

19 Dated: _____

20 _____
21 HON. MAREN NELSON
22 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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EXHIBIT D

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

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Attorneys for Plaintiffs

[Additional Counsel Listed on Following Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO LAINEZ, on behalf of themselves and on behalf of all persons similarly situated, and on behalf of the State of California, as private attorney generals,

Plaintiffs,

vs.

WWF OPERATING COMPANY, LLC, a Limited Liability Company; DANONE NORTH AMERICA PUBLIC BENEFIT CORPORATION, a Corporation; DANONE US, LLC, a Limited Liability Company; and DOES 1 through 50, inclusive,

Defendants.

Lead Case No.: 21STCV20991

[Related Case: 21PSCV00643]

FIRST AMENDED CONSOLIDATED CLASS AND REPRESENTATIVE ACTION COMPLAINT:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226;
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802;
8. FAILURE TO PROVIDE WAGES WHEN DUE IN VIOLATION OF CAL. LAB. CODE §§ 201, 202 AND 203; and,
9. VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT [LABOR CODE §§ 2698, *et seq.*]

DEMAND FOR A JURY TRIAL

1 Edwin Aiwazian (SBN 232943)
2 Arby Aiwazian (SBN 269827)
3 Elizabeth Parker-Fawley (SBN 301592)
4 Arman Marukyan (SBN 327150)
5 **LAWYERS for JUSTICE, PC**
6 410 West Arden Avenue, Suite 203
7 Glendale, California 91203w
8 Tel: (818) 265-1020
9 Fax: (818) 265-1021

10 *Attorneys for Plaintiffs*

1 Plaintiffs Salvador Venegas and Sergio Lainez (“PLAINTIFFS”) individuals, on behalf
2 of themselves and all other similarly situated current and former employees allege on
3 information and belief, except for their own acts and knowledge which are based on personal
4 knowledge, the following:

5
6 **THE PARTIES**

7 1. Defendant WWF Operating Company, LLC is a limited liability company that at all
8 relevant times mentioned herein conducted and continues to conduct substantial business in the
9 state of California.

10 2. Defendant Danone North America Public Benefit Corporation is a corporation that
11 at all relevant times mentioned herein conducted and continues to conduct substantial business
12 in the state of California.

13 3. Defendant Danone US, LLC is a limited liability company that at all relevant times
14 mentioned herein conducted and continues to conduct substantial business in the state of
15 California.

16 4. Defendants WWF Operating Company, LLC, Danone North America Public
17 Benefit Corporation and Danone US, LLC were the joint employers of PLAINTIFFS as
18 evidenced by paycheck and by the company PLAINTIFFS performed work for respectively, and
19 are therefore jointly responsible as employers for the conduct alleged herein, and are therefore
20 collectively referred to herein as "DEFENDANT."

21 5. Plaintiff Venegas was employed by DEFENDANT from April of 2016 to
22 December of 2020 and was at all times classified by DEFENDANT as a non-exempt employee,
23 paid on an hourly basis, and entitled to the legally required meal and rest periods and payment
24 of minimum and overtime wages due for all time worked.

25 6. Plaintiff Lainez was employed by DEFENDANT from September 2001 to
26 February 2022 and was at all times classified by DEFENDANT as a non-exempt employee, paid
27 on an hourly basis, and entitled to the legally required meal and rest periods and payment of
28 minimum and overtime wages due for all time worked.

1 7. PLAINTIFFS bring this Class Action on behalf of themselves and a California
2 class, defined as all individuals who are or previously were employed by Defendants WWF
3 Operating Company, LLC; Danone North America Public Benefit Corporation; and, Danone
4 US, LLC in California who were classified as hourly, non-exempt employees (the
5 “CALIFORNIA CLASS”) during the period June 4, 2017 to August 5, 2022 (the
6 “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim of
7 CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

8 8. PLAINTIFFS bring this Class Action on behalf of themselves and a
9 CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses
10 incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT’s policy and
11 practice which failed to lawfully compensate these employees. DEFENDANT’s policy and
12 practice alleged herein is an unlawful, unfair and deceptive business practice whereby
13 DEFENDANT retained and continues to retain wages due PLAINTIFFS and the other members
14 of the CALIFORNIA CLASS. PLAINTIFFS and the other members of the CALIFORNIA
15 CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the
16 named PLAINTIFFS and the other members of the CALIFORNIA CLASS who have been
17 economically injured by DEFENDANT’s past and current unlawful conduct, and all other
18 appropriate legal and equitable relief.

19 9. The true names and capacities, whether individual, corporate, subsidiary,
20 partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently
21 unknown to PLAINTIFFS who therefore sue these Defendants by such fictitious names
22 pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFFS will seek leave to amend this Complaint
23 to allege the true names and capacities of Does 1 through 50, inclusive, when they are
24 ascertained. PLAINTIFFS are informed and believe, and based upon that information and
25 belief allege, that the Defendants named in this Complaint, including DOES 1 through 50,
26 inclusive, are responsible in some manner for one or more of the events and happenings that
27 proximately caused the injuries and damages hereinafter alleged.

28 10. The agents, servants and/or employees of the Defendants and each of them acting

1 on behalf of the Defendants acted within the course and scope of his, her or its authority as the
2 agent, servant and/or employee of the Defendants, and personally participated in the conduct
3 alleged herein on behalf of the Defendants with respect to the conduct alleged herein.
4 Consequently, the acts of each Defendant are legally attributable to the other Defendants and
5 all Defendants are jointly and severally liable to PLAINTIFFS and the other members of the
6 CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the
7 Defendants' agents, servants and/or employees.

8 9 THE CONDUCT

10 11. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT is
11 required to pay PLAINTIFFS and CALIFORNIA CLASS Members for all their time worked,
12 meaning the time during which an employee is subject to the control of an employer, including
13 all the time the employee is suffered or permitted to work. DEFENDANT required
14 PLAINTIFFS and CALIFORNIA CLASS Members to work from time to time while they were
15 clocked out for what was supposed to be their off duty meal break. DEFENDANT required
16 PLAINTIFFS and the CALIFORNIA CLASS Members to work off the clock without paying
17 them for all the time they performed duties while on their meal break, specifically by failing to
18 provide enough labor hours to accomplish all the job tasks that DEFENDANT expected
19 PLAINTIFFS and CALIFORNIA CLASS Members to complete on a daily and/or weekly basis.
20 Additionally, DEFENDANT engaged in the practice of requiring PLAINTIFFS and
21 CALIFORNIA CLASS Members to perform work off the clocking that DEFENDANT, as a
22 condition of employment, required these employees to wait in line and submit to mandatory
23 temperature checks for COVID-19 screening prior to clocking into DEFENDANT's
24 timekeeping system for the workday. Further, PLAINTIFFS and other members of the
25 CALIFORNIA CLASS from time to time were not paid wages for all time worked, including
26 overtime wages, such that in the aggregate employees were underpaid wages as a result of
27 DEFENDANT's pattern and practice of unevenly rounding time worked by its employees. As
28 a result, PLAINTIFFS and other CALIFORNIA CLASS Members forfeited minimum wage and

1 overtime compensation by from time to time working without their time being accurately
2 recorded and without compensation at the applicable minimum wage and overtime rates.
3 DEFENDANT's policy and practice not to pay PLAINTIFFS and other CALIFORNIA CLASS
4 Members for all time worked is evidenced by DEFENDANT's business records.

5 12. As a result of their rigorous work schedules, PLAINTIFFS and other
6 CALIFORNIA CLASS Members were also from time to time unable to take off duty meal
7 breaks and were not fully relieved of duty for meal periods. PLAINTIFFS and other
8 CALIFORNIA CLASS Members were from time to time required to perform work as ordered
9 by DEFENDANT for more than five (5) hours during a shift without receiving an off-duty meal
10 break. Further, DEFENDANT failed to provide PLAINTIFFS and CALIFORNIA CLASS
11 Members with a second off-duty meal period from time to time in which these employees were
12 required by DEFENDANT to work ten (10) hours of work from time to time. PLAINTIFFS and
13 the other CALIFORNIA CLASS Members therefore forfeited meal breaks without additional
14 compensation and in accordance with DEFENDANT's corporate policy and practice.

15 13. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and other
16 CALIFORNIA CLASS Members were also required from time to time to work in excess of four
17 (4) hours without being provided ten (10) minute rest periods. Further, these employees were
18 denied their first rest periods of at least ten (10) minutes for some shifts worked of at least two
19 (2) to four (4) hours from time to time, a first and second rest period of at least ten (10) minutes
20 for some shifts worked of between six (6) and eight (8) hours from time to time, and a first,
21 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
22 or more from time to time. PLAINTIFFS and other CALIFORNIA CLASS Members were also
23 not provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
24 PLAINTIFFS and other CALIFORNIA CLASS Members were from time to time denied their
25 proper rest periods by DEFENDANT and DEFENDANT's managers. Additionally, the
26 applicable California Wage Order requires employers to provide employees with off-duty rest
27 periods, which the California Supreme Court defined as time during which an employee is
28 relieved from all work related duties and free from employer control. In so doing, the Court

1 held that the requirement under California law that employers authorize and permit all
2 employees to take rest period means that employers must relieve employees of all duties and
3 relinquish control over how employees spend their time which includes control over the
4 locations where employees may take their rest period. Employers cannot impose controls that
5 prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,
6 DEFENDANT's policy restricted PLAINTIFFS and other CALIFORNIA CLASS Members
7 from unconstrained walks and was unlawful based on DEFENDANT's rule which stated
8 PLAINTIFFS and other CALIFORNIA CLASS Members could not leave the work premises
9 during their rest period.

10 14. State law provides that employees must be paid overtime at one-and-one-half
11 times their "regular rate of pay." PLAINTIFFS and other CALIFORNIA CLASS Members
12 were compensated at an hourly rate plus incentive pay that was tied to specific elements of an
13 employee's performance.

14 15. The second component of PLAINTIFFS' and other CALIFORNIA CLASS
15 Members' compensation was DEFENDANT's non-discretionary incentive program that paid
16 PLAINTIFFS and other CALIFORNIA CLASS Members incentive wages based on their
17 performance for DEFENDANT. The non-discretionary incentive program provided all
18 employees paid on an hourly basis with incentive compensation when the employees met the
19 various performance goals set by DEFENDANT. However, when calculating the regular rate
20 of pay in order to pay overtime to PLAINTIFFS and other CALIFORNIA CLASS Members,
21 DEFENDANT failed to include the incentive compensation as part of the employees' "regular
22 rate of pay" for purposes of calculating overtime pay. Management and supervisors described
23 the incentive program to potential and new employees as part of the compensation package. As
24 a matter of law, the incentive compensation received by PLAINTIFFS and other CALIFORNIA
25 CLASS Members must be included in the "regular rate of pay." The failure to do so has
26 resulted in an underpayment of overtime compensation to PLAINTIFFS and other
27 CALIFORNIA CLASS Members by DEFENDANT.

28 16. DEFENDANT also failed to provide PLAINTIFFS and the other members of the

1 CALIFORNIA CLASS with complete and accurate wage statements which failed to show,
2 among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides that
3 every employer shall furnish each of his or her employees with an accurate itemized wage
4 statement in writing showing, among other things, gross wages earned and all applicable hourly
5 rates in effect during the pay period and the corresponding amount of time worked at each
6 hourly rate. Aside, from the violations listed above, DEFENDANT failed to issue to
7 PLAINTIFFS an itemized wage statement that lists all the requirements under California Labor
8 Code 226 *et seq.* As a result, DEFENDANT from time to time provided PLAINTIFFS and the
9 other members of the CALIFORNIA CLASS with wage statements which violated Cal. Lab.
10 Code § 226.

11 17. Cal. Lab. Code § 204 provides that “[a]ll wages. . . earned by any person in any
12 employment are due and payable twice during each calendar month, on days designated in
13 advance by the employer as the regular paydays.” Further, Cal. Lab. Code § 204(d) expressly
14 requires employers to pay employees all wages owed within seven (7) days of the close of the
15 payroll period. DEFENDANT from time to time failed to pay PLAINTIFFS and other
16 CALIFORNIA CLASS Members all wages owed to them within seven (7) days of the close of
17 the payroll period, including but not limited to for the “Gross Up Pay” wage payments.

18 18. Pursuant to Cal. Lab. Code Section 221, “It shall be unlawful for any employer
19 to collect or receive from an employee any part of wages theretofore paid by said employer to
20 said employee.” DEFENDANT failed to pay all compensation due to PLAINTIFFS and other
21 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
22 payable to PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose
23 all aspects of the deductions from compensation payable to PLAINTIFFS and CALIFORNIA
24 LABOR SUB-CLASS Members, and thereby failed to pay these employees all wages due at
25 each applicable pay period and upon termination. PLAINTIFFS and members of the
26 CALIFORNIA LABOR SUB-CLASS seek recovery of all illegal deductions from wages
27 according to proof, related penalties, interest, attorney fees and costs.

28 19. DEFENDANT underpaid sick pay wages to PLAINTIFFS and other

1 CALIFORNIA CLASS Members by failing to pay such wages at the regular rate of pay.
2 Specifically, PLAINTIFFS and other non-exempt employees earn non-discretionary
3 remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT underpaid sick
4 pay to PLAINTIFFS and other CALIFORNIA CLASS Members at their base rates of pay.

5 20. DEFENDANT intentionally and knowingly failed to reimburse and indemnify
6 PLAINTIFFS and the other CALIFORNIA CLASS Members for required business expenses
7 incurred by PLAINTIFFS and other CALIFORNIA CLASS Members in direct consequence of
8 discharging their duties on behalf of DEFENDANT. Under California Labor Code Section
9 2802, employers are required to indemnify employees for all expenses incurred in the course
10 and scope of their employment. Cal. Lab. Code § 2802 expressly states that "an employer shall
11 indemnify his or her employee for all necessary expenditures or losses incurred by the employee
12 in direct consequence of the discharge of his or her duties, or of his or her obedience to the
13 directions of the employer, even though unlawful, unless the employee, at the time of obeying
14 the directions, believed them to be unlawful."

15 21. In the course of their employment PLAINTIFFS and other CALIFORNIA CLASS
16 Members as a business expense, were required by DEFENDANT to use their own personal
17 cellular phones and personal vehicles as a result of and in furtherance of their job duties as
18 employees for DEFENDANT but were not reimbursed or indemnified by DEFENDANT for the
19 cost associated with the use of their personal cellular phones for DEFENDANT's benefit.
20 Specifically, PLAINTIFFS and other CALIFORNIA CLASS Members were required by
21 DEFENDANT to use their personal cellular phones to respond to managers while off the clock
22 (which also results in minimum wage and overtime violations). As a result, in the course of
23 their employment with DEFENDANT, PLAINTIFFS and other members of the CALIFORNIA
24 CLASS incurred unreimbursed business expenses which included, but were not limited to, costs
25 related to the use of their personal cellular phones all on behalf of and for the benefit of
26 DEFENDANT.

27 22. In violation of the applicable sections of the California Labor Code and the
28 requirements of the Industrial Welfare Commission ("IWC") Wage Order, DEFENDANT as

1 a matter of company policy, practice and procedure, intentionally and knowingly failed to
2 compensate PLAINTIFFS and the other members of the CALIFORNIA CLASS for missed
3 meal and rest periods. This policy and practice of DEFENDANT is intended to purposefully
4 avoid the payment for all time worked as required by California law which allows
5 DEFENDANT to illegally profit and gain an unfair advantage over competitors who complied
6 with the law. To the extent equitable tolling operates to toll claims by the CALIFORNIA
7 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
8 accordingly.

9 23. By reason of this conduct applicable to PLAINTIFFS and all CALIFORNIA
10 CLASS Members, DEFENDANT committed acts of unfair competition in violation of the
11 California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the “UCL”), by
12 engaging in a company-wide policy and procedure which fails to accurately calculate and record
13 all missed meal and rest periods and failed to pay all minimum and overtime wages due to
14 PLAINTIFFS and other CALIFORNIA CLASS Members. The proper recording of these
15 employees’ missed meal and rest breaks is the DEFENDANT’s burden. As a result of
16 DEFENDANT’s intentional disregard of the obligation to meet this burden, DEFENDANT fails
17 to properly calculate and/or pay all required compensation for work performed by the members
18 of the CALIFORNIA CLASS and violated the California Labor Code and regulations
19 promulgated thereunder as herein alleged.

20 24. Specifically as to PLAINTIFFS, DEFENDANT failed to provide all the legally
21 required off-duty meal and rest breaks to PLAINTIFFS as required by the applicable Wage
22 Order and Labor Code and failed to pay PLAINTIFFS all minimum and overtime wages due
23 to PLAINTIFFS. DEFENDANT did not have a policy or practice which provided timely off-
24 duty meal and rest breaks to PLAINTIFFS and also failed to compensate PLAINTIFFS for
25 PLAINTIFFS’ missed meal and rest breaks. The nature of the work performed by the
26 PLAINTIFFS did not prevent PLAINTIFFS from being relieved of all of PLAINTIFFS’ duties
27 for the legally required off-duty meal periods. As a result, DEFENDANT’s failure to provide
28 PLAINTIFFS with the legally required meal periods is evidenced by DEFENDANT’s business

1 records. DEFENDANT also required PLAINTIFFS to work off the clock without paying
2 PLAINTIFFS for all the time PLAINTIFFS were working for DEFENDANT, specifically by
3 failing to provide enough labor hours to accomplish all the job tasks that DEFENDANT
4 expected PLAINTIFFS to complete on a daily and/or weekly basis. The amount in controversy
5 for PLAINTIFFS individually does not exceed the sum or value of \$75,000. To date,
6 DEFENDANT has not fully paid PLAINTIFFS for all PLAINTIFFS' wages still owed to
7 PLAINTIFFS or any penalties owed to PLAINTIFFS under California Labor Code § 203.

8 9 **JURISDICTION AND VENUE**

10 25. This Court has jurisdiction over this Action pursuant to California Code of Civil
11 Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This
12 action is brought as a Class Action on behalf of PLAINTIFFS and similarly situated employees
13 of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

14 26. Venue is proper in this Court pursuant to California Code of Civil Procedure,
15 Sections 395 and 395.5, because PLAINTIFFS worked in this County for DEFENDANT, reside
16 in this County, and DEFENDANT (i) currently maintains and at all relevant times maintained
17 offices and facilities in this County and/or conducts substantial business in this County, and (ii)
18 committed the wrongful conduct herein alleged in this County against members of the
19 CALIFORNIA CLASS.

20 21 **THE CALIFORNIA CLASS**

22 27. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive
23 Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL") as a Class
24 Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as
25 all individuals who are or previously were employed by Defendants WWF Operating Company,
26 LLC; Danone North America Public Benefit Corporation; and, Danone US, LLC in California
27 who were classified as hourly, non-exempt employees (the "CALIFORNIA CLASS") during
28 the period June 4, 2017 to August 5, 2022 (the "CALIFORNIA CLASS PERIOD"). The

1 amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five
2 million dollars (\$5,000,000.00).

3 28. To the extent equitable tolling operates to toll claims by the CALIFORNIA
4 CLASS against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted
5 accordingly.

6 29. DEFENDANT, as a matter of company policy, practice and procedure, and in
7 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
8 requirements, and the applicable provisions of California law, intentionally, knowingly, and
9 wilfully, engages in a practice whereby DEFENDANT fails to record all meal and rest breaks
10 missed by PLAINTIFFS and other CALIFORNIA CLASS Members, even though
11 DEFENDANT enjoys the benefit of this work, requires employees to perform this work and
12 permits or suffers to permit this work.

13 30. DEFENDANT has the legal burden to establish that each and every
14 CALIFORNIA CLASS Member was paid accurately for all meal and rest breaks missed as
15 required by California laws. The DEFENDANT, however, as a matter of policy and procedure
16 failed to have in place during the CALIFORNIA CLASS PERIOD and still fails to have in
17 place a policy or practice to ensure that each and every CALIFORNIA CLASS Member is paid
18 as required by law. This common business practice is applicable to each and every
19 CALIFORNIA CLASS Member can be adjudicated on a class-wide basis as unlawful, unfair,
20 and/or deceptive under Cal. Business & Professions Code §§ 17200, *et seq.* (the "UCL") as
21 causation, damages, and reliance are not elements of this claim.

22 31. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
23 CLASS Members is impracticable.

24 32. DEFENDANT violated the rights of the CALIFORNIA CLASS under California
25 law by:

- 26 (a) Committing an act of unfair competition in violation of, Cal. Bus. & Prof.
27 Code §§ 17200, *et seq.* (the "UCL"), by unlawfully, unfairly and/or
28 deceptively having in place company policies, practices and procedures

1 that failed to record and pay PLAINTIFFS and the other members of the
2 CALIFORNIA CLASS for all time worked minimum wages owed and
3 overtime wages owed for work performed by these employees;

4 (b) Committing an act of unfair competition in violation of the UCL, by
5 failing to provide the PLAINTIFFS and the other members of the
6 CALIFORNIA CLASS with the legally required meal and rest periods;
7 and,

8 (c) Committing an act of unfair competition in violation of the California
9 Unfair Competition Laws, Cal. Bus. & Prof. Code §§ 17200 *et seq.*, by
10 violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS and
11 the CALIFORNIA CLASS members with necessary expenses incurred in
12 the discharge of their job duties.

13 33. This Class Action meets the statutory prerequisites for the maintenance of a Class
14 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

15 (a) The persons who comprise the CALIFORNIA CLASS are so numerous
16 that the joinder of all such persons is impracticable and the disposition of
17 their claims as a class will benefit the parties and the Court;

18 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
19 that are raised in this Complaint are common to the CALIFORNIA
20 CLASS will apply to every member of the CALIFORNIA CLASS;

21 (c) The claims of the representative PLAINTIFFS are typical of the claims of
22 each member of the CALIFORNIA CLASS. PLAINTIFFS, like all the
23 other members of the CALIFORNIA CLASS, are classified as non-
24 exempt employees paid on an hourly basis who has been subjected to the
25 DEFENDANT's deceptive practice and policy which failed to provide the
26 legally required meal and rest periods to the CALIFORNIA CLASS and
27 thereby underpaid compensation to PLAINTIFFS and CALIFORNIA
28 CLASS. PLAINTIFFS sustained economic injury as a result of

1 DEFENDANT's employment practices. PLAINTIFFS and the members
2 of the CALIFORNIA CLASS were and are similarly or identically harmed
3 by the same unlawful, deceptive, unfair and pervasive pattern of
4 misconduct engaged in by DEFENDANT; and,

- 5 (d) The representative PLAINTIFFS will fairly and adequately represent and
6 protect the interest of the CALIFORNIA CLASS, and have retained
7 counsel who are competent and experienced in Class Action litigation.
8 There are no material conflicts between the claims of the representative
9 PLAINTIFFS and the members of the CALIFORNIA CLASS that would
10 make class certification inappropriate. Counsel for the CALIFORNIA
11 CLASS will vigorously assert the claims of all CALIFORNIA CLASS
12 Members.

13 34. In addition to meeting the statutory prerequisites to a Class Action, this action is
14 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 15 (a) Without class certification and determination of declaratory, injunctive,
16 statutory and other legal questions within the class format, prosecution of
17 separate actions by individual members of the CALIFORNIA CLASS will
18 create the risk of:

- 19 1) Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA CLASS which would establish
21 incompatible standards of conduct for the parties opposing the
22 CALIFORNIA CLASS; and/or,
23 2) Adjudication with respect to individual members of the
24 CALIFORNIA CLASS which would as a practical matter be
25 dispositive of interests of the other members not party to the
26 adjudication or substantially impair or impede their ability to
27 protect their interests.

- 28 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to

1 act on grounds generally applicable to the CALIFORNIA CLASS, making
2 appropriate class-wide relief with respect to the CALIFORNIA CLASS
3 as a whole in that DEFENDANT failed to pay all wages due to members
4 of the CALIFORNIA CLASS as required by law;

5 1) With respect to the First Cause of Action, the final relief on behalf
6 of the CALIFORNIA CLASS sought does not relate exclusively to
7 restitution because through this claim PLAINTIFFS seek
8 declaratory relief holding that the DEFENDANT's policy and
9 practices constitute unfair competition, along with declaratory
10 relief, injunctive relief, and incidental equitable relief as may be
11 necessary to prevent and remedy the conduct declared to constitute
12 unfair competition;

13 (c) Common questions of law and fact exist as to the members of the
14 CALIFORNIA CLASS, with respect to the practices and violations of
15 California law as listed above, and predominate over any question
16 affecting only individual CALIFORNIA CLASS Members, and a Class
17 Action is superior to other available methods for the fair and efficient
18 adjudication of the controversy, including consideration of:

19 1) The interests of the members of the CALIFORNIA CLASS in
20 individually controlling the prosecution or defense of separate
21 actions in that the substantial expense of individual actions will be
22 avoided to recover the relatively small amount of economic losses
23 sustained by the individual CALIFORNIA CLASS Members when
24 compared to the substantial expense and burden of individual
25 prosecution of this litigation;

26 2) Class certification will obviate the need for unduly duplicative
27 litigation that would create the risk of:

28 A. Inconsistent or varying adjudications with respect to

individual members of the CALIFORNIA CLASS, which would establish incompatible standards of conduct for the DEFENDANT; and/or,

B. Adjudications with respect to individual members of the CALIFORNIA CLASS would as a practical matter be dispositive of the interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

3) In the context of wage litigation because a substantial number of individual CALIFORNIA CLASS Members will avoid asserting their legal rights out of fear of retaliation by DEFENDANT, which may adversely affect an individual's job with DEFENDANT or with a subsequent employer, the Class Action is the only means to assert their claims through a representative; and,

4) A class action is superior to other available methods for the fair and efficient adjudication of this litigation because class treatment will obviate the need for unduly and unnecessary duplicative litigation that is likely to result in the absence of certification of this action pursuant to Cal. Code of Civ. Proc. § 382.

35. This Court should permit this action to be maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382 because:

(a) The questions of law and fact common to the CALIFORNIA CLASS predominate over any question affecting only individual CALIFORNIA CLASS Members because the DEFENDANT's employment practices are applied with respect to the CALIFORNIA CLASS;

(b) A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA CLASS because in the context of employment litigation a substantial

1 number of individual CALIFORNIA CLASS Members will avoid
2 asserting their rights individually out of fear of retaliation or adverse
3 impact on their employment;

4 (c) The members of the CALIFORNIA CLASS are so numerous that it is
5 impractical to bring all members of the CALIFORNIA CLASS before the
6 Court;

7 (d) PLAINTIFFS, and the other CALIFORNIA CLASS Members, will not be
8 able to obtain effective and economic legal redress unless the action is
9 maintained as a Class Action;

10 (e) There is a community of interest in obtaining appropriate legal and
11 equitable relief for the acts of unfair competition, statutory violations and
12 other improprieties, and in obtaining adequate compensation for the
13 damages and injuries which DEFENDANT's actions have inflicted upon
14 the CALIFORNIA CLASS;

15 (f) There is a community of interest in ensuring that the combined assets of
16 DEFENDANT are sufficient to adequately compensate the members of
17 the CALIFORNIA CLASS for the injuries sustained;

18 (g) DEFENDANT has acted or refused to act on grounds generally applicable
19 to the CALIFORNIA CLASS, thereby making final class-wide relief
20 appropriate with respect to the CALIFORNIA CLASS as a whole;

21 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
22 the business records of DEFENDANT; and,

23 (i) Class treatment provides manageable judicial treatment calculated to bring
24 a efficient and rapid conclusion to all litigation of all wage and hour
25 related claims arising out of the conduct of DEFENDANT as to the
26 members of the CALIFORNIA CLASS.

27 36. DEFENDANT maintains records from which the Court can ascertain and identify
28 by job title each of DEFENDANT's employees who have been intentionally subjected to

1 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFFS
2 will seek leave to amend the Complaint to include any additional job titles of similarly situated
3 employees when they have been identified.

4
5 **THE CALIFORNIA LABOR SUB-CLASS**

6 37. PLAINTIFFS further bring the Second, Third, Fourth, Fifth, Sixth, Seventh and
7 Eighth Causes of Action on behalf of a California sub-class, defined as all members of the
8 CALIFORNIA CLASS who are or previously were employed Defendants WWF Operating
9 Company, LLC; Danone North America Public Benefit Corporation; and, Danone US, LLC in
10 California who were classified as hourly, non-exempt employees (the "CALIFORNIA LABOR
11 SUB-CLASS") during the period June 4, 2017 to August 5, 2022 (the "CALIFORNIA LABOR
12 SUB-CLASS PERIOD") pursuant to Cal. Code of Civ. Proc. § 382. The amount in controversy
13 for the aggregate claim of CALIFORNIA LABOR SUB-CLASS Members is under five million
14 dollars (\$5,000,000.00).

15 38. DEFENDANT, as a matter of company policy, practice and procedure, and in
16 violation of the applicable Labor Code, Industrial Welfare Commission ("IWC") Wage Order
17 requirements, and the applicable provisions of California law, intentionally, knowingly, and
18 wilfully, engages in a practice whereby DEFENDANT fails to correctly calculate compensation
19 for the time worked by PLAINTIFFS and the other members of the CALIFORNIA LABOR
20 SUB-CLASS and reporting time wages owed to these employees, even though DEFENDANT
21 enjoys the benefit of this work, requires employees to perform this work and permits or suffers
22 to permit this work. DEFENDANT has denied these CALIFORNIA LABOR SUB-CLASS
23 Members wages to which these employees are entitled in order to unfairly cheat the competition
24 and unlawfully profit. To the extent equitable tolling operates to toll claims by the
25 CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR
26 SUB-CLASS PERIOD should be adjusted accordingly.

27 39. DEFENDANT maintains records from which the Court can ascertain and identify
28 by name and job title, each of DEFENDANT's employees who have been intentionally

1 subjected to DEFENDANT's company policy, practices and procedures as herein alleged.
2 PLAINTIFFS will seek leave to amend the complaint to include any additional job titles of
3 similarly situated employees when they have been identified.

4 40. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
5 CALIFORNIA LABOR SUB-CLASS Members is impracticable.

6 41. Common questions of law and fact exist as to members of the CALIFORNIA
7 LABOR SUB-CLASS, including, but not limited, to the following:

- 8 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
9 compensation due to members of the CALIFORNIA LABOR SUB-
10 CLASS for missed meal and rest breaks in violation of the California
11 Labor Code and California regulations and the applicable California Wage
12 Order;
13 (b) Whether DEFENDANT failed to provide the PLAINTIFFS and the other
14 members of the CALIFORNIA LABOR SUB-CLASS with accurate
15 itemized wage statements;
16 (c) Whether DEFENDANT has engaged in unfair competition by the
17 above-listed conduct;
18 (d) The proper measure of damages and penalties owed to the members of the
19 CALIFORNIA LABOR SUB-CLASS; and,
20 (e) Whether DEFENDANT's conduct was willful.

21 42. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS
22 under California law by:

- 23 (a) Violating Cal. Lab. Code §§ 510, *et seq.*, by failing to correctly pay the
24 PLAINTIFFS and the members of the CALIFORNIA LABOR SUB-
25 CLASS all wages due for overtime worked, for which DEFENDANT is
26 liable pursuant to Cal. Lab. Code § 1194;
27 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1 *et seq.*, by failing to
28 accurately pay PLAINTIFFS and the members of the CALIFORNIA

LABOR SUB-CLASS the correct minimum wage pay for which
DEFENDANT is liable pursuant to Cal. Lab. Code §§ 1194 and 1197;

(c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFFS and
the members of the CALIFORNIA LABOR SUB-CLASS with an
accurate itemized statement in writing showing the corresponding correct
amount of wages earned by the employee; and,

(d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide
PLAINTIFFS and the other members of the CALIFORNIA LABOR
SUB-CLASS with all legally required off-duty, uninterrupted thirty (30)
minute meal breaks and the legally required off-duty rest breaks;

(e) Violating Cal. Lab. Code § 2802 by failing to reimburse PLAINTIFFS
and the CALIFORNIA LABOR SUB-CLASS members with necessary
expenses incurred in the discharge of their job duties.

43. This Class Action meets the statutory prerequisites for the maintenance of a Class
Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

(a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are
so numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
Members is impracticable and the disposition of their claims as a class
will benefit the parties and the Court;

(b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
that are raised in this Complaint are common to the CALIFORNIA
LABOR SUB-CLASS and will apply to every member of the
CALIFORNIA LABOR SUB-CLASS;

(c) The claims of the representative PLAINTIFFS are typical of the claims of
each member of the CALIFORNIA LABOR SUB-CLASS.
PLAINTIFFS, like all the other members of the CALIFORNIA LABOR
SUB-CLASS, are non-exempt employees paid on an hourly basis who
have been subjected to the DEFENDANT's practice and policy which

1 fails to pay the correct amount of wages due to the CALIFORNIA
2 LABOR SUB-CLASS. PLAINTIFFS sustained economic injury as a
3 result of DEFENDANT's employment practices. PLAINTIFFS and the
4 members of the CALIFORNIA LABOR SUB-CLASS were and are
5 similarly or identically harmed by the same unlawful, deceptive, unfair
6 and pervasive pattern of misconduct engaged in by DEFENDANT; and,

- 7 (d) The representative PLAINTIFFS will fairly and adequately represent and
8 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and have
9 retained counsel who are competent and experienced in Class Action
10 litigation. There are no material conflicts between the claims of the
11 representative PLAINTIFFS and the members of the CALIFORNIA
12 LABOR SUB-CLASS that would make class certification inappropriate.
13 Counsel for the CALIFORNIA LABOR SUB-CLASS will vigorously
14 assert the claims of all CALIFORNIA LABOR SUB-CLASS Members.

15 44. In addition to meeting the statutory prerequisites to a Class Action, this action is
16 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

- 17 (a) Without class certification and determination of declaratory, injunctive,
18 statutory and other legal questions within the class format, prosecution of
19 separate actions by individual members of the CALIFORNIA LABOR
20 SUB-CLASS will create the risk of:

- 21 1) Inconsistent or varying adjudications with respect to individual
22 members of the CALIFORNIA LABOR SUB-CLASS which
23 would establish incompatible standards of conduct for the parties
24 opposing the CALIFORNIA LABOR SUB-CLASS; or,
25 2) Adjudication with respect to individual members of the
26 CALIFORNIA LABOR SUB-CLASS which would as a practical
27 matter be dispositive of interests of the other members not party to
28 the adjudication or substantially impair or impede their ability to

1 protect their interests.

2 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted
3 or refused to act on grounds generally applicable to the CALIFORNIA
4 LABOR SUB-CLASS, making appropriate class-wide relief with respect
5 to the CALIFORNIA LABOR SUB-CLASS as a whole in that
6 DEFENDANT fails to pay all wages due. Including the correct wages for
7 all time worked by the members of the CALIFORNIA LABOR SUB-
8 CLASS as required by law;

9 (c) Common questions of law and fact predominate as to the members of the
10 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
11 violations of California Law as listed above, and predominate over any
12 question affecting only individual CALIFORNIA LABOR SUB-CLASS
13 Members, and a Class Action is superior to other available methods for
14 the fair and efficient adjudication of the controversy, including
15 consideration of:

16 1) The interests of the members of the CALIFORNIA LABOR SUB-
17 CLASS in individually controlling the prosecution or defense of
18 separate actions in that the substantial expense of individual
19 actions will be avoided to recover the relatively small amount of
20 economic losses sustained by the individual CALIFORNIA
21 LABOR SUB-CLASS Members when compared to the substantial
22 expense and burden of individual prosecution of this litigation;

23 2) Class certification will obviate the need for unduly duplicative
24 litigation that would create the risk of:

25 A. Inconsistent or varying adjudications with respect to
26 individual members of the CALIFORNIA LABOR SUB-
27 CLASS, which would establish incompatible standards of
28 conduct for the DEFENDANT; and/or,

1 B. Adjudications with respect to individual members of the
2 CALIFORNIA LABOR SUB-CLASS would as a practical
3 matter be dispositive of the interests of the other members
4 not parties to the adjudication or substantially impair or
5 impede their ability to protect their interests;

6 3) In the context of wage litigation because a substantial number of
7 individual CALIFORNIA LABOR SUB-CLASS Members will
8 avoid asserting their legal rights out of fear of retaliation by
9 DEFENDANT, which may adversely affect an individual's job
10 with DEFENDANT or with a subsequent employer, the Class
11 Action is the only means to assert their claims through a
12 representative; and,

13 4) A class action is superior to other available methods for the fair
14 and efficient adjudication of this litigation because class treatment
15 will obviate the need for unduly and unnecessary duplicative
16 litigation that is likely to result in the absence of certification of
17 this action pursuant to Cal. Code of Civ. Proc. § 382.

18 45. This Court should permit this action to be maintained as a Class Action pursuant
19 to Cal. Code of Civ. Proc. § 382 because:

20 (a) The questions of law and fact common to the CALIFORNIA LABOR
21 SUB-CLASS predominate over any question affecting only individual
22 CALIFORNIA LABOR SUB-CLASS Members;

23 (b) A Class Action is superior to any other available method for the fair and
24 efficient adjudication of the claims of the members of the CALIFORNIA
25 LABOR SUB-CLASS because in the context of employment litigation a
26 substantial number of individual CALIFORNIA LABOR SUB-CLASS
27 Members will avoid asserting their rights individually out of fear of
28 retaliation or adverse impact on their employment;

- 1 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so
2 numerous that it is impractical to bring all members of the CALIFORNIA
3 LABOR SUB-CLASS before the Court;
- 4 (d) PLAINTIFFS, and the other CALIFORNIA LABOR SUB-CLASS
5 Members, will not be able to obtain effective and economic legal redress
6 unless the action is maintained as a Class Action;
- 7 (e) There is a community of interest in obtaining appropriate legal and
8 equitable relief for the acts of unfair competition, statutory violations and
9 other improprieties, and in obtaining adequate compensation for the
10 damages and injuries which DEFENDANT's actions have inflicted upon
11 the CALIFORNIA LABOR SUB-CLASS;
- 12 (f) There is a community of interest in ensuring that the combined assets of
13 DEFENDANT are sufficient to adequately compensate the members of
14 the CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 15 (g) DEFENDANT has acted or refused to act on grounds generally applicable
16 to the CALIFORNIA LABOR SUB-CLASS, thereby making final class-
17 wide relief appropriate with respect to the CALIFORNIA LABOR SUB-
18 CLASS as a whole;
- 19 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
20 ascertainable from the business records of DEFENDANT. The
21 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA
22 CLASS Members who worked for DEFENDANT in California at any
23 time during the CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 24 (i) Class treatment provides manageable judicial treatment calculated to bring
25 a efficient and rapid conclusion to all litigation of all wage and hour
26 related claims arising out of the conduct of DEFENDANT as to the
27 members of the CALIFORNIA LABOR SUB-CLASS.

28 ///

1 **FIRST CAUSE OF ACTION**

2 **For Unlawful Business Practices**

3 **[Cal. Bus. And Prof. Code §§ 17200, *et seq.*]**

4 **(By PLAINTIFFS and the CALIFORNIA CLASS and Against All Defendants)**

5 46. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
7 Complaint.

8 47. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof.
9 Code § 17021.

10 48. California Business & Professions Code §§ 17200, *et seq.* (the “UCL”) defines
11 unfair competition as any unlawful, unfair, or fraudulent business act or practice. Section
12 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair
13 competition as follows:

14 Any person who engages, has engaged, or proposes to engage in unfair
15 competition may be enjoined in any court of competent jurisdiction. The court
16 may make such orders or judgments, including the appointment of a receiver, as
17 may be necessary to prevent the use or employment by any person of any practice
which constitutes unfair competition, as defined in this chapter, or as may be
necessary to restore to any person in interest any money or property, real or
personal, which may have been acquired by means of such unfair competition.

18 Cal. Bus. & Prof. Code § 17203.

19 49. By the conduct alleged herein, DEFENDANT has engaged and continues to
20 engage in a business practice which violates California law, including but not limited to, the
21 applicable Industrial Wage Order(s), the California Code of Regulations and the California
22 Labor Code including Sections 204, 210, 221, 226.7, 246, 248.5, 510, 512, 1194, 1197, 1197.1,
23 1198, 2802 and the Fair Labor Standards Act and federal regulations promulgated thereunder,
24 for which this Court should issue declaratory and other equitable relief pursuant to Cal. Bus.
25 & Prof. Code § 17203 as may be necessary to prevent and remedy the conduct held to constitute
26 unfair competition, including restitution of wages wrongfully withheld.

27 50. By the conduct alleged herein, DEFENDANT’s practices are unlawful and unfair
28 in that these practices violate public policy, are immoral, unethical, oppressive, unscrupulous

1 or substantially injurious to employees, and are without valid justification or utility for which
2 this Court should issue equitable and injunctive relief pursuant to Section 17203 of the
3 California Business & Professions Code, including restitution of wages wrongfully withheld.

4 51. By the conduct alleged herein, DEFENDANT's practices are deceptive and
5 fraudulent in that DEFENDANT's policy and practice fails to provide the legally mandated
6 meal and rest periods, and the required amount of compensation for missed meal and rest
7 periods, reporting time pay, and overtime and minimum wages owed, and Fair Labor Standards
8 Act overtime wages due for overtime worked as a result of failing to include non-discretionary
9 incentive compensation into their regular rate for purposes of computing the proper overtime
10 pay, due to a business practice that cannot be justified, pursuant to the applicable Cal. Lab.
11 Code, and Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§
12 17200, *et seq.*, and for which this Court should issue injunctive and equitable relief, pursuant
13 to Cal. Bus. & Prof. Code § 17203, including restitution of wages wrongfully withheld.

14 52. By the conduct alleged herein, DEFENDANT's practices are also unlawful, unfair
15 and deceptive in that DEFENDANT's employment practices cause PLAINTIFFS and the other
16 members of the CALIFORNIA CLASS to be underpaid during their employment with
17 DEFENDANT.

18 53. By the conduct alleged herein, DEFENDANT's practices are also unlawful, unfair
19 and deceptive in that DEFENDANT's policies, practices and procedures fail to provide all
20 legally required meal breaks to PLAINTIFFS and the other members of the CALIFORNIA
21 CLASS as required by Cal. Lab. Code §§ 226.7 and 512.

22 54. Therefore, PLAINTIFFS demand on behalf of themselves and on behalf of each
23 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty
24 meal period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay
25 for each workday in which a second off-duty meal period was not timely provided for each ten
26 (10) hours of work.

27 55. PLAINTIFFS further demand on behalf of themselves and each member of the
28 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off

1 duty paid rest period was not timely provided as required by law.

2 56. By and through the unlawful and unfair business practices described herein,
3 DEFENDANT has obtained valuable property, money and services from PLAINTIFFS and the
4 other members of the CALIFORNIA CLASS, including earned wages for all time worked, and
5 has deprived them of valuable rights and benefits guaranteed by law and contract, all to the
6 detriment of these employees and to the benefit of DEFENDANT so as to allow DEFENDANT
7 to unfairly compete against competitors who comply with the law.

8 57. All the acts described herein as violations of, among other things, the Industrial
9 Welfare Commission Wage Orders, the California Code of Regulations, and the California
10 Labor Code, are unlawful and in violation of public policy, are immoral, unethical, oppressive
11 and unscrupulous, are deceptive, and thereby constitute unlawful, unfair and deceptive business
12 practices in violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.*

13 58. PLAINTIFFS and the other members of the CALIFORNIA CLASS are entitled
14 to, and do, seek such relief as may be necessary to restore to them the money and property
15 which DEFENDANT has acquired, or of which PLAINTIFFS and the other members of the
16 CALIFORNIA CLASS have been deprived, by means of the above described unlawful and
17 unfair business practices, including earned but unpaid wages for all time worked.

18 59. PLAINTIFFS and the other members of the CALIFORNIA CLASS are further
19 entitled to, and do, seek a declaration that the described business practices are unlawful, unfair
20 and deceptive, and that injunctive relief should be issued restraining DEFENDANT from
21 engaging in any unlawful and unfair business practices in the future.

22 60. PLAINTIFFS and the other members of the CALIFORNIA CLASS have no plain,
23 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices
24 of DEFENDANT. Further, the practices herein alleged presently continue to occur unabated.
25 As a result of the unlawful and unfair business practices described herein, PLAINTIFFS and
26 the other members of the CALIFORNIA CLASS have suffered and will continue to suffer
27 irreparable legal and economic harm unless DEFENDANT is restrained from continuing to
28 engage in these unlawful and unfair business practices.

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1 implementing a policy and practice that denies accurate compensation to PLAINTIFFS and the
2 other members of the CALIFORNIA LABOR SUB-CLASS in regards to minimum wage pay.

3 68. In committing these violations of the California Labor Code, DEFENDANT
4 inaccurately calculates the correct time worked and consequently underpays the actual time
5 worked by PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS.
6 DEFENDANT acted in an illegal attempt to avoid the payment of all earned wages, and other
7 benefits in violation of the California Labor Code, the Industrial Welfare Commission
8 requirements and other applicable laws and regulations.

9 69. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
10 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS do not
11 receive the correct reporting time pay and minimum wage compensation for their time worked
12 for DEFENDANT.

13 70. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
14 the other members of the CALIFORNIA LABOR SUB-CLASS are paid less for time worked
15 that they are entitled to, constituting a failure to pay all earned wages. DEFENDANT fails to
16 accurately pay the PLAINTIFFS and members of the CALIFORNIA LABOR SUB-CLASS the
17 wages for the time they work in accordance with 1197 & 1197.1, even though the PLAINTIFFS
18 and the other members of the CALIFORNIA LABOR SUB-CLASS are regularly required,
19 permitted or suffered to work, and do in fact work, off the clock time as to which
20 DEFENDANT fails to accurately record and pay as evidenced by DEFENDANT's business
21 records and witnessed by employees.

22 71. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
23 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
24 CLASS for the true time they work, PLAINTIFFS and the other members of the CALIFORNIA
25 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts
26 which are presently unknown to them and which will be ascertained according to proof at trial.

27 72. DEFENDANT knew or should have known that PLAINTIFFS and the other
28 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for their time

1 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,
2 to not pay employees for their labor as a matter of company policy, practice and procedure, and
3 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS and the other members
4 of the CALIFORNIA LABOR SUB-CLASS the correct reporting time pay and minimum wages
5 for their time worked.

6 73. In performing the acts and practices herein alleged in violation of California labor
7 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
8 all time worked and provide them with the requisite compensation, DEFENDANT acted and
9 continues to act intentionally, oppressively, and maliciously toward PLAINTIFFS and the other
10 members of the CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for
11 their legal rights, or the consequences to them, and with the despicable intent of depriving them
12 of their property and legal rights, and otherwise causing them injury in order to increase
13 company profits at the expense of these employees.

14 74. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
15 CLASS therefore request recovery of all unpaid wages, according to proof, interest, statutory
16 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as
17 provided by the California Labor Code and/or other applicable statutes. DEFENDANT's
18 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFFS
19 and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
20 statutory costs.

21
22 **THIRD CAUSE OF ACTION**

23 **For Failure To Pay Overtime Compensation**

24 **[Cal. Lab. Code §§ 510, *et seq.*]**

25 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
26 **Defendants)**

27 75. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
28 CLASS, reallege and incorporate by this reference, as though full set forth herein, the prior

1 paragraphs of this Complaint.

2 76. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
3 CLASS bring a claim for DEFENDANT's willful and intentional violations of the California
4 Labor Code and the Industrial Welfare Commission requirements for DEFENDANT's failure
5 to pay these employees for all overtime worked, including, work performed in excess of eight
6 (8) hours in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any
7 workweek.

8 77. Pursuant to Cal. Lab. Code § 204, other applicable laws and regulations, and
9 public policy, an employer must timely pay its employees for all hours worked.

10 78. Cal. Lab. Code § 510 further provides that employees in California shall not be
11 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
12 unless they receive additional compensation beyond their regular wages in amounts specified
13 by law.

14 79. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
15 including reporting time pay and minimum wage and overtime compensation and interest
16 thereon, together with the costs of suit. Cal. Lab. Code § 1198 further states that the
17 employment of an employee for longer hours than those fixed by the Industrial Welfare
18 Commission is unlawful.

19 80. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
20 CALIFORNIA LABOR SUB-CLASS Members are required, permitted or suffered by
21 DEFENDANT to work for DEFENDANT and are not paid for all the time they work, including
22 overtime work.

23 81. DEFENDANT's unlawful wage and hour practices manifested, without
24 limitation, applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of
25 implementing a policy and practice that failed to accurately record overtime work by
26 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members and denied accurate
27 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
28 CLASS for overtime work, including, the overtime work performed in excess of eight (8) hours

1 in a workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

2 82. In committing these violations of the California Labor Code, DEFENDANT
3 inaccurately records overtime worked and consequently underpays the overtime worked by
4 PLAINTIFFS and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted
5 in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
6 of the California Labor Code, the Industrial Welfare Commission requirements and other
7 applicable laws and regulations.

8 82. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
9 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
10 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked
11 including overtime work.

12 83. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
13 the PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are not
14 receiving full compensation for overtime worked.

15 84. Cal. Lab. Code § 515 sets out various categories of employees who are exempt
16 from the overtime requirements of the law. None of these exemptions are applicable to the
17 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
18 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS are not
19 subject to a valid collective bargaining agreement that would preclude the causes of action
20 contained herein this Complaint. Rather, PLAINTIFFS bring this Action on behalf of
21 themselves and the CALIFORNIA LABOR SUB-CLASS based on DEFENDANT's violations
22 of non-negotiable, non-waiveable rights provided by the State of California.

23 85. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFFS and
24 the other members of the CALIFORNIA LABOR SUB-CLASS are paid less for overtime
25 worked that they are entitled to, constituting a failure to pay all earned wages.

26 86. DEFENDANT fails to accurately pay the PLAINTIFFS and the other members
27 of the CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which
28 was in excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510,

1 1194 & 1198, even though PLAINTIFFS and the other members of the CALIFORNIA LABOR
2 SUB-CLASS are required to work, and did in fact work, overtime as to which DEFENDANT
3 fails to accurately record and pay as evidenced by DEFENDANT's business records and
4 witnessed by employees.

5 87. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
6 compensation to PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
7 CLASS for the true amount of time they worked, PLAINTIFFS and the other members of the
8 CALIFORNIA LABOR SUB-CLASS have suffered and will continue to suffer an economic
9 injury in amounts which are presently unknown to them and which will be ascertained
10 according to proof at trial.

11 88. DEFENDANT knew or should have known that PLAINTIFFS and the other
12 members of the CALIFORNIA LABOR SUB-CLASS are under compensated for all overtime
13 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance,
14 to not pay employees for their labor as a matter of company policy, practice and procedure, and
15 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFFS and the other members
16 of the CALIFORNIA LABOR SUB-CLASS for overtime worked.

17 89. In performing the acts and practices herein alleged in violation of California labor
18 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for
19 all overtime worked and provide them with the requisite overtime compensation, DEFENDANT
20 acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFFS and
21 the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter
22 disregard for their legal rights, or the consequences to them, and with the despicable intent of
23 depriving them of their property and legal rights, and otherwise causing them injury in order
24 to increase company profits at the expense of these employees.

25 90. PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-
26 CLASS therefore request recovery of all overtime wages, according to proof, interest, statutory
27 costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as
28 provided by the California Labor Code and/or other applicable statutes. DEFENDANT's

1 conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFFS
2 and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover
3 statutory costs.

4
5 **FOURTH CAUSE OF ACTION**

6 **For Failure to Provide Required Meal Periods**

7 **[Cal. Lab. Code §§ 226.7 & 512]**

8 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

9 91. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
10 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
11 paragraphs of this Complaint.

12 92. During the CALIFORNIA CLASS PERIOD, DEFENDANT fails to provide all
13 the legally required off-duty meal breaks to PLAINTIFFS and the other CALIFORNIA LABOR
14 SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The nature
15 of the work performed by PLAINTIFFS and CALIFORNIA LABOR SUB-CLASS MEMBERS
16 does not prevent these employees from being relieved of all of their duties for the legally
17 required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFFS and
18 other CALIFORNIA LABOR SUB-CLASS Members are from time to time not fully relieved
19 of duty by DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to
20 provide PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS Members with legally
21 required meal breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's
22 business records. Further, DEFENDANT fails to provide PLAINTIFFS and CALIFORNIA
23 CLASS Members with a second off-duty meal period in some workdays in which these
24 employees were required by DEFENDANT to work ten (10) hours of work. As a result,
25 PLAINTIFFS and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeit
26 meal breaks without additional compensation and in accordance with DEFENDANT's strict
27 corporate policy and practice.

28 93. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable

1 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-
2 CLASS Members who are not provided a meal period, in accordance with the applicable Wage
3 Order, one additional hour of compensation at each employee's regular rate of pay for each
4 workday that a meal period was not provided.

5 94. As a proximate result of the aforementioned violations, PLAINTIFFS and
6 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
7 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
8 suit.

9
10 **FIFTH CAUSE OF ACTION**

11 **For Failure to Provide Required Rest Periods**

12 **[Cal. Lab. Code §§ 226.7 & 512]**

13 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
14 **Defendants)**

15 95. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
16 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
17 paragraphs of this Complaint.

18 96. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are
19 required to work in excess of four (4) hours without being provided ten (10) minute rest periods.
20 Further, these employees were denied their first rest periods of at least ten (10) minutes for
21 some shifts worked of at least two (2) to four (4) hours, a first and second rest period of at least
22 ten (10) minutes for some shifts worked of between six (6) and eight (8) hours, and a first,
23 second and third rest period of at least ten (10) minutes for some shifts worked of ten (10) hours
24 or more. PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are also not
25 provided with one hour wages in lieu thereof. As a result of their rigorous work schedules,
26 PLAINTIFFS and other CALIFORNIA LABOR SUB-CLASS Members are periodically denied
27 their proper rest periods by DEFENDANT and DEFENDANT's managers.

28 97. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable

1 IWC Wage Order by failing to compensate PLAINTIFFS and CALIFORNIA LABOR SUB-
2 CLASS Members who are not provided a rest period, in accordance with the applicable Wage
3 Order, one additional hour of compensation at each employee's regular rate of pay for each
4 workday that rest period was not provided.

5 98. As a proximate result of the aforementioned violations, PLAINTIFFS and
6 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according
7 to proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of
8 suit.

9
10 **SIXTH CAUSE OF ACTION**

11 **For Failure to Provide Accurate Itemized Statements**

12 **[Cal. Lab. Code § 226]**

13 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
14 **Defendants)**

15 99. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
16 CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior
17 paragraphs of this Complaint.

18 100. Cal. Labor Code § 226 provides that an employer must furnish employees with
19 an "accurate itemized" statement in writing showing:

20 (1) gross wages earned,

21 (2) total hours worked by the employee, except for any employee whose compensation
22 is solely based on a salary and who is exempt from payment of overtime under
23 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare
24 Commission,

25 (3) the number of piece-rate units earned and any applicable piece rate if the employee
26 is paid on a piece-rate basis,

27 (4) all deductions, provided that all deductions made on written orders of the employee
28 may be aggregated and shown as one item,

- 1 (5) net wages earned,
- 2 (6) the inclusive dates of the period for which the employee is paid,
- 3 (7) the name of the employee and his or her social security number, except that by
- 4 January 1, 2008, only the last four digits of his or her social security number or an
- 5 employee identification number other than a social security number may be shown on
- 6 the itemized statement,
- 7 (8) the name and address of the legal entity that is the employer, and
- 8 (9) all applicable hourly rates in effect during the pay period and the corresponding
- 9 number of hours worked at each hourly rate by the employee.

10 101. DEFENDANT also fails to provide PLAINTIFFS and the other members of the

11 CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements which failed

12 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226

13 provides that every employer shall furnish each of his or her employees with an accurate

14 itemized wage statement in writing showing, among other things, gross wages earned and all

15 applicable hourly rates in effect during the pay period and the corresponding amount of time

16 worked at each hourly rate. Aside, from the violations listed above, DEFENDANT failed to

17 issue to PLAINTIFFS an itemized wage statement that lists all the requirements under

18 California Labor Code 226 *et seq.* As a result, DEFENDANT from time to time provided

19 PLAINTIFFS and the other members of the CALIFORNIA LABOR SUB-CLASS with wage

20 statements which violated Cal. Lab. Code § 226.

21 102. DEFENDANT knowingly and intentionally fails to comply with Cal. Lab. Code

22 § 226, causing injury and damages to PLAINTIFFS and the other members of the

23 CALIFORNIA LABOR SUB-CLASS. These damages include, but are not limited to, costs

24 expended calculating the correct wages for all missed meal and rest breaks and the amount of

25 employment taxes which were not properly paid to state and federal tax authorities. These

26 damages are difficult to estimate. Therefore, PLAINTIFFS and the other members of the

27 CALIFORNIA LABOR SUB-CLASS may elect to recover liquidated damages of fifty dollars

28 (\$50.00) for the initial pay period in which the violation occurred, and one hundred dollars

1 (\$100.00) for each violation in a subsequent pay period pursuant to Cal. Lab. Code § 226, in
2 an amount according to proof at the time of trial (but in no event more than four thousand
3 dollars (\$4,000.00) for PLAINTIFFS and each respective member of the CALIFORNIA
4 LABOR SUB-CLASS herein).

5
6 **SEVENTH CAUSE OF ACTION**

7 **For Failure to Reimburse Employees for Required Expenses**

8 **[Cal. Lab. Code § 2802]**

9 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS and Against All**
10 **Defendants)**

11 103. PLAINTIFFS and the other CALIFORNIA LABOR SUB-CLASS members
12 reallege and incorporate by this reference, as though fully set forth herein, the prior
13 paragraphs of this Complaint.

14 104. Cal. Lab. Code § 2802 provides, in relevant part, that:

15 An employer shall indemnify his or her employee for all necessary
16 expenditures or losses incurred by the employee in direct consequence of the
17 discharge of his or her duties, or of his or her obedience to the directions of
the employer, even though unlawful, unless the employee, at the time of
obeying the directions, believed them to be unlawful.

18 105. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802,
19 by failing to indemnify and reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-
20 CLASS members for required expenses incurred in the discharge of their job duties for
21 DEFENDANT's benefit. DEFENDANT fails to reimburse PLAINTIFFS and the
22 CALIFORNIA LABOR SUB-CLASS members for expenses which include, but are not
23 limited to, costs related to using their personal cellular phones and personal vehicles all on
24 behalf of and for the benefit of DEFENDANT. Specifically, PLAINTIFFS and other
25 CALIFORNIA LABOR SUB-CLASS Members are required by DEFENDANT to use their
26 personal cell phones to respond to work related issues. DEFENDANT's policy, practice and
27 procedure is to not reimburse PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS
28

1 members for expenses resulting from using their personal cellular phones for DEFENDANT
2 within the course and scope of their employment for DEFENDANT. These expenses are
3 necessary to complete their principal job duties. DEFENDANT is estopped by
4 DEFENDANT's conduct to assert any waiver of this expectation. Although these expenses
5 are necessary expenses incurred by PLAINTIFFS and the CALIFORNIA LABOR SUB-
6 CLASS members, DEFENDANT fails to indemnify and reimburse PLAINTIFFS and the
7 CALIFORNIA LABOR SUB-CLASS members for these expenses as an employer is
8 required to do under the laws and regulations of California.

9 106. PLAINTIFFS therefore demand reimbursement for expenditures or losses
10 incurred by them and the CALIFORNIA LABOR SUB-CLASS members in the discharge of
11 their job duties for DEFENDANT, or their obedience to the directions of DEFENDANT,
12 with interest at the statutory rate and costs under Cal. Lab. Code § 2802.

13 **EIGHTH CAUSE OF ACTION**

14 **For Failure to Pay Wages When Due**

15 **[Cal. Lab. Code §§ 201, 202, 203]**

16 **(By PLAINTIFFS and the CALIFORNIA LABOR SUB-CLASS**

17 **and Against All Defendants)**

18 107. PLAINTIFFS, and the other members of the CALIFORNIA LABOR SUB-
19 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior
20 paragraphs of this Complaint.

21 108. Cal. Lab. Code § 200 provides, in relevant part, that:

22 As used in this article:

- 23 (a) "Wages" includes all amounts for labor performed by employees of
24 every description, whether the amount is fixed or ascertained by the
25 standard of time, task, piece, Commission basis, or other method of calculation.
26 (b) "Labor" includes labor, work, or service whether rendered or
27 performed under contract, subcontract, partnership, station plan, or other
28 agreement if the labor to be paid for is performed personally by the person
demanding payment.

109. Cal. Lab. Code § 201 provides, in relevant part, "that If an employer
discharges an employee, the wages earned and unpaid at the time of discharge are due and

1 payable immediately.”

2 110. Cal. Lab. Code § 202 provides, in relevant part, that:

3 If an employee not having a written contract for a definite period quits his
4 or her employment, his or her wages shall become due and payable not
5 later than 72 hours thereafter, unless the employee has given 72 hours
6 previous notice of his or her intention to quit, in which case the employee
7 is entitled to his or her wages at the time of quitting. Notwithstanding any
8 other provision of law, an employee who quits without providing a 72-
9 hour notice shall be entitled to receive payment by mail if he or she so
10 requests and designates a mailing address. The date of the mailing shall
11 constitute the date of payment for purposes of the requirement to provide
12 payment within 72 hours of the notice of quitting.

13 111. There was no definite term in PLAINTIFFS’ or any CALIFORNIA LABOR
14 SUB-CLASS Members’ employment contract.

15 112. Cal. Lab. Code § 203 provides, in relevant part, that:

16 If an employer willfully fails to pay, without abatement or reduction, in
17 accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
18 employee who is discharged or who quits, the wages of the employee shall
19 continue as a penalty from the due date thereof at the same rate until paid
20 or until an action therefor is commenced; but the wages shall not continue
21 for more than 30 days.

22 113. The employment of PLAINTIFFS and many CALIFORNIA LABOR SUB-
23 CLASS Members has terminated and DEFENDANT has not tendered payment of all wages
24 owed as required by law. Additionally, Plaintiff Venegas was terminated by DEFENDANT
25 on January 14, 2021 and DEFENDANT did not send Plaintiff Venegas his final wages until
26 January 19, 2021 in violation of Cal. Lab. Code Section 203.

27 114. Therefore, as provided by Cal Lab. Code § 203, on behalf of themselves and
28 the members of the CALIFORNIA LABOR SUB-CLASS whose employment has
terminated and who have not been fully paid their wages due to them, PLAINTIFFS demand
thirty days of pay as penalty for not paying all wages due at time of termination for all
employees who terminated employment during the CALIFORNIA LABOR SUB-CLASS
PERIOD and demands an accounting and payment of all wages due, plus interest and
statutory costs as allowed by law.

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1 **NINTH CAUSE OF ACTION**

2 **For Violation of the Private Attorneys General Act**

3 **[Cal. Lab. Code §§ 2698, *et seq.*]**

4 **(By PLAINTIFFS and Against All Defendants)**

5 115. PLAINTIFFS reallege and incorporate by this reference, as though fully set
6 forth herein, the prior paragraphs of this Complaint.

7 116. PAGA is a mechanism by which the State of California itself can enforce state
8 labor laws through the employee suing under the PAGA who do so as the proxy or agent of
9 the state's labor law enforcement agencies. An action to recover civil penalties under
10 PAGA is fundamentally a law enforcement action designed to protect the public and not to
11 benefit private parties. The purpose of the PAGA is not to recover damages or restitution,
12 but to create a means of "deputizing" citizens as private attorneys general to enforce the
13 Labor Code. In enacting PAGA, the California Legislature specified that "it was ... in the
14 public interest to allow aggrieved employees, acting as private attorneys general to recover
15 civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
16 claims cannot be subject to arbitration.

17 117. PLAINTIFFS, and such persons that may be added from time to time who
18 satisfy the requirements and exhaust the administrative procedures under the Private
19 Attorney General Act, bring this Representative Action on behalf of the State of California
20 with respect to themselves and all individuals who are or previously were employed by
21 Defendants WWF Operating Company, LLC; Danone North America Public Benefit
22 Corporation; and, Danone US, LLC in California who were classified as hourly, non-exempt
23 employees ("AGGRIEVED EMPLOYEES") during the time period of June 4, 2020 to
24 August 5, 2022 (the "PAGA PERIOD").

25 118. On June 3, 2021, Plaintiff Venegas gave written notice by electronic mail to
26 the Labor and Workforce Development Agency (the "Agency") and by certified mail to the
27 employer of the specific provisions of this code alleged to have been violated as required by
28 Labor Code § 2699.3. On September 29, 2021, Plaintiff Lainez gave written notice by

1 electronic mail to the Labor and Workforce Development Agency (the "Agency") and by
2 certified mail to the employer of the specific provisions of this code alleged to have been
3 violated as required by Labor Code § 2699.3. The statutory waiting period for PLAINTIFFS
4 to add these allegations to the Complaint has expired. As a result, pursuant to Section
5 2699.3, PLAINTIFFS may now commence a representative civil action under PAGA
6 pursuant to Section 2699 as the proxies of the State of California with respect to all
7 AGGRIEVED EMPLOYEES as herein defined.

8 119. The policies, acts and practices heretofore described were and are an unlawful
9 business act or practice because DEFENDANT (a) failed to provide PLAINTIFFS and the
10 other AGGRIEVED EMPLOYEES accurate itemized wage statements, (b) failed to
11 properly record and provide legally required meal and rest periods, (c) failed to pay
12 minimum wages, (d) failed to pay overtime and sick pay wages, (e) failed to reimburse
13 employees for required expenses, (f) failed to timely pay wages upon termination, (g) failed
14 to timely pay wages during employment, (h) failed to keep complete and accurate payroll
15 records and (i) failed to provide seating, all in violation of the applicable Labor Code
16 sections listed in Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3,
17 246 *et seq.*, 351, 510, 512, 552 558(a)(1)(2), 1174(d), 1194, 1197, 1197.1, 1198, 2800,
18 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B) and 14,
19 and the applicable Wage Order(s), and thereby gives rise to civil penalties as a result of such
20 conduct.¹ PLAINTIFFS hereby seek recovery of civil penalties as prescribed by the Labor
21 Code Private Attorney General Act of 2004 as the representatives of the State of California
22 for the illegal conduct perpetrated on PLAINTIFFS and the other AGGRIEVED
23 EMPLOYEES.

24 120. All of the conduct and violations alleged herein occurred during the PAGA
25 PERIOD. To the extent that any of the conduct and violations alleged herein did not affect
26

27 ¹Plaintiffs specifically exclude and/or do not allege any claims under California Labor
28 Code §558(a)(3).

1 PLAINTIFFS during the PAGA PERIOD, PLAINTIFFS seek penalties for those violations
2 that affected other AGGRIEVED EMPLOYEES pursuant to *Carrington v. Starbucks Corp.*
3 2018 AJDAR 12157 (Certified for Publication 12/19/18).

4
5 **PRAYER FOR RELIEF**

6 WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and
7 severally, as follows:

8 1. On behalf of the CALIFORNIA CLASS:

- 9 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA
10 CLASS as a class action pursuant to Cal. Code of Civ. Proc. § 382;
11 B) An order temporarily, preliminarily and permanently enjoining and restraining
12 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
13 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully
14 withheld from compensation due to PLAINTIFFS and the other members of the
15 CALIFORNIA CLASS; and,
16 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund
17 for restitution of the sums incidental to DEFENDANT's violations due to
18 PLAINTIFFS and to the other members of the CALIFORNIA CLASS.

19 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 20 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth
21 Causes of Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class
22 action pursuant to Cal. Code of Civ. Proc. § 382;
23 B) Compensatory damages, according to proof at trial, including compensatory
24 damages for minimum and overtime compensation due PLAINTIFFS and the
25 other members of the CALIFORNIA LABOR SUB-CLASS, during the
26 applicable CALIFORNIA LABOR SUB-CLASS PERIOD plus interest thereon
27 at the statutory rate;
28 C) Meal and rest period compensation pursuant to California Labor Code Section

226.7 and the applicable IWC Wage Order;

- D) Liquidated damages pursuant to California Labor Code §§ 1194.2 and 1197.1;
- E) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per each member of the CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;
- F) The amount of the expenses PLAINTIFFS and each member of the CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit; and,
- G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

- A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004.

4. On all claims:

- A) An award of interest, including prejudgment interest at the legal rate;
- B) Such other and further relief as the Court deems just and equitable; and,
- C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §226, §1194 and/or §2802.

Dated: November 29, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

By: /s/ Norman B. Blumenthal

Norman B. Blumenthal
Attorneys for Plaintiffs

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DEMAND FOR A JURY TRIAL

PLAINTIFFS demand a jury trial on issues triable to a jury.

Dated: November 29, 2022

BLUMENTHAL NORDREHAUG BHOWMIK DE
BLOUW LLP

By: /s/ Norman B. Blumenthal
Norman B. Blumenthal
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Attorneys for Plaintiffs

Differences exist between documents.

New Document:

[Settlement Agreement - Final](#)

28 pages (227 KB)

1/19/2023 9:42:09 AM

Used to display results.

Old Document:

[LA - Model Agreement - Class and PAGA Settlement](#)

30 pages (559 KB)

1/19/2023 9:42:09 AM

[Get started: first change is on page 1.](#)

No pages were deleted

How to read this report

Highlight indicates a change.

Deleted indicates deleted content.

 indicates pages were changed.

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⚡ CLASS ACTION AND PAGA SETTLEMENT AGREEMENT ⚡

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Salvador Venegas and Sergio Lainez (together, “Plaintiffs”) and Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC (“Defendants”). Plaintiffs and Defendants are collectively referred to herein 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” means: (1) Plaintiff Salvador Venegas’ class-action lawsuit alleging wage and hour violations against Defendants captioned *Salvador Venegas v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21STCV20991 (“Venegas Class Action”) initiated on June 4, 2021 and pending in Superior Court of the State of California, County of Los Angeles; and, (2) Plaintiffs’ lawsuit seeking penalties pursuant to the Private Attorneys’ general Act, Labor Code §2698 et seq) against Defendants captioned *Salvador Venegas and Sergio Lainez v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21PSCV00643 and *Sergio Lainez v. WWF Operating Company, LLC, et al.*, Los Angeles County Superior Court Case No. 21PSCV01017 (together, “Consolidated PAGA Action”), which will be combined with the Venegas Class Action in the Operative Complaint.
- 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 are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are or previously were employed by Defendants WWF Operating Company, LLC, Danone North America Public Benefit Corporation and Danone US, LLC in California who were classified as hourly, non-exempt employees at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and

Edwin Aiwarzian, Arby Aiwarzian, and Joanna Ghosh of Lawyers for Justice, P.C. ("LFJ").

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 Defendants' possession including the Class Member's name, last-known mailing address, Social Security number, email address (if known and available to Defendants), and dates of employment for the purposes of calculating the 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 June 4, 2017 through August 5, 2022.

1.14. "Class Representative" means Salvador Venegas and Sergio Lainez, the named Plaintiffs 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

Plaintiffs as Class Representatives in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendants' expenses, and for the general release of all claims by the Plaintiffs.

- 1.16. "Court" means the Superior Court of California, County of Los Angeles.
- 1.17. "Defendants" mean WWF Operating Company, LLC, Danone North America Public Benefit Corporation, and Danone US, LLC.
- 1.18. "Defense Counsel" means Robert S. Blumberg, Melanie Rollins, and Devon Mills of Littler Mendelson P.C.
- 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, and no appeal is filed, the day after the deadline for filing a notice of appeal from the Judgment; or (c) 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 and judgment 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 One Million Two-Hundred Fifty Thousand Dollars (\$1,250,000) which is the total amount to be paid by Defendants 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 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendants, 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 Defendants.
- 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 twenty-five percent (25%) of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the Court’s order and 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 seventy-five percent (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 portion of the Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.30. “Operative Complaint” means the consolidated complaint encompassing Plaintiffs’ Class and PAGA claims filed in conjunction with this Agreement and attached as “Exhibit D” hereto.
- 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee was employed by Defendants for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period of time from June 4, 2020 through August 5, 2022.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. “PAGA Notice” means Plaintiff Salvador Venegas’ June 3, 2021 letter to Defendants and the LWDA and Plaintiff Sergio Lainez’s September 29, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties of \$25,000 to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the Aggrieved Employees (\$6,250) and the seventy-five percent (75%) to LWDA

(\$18,750) in settlement of PAGA claims.

1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.

1.37. “Plaintiffs” mean Salvador Venegas and Sergio Lainez, the named plaintiffs in the Actions.

1.38. “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.

1.39. “Released Class Claims” means all class claims being released as described in Paragraph 6.2 below.

1.40. “Released PAGA Claims” means all PAGA claims being released as described in Paragraph 6.3 below.

1.41. “Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class portion of the Settlement signed by the Class Member.

1.43. “Response Deadline” means forty-five (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 fourteen (14) calendar days beyond the expiration of the Response Deadline.

1.44. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.45. “Workweek” means any week during the Class Period in which a Class Member was employed by Defendants as a Class Member for at least one day.

2. RECITALS

2.1. On June 4, 2021, Plaintiff Salvador Venegas (“Plaintiff Venegas”) commenced the Venegas Class Action by filing a Complaint against Defendants in the Superior Court of the State of California, County of Los Angeles. Plaintiff Venegas’ Class Complaint asserted claims that Defendants:

- (a) Violated California Business and Professions Code § 17200 et seq.;
 - (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 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 provide accurate itemized wage statements in violation of California Labor Code § 226; and,
 - (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
 - (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.
- 2.2. On August 9, 2021, Plaintiff Venegas filed a representative action complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case No. 21PSCV00643 (hereinafter “Venegas PAGA Action”).
- 2.3. On December 13, 2021, Plaintiff Sergio Lainez (“Plaintiff Lainez”) filed a Representative Action Complaint against Defendants in the Superior Court of the State of California, County of Los Angeles, asserting a single cause of action for violation of PAGA, Case No. 21PSCV01017 (hereinafter “Lainez PAGA Action”).
- 2.4. On August 2, 2022, the Lainez PAGA Action was consolidated with the lower numbered Venegas PAGA Action for all purposes.
- 2.5. On March 9, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, a respected mediator of wage and hour representative and class actions. The Parties were unable to resolve the matter at mediation. Thereafter the parties engaged in extensive discovery, including the production of extensive business records, depositions of Plaintiff Venegas and Defendants’ Persons Most Knowledgeable, and Defendants’ filing of a motion for summary adjudication. Following the mediation, discovery and briefing on these issues, 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.
- 2.6. In conjunction with this Agreement, the Parties will stipulate to allow Plaintiff Venegas leave to file the Operative Complaint in this Action seeking to consolidate the claims alleged in the complaint in the Venegas Class Action with the claims alleged in Consolidated PAGA Action.
- 2.7. In conjunction with this Agreement, on November 29, 2022 Plaintiffs filed the

Operative Complaint against Defendants asserting claims that Defendants:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 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 provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802; and
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.
- (i) Violated PAGA, Cal. Labor Code §§ 2698, et seq.

2.8. Defendants deny the allegations in the Operative Complaint, and all underlying Complaints, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.

2.9. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that 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*").

2.10. 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 Defendants that the claims in the Action of Plaintiffs or the Class have merit or that Defendants bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendants' 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, Defendants reserve the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

2.11. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending class or PAGA matter or action asserting claims that will be extinguished or affected by the Settlement, other than the single plaintiff matter of *Shane Offenstein v Danone North America et al.* Mr. Offenstein will have the ability to opt out of this matter or have his wage claims released as part of this settlement.

3. MONETARY TERMS

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$1,250,000 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 Defendants to the Administrator. 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. 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 Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

(b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$416,666, and a Class Counsel Litigation Expenses Payment of not more than \$53,000. Class Counsel Fees Payment awarded shall be allocated seventy-five percent (75%) to BNBD and twenty-five percent (25%) to LFJ. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (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 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 Litigation 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 Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments.

(c) To the Administrator: An Administration Expenses Payment not to exceed \$15,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$15,000, 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 \$25,000 to be paid from the Gross Settlement Amount, with seventy-five percent (75%) (\$18,750) allocated to the LWDA PAGA Payment and twenty-five percent (25%) (\$6,250) allocated to the Individual PAGA Payments.

i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (\$6,250) by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by each Aggrieved Employee's PAGA 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. twenty-five percent (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. Seventy-five percent (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 Workweeks. Based on its records, Defendants have represented there were approximately 337 Class Members who worked 56,287 workweeks during the Class Period up until March 9, 2022. Defendants, therefore, estimated that the number of workweeks through the Class Period is approximately 61,699.
- 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendants 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. Defendants have 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 Defendants 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. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than thirty (30) days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within fifteen (15) days after Defendants fund 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 (not less than one hundred eighty (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. If a Participating Class Member's or Aggrieved Employee's check is not cashed within one hundred twenty (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 sixty (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 seven (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 a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres Recipient"). Upon the selection of a Cy Pres Recipient, the Parties, Class Counsel and Defense Counsel shall 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 Defendants 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.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:
- 6.1. **Plaintiffs' Release.** Plaintiffs and their 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 and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's

PAGA Notice (“Plaintiffs’ Release”). Plaintiffs’ 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. Plaintiffs acknowledge that Plaintiffs 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 Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

(a) Plaintiffs’ Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive 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.

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 all claims that were alleged, or reasonably could have been alleged based upon the facts alleged, in the Operative Complaint which occurred during the Class Period, including, any and all claims, actions, and causes of action, arising during the Class Period, for: (1) failure to pay wages, including minimum wages, for all time worked pursuant to California Labor Code sections 1194, 1197, and 1197.1 and the IWC Wage Orders; (2) failure to pay overtime wages pursuant to California Labor Code sections 510, 1194, and 1198 and the IWC Wage Orders; (3) failure to provide meal periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to properly provide meal period premium payments; (4) failure to provide rest periods pursuant to California Labor Code sections 226.7 and 512 and the IWC Wage Orders, or to provide rest period premium payments; (5) failure to pay all wages owed at termination pursuant to California Labor Code sections 201-203 and the IWC Wage Orders; (6) failure to pay all wages in a timely manner during employment pursuant to California Labor Code section 204 and the IWC Wage Orders; (7) failure to furnish accurate itemized wage statements pursuant to California Labor Code section 226(a) and the IWC Wage Orders; (8) failure to reimburse all necessary business expenses pursuant to California Labor Code sections 2800 and 2802 and the IWC Wage Orders; and (9) violations of California Business & Professions Code sections 17200, *et seq.* Except as set forth in this Paragraph 6.2 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.

6.3. Release of PAGA Claims. All Aggrieved Employees and the State of California and 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 **PAGA** claims **pled** or could have been **pled** based on the factual allegations contained in the Operative Complaint and PAGA Notices sent by Plaintiffs that occurred during the PAGA Period, including PAGA claims for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 227.3, 246 et. seq. 351, 510, 512(a), 551, 552, 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, California Code of Regulations, Title 8, Section 11040, Subdivisions 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and IWC Wage Orders 1-2001, 4-2001, and 16-2001. Except as set forth in this Paragraph 6.3 of this Agreement, the Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

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. Defendants' Responsibilities. Within fourteen (14) days of the full execution of this Agreement, Defendants 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, Defendants 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, Defendants shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

7.2. Plaintiffs' Responsibilities. Plaintiffs 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 Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs 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. (1)(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 **nt.** In their Declarations, **Plaintiffs** 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 **thirty (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 PAGA Pay Periods in the Class Data.

(b) Using best efforts to perform as soon as possible, and in no event later than fourteen (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 seven (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 PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline 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 fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class portion of the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional fourteen (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 **until the Response Deadline** (plus an additional **fourteen (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 **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 **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 the **Response Deadline** (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 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 seven (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 PAGA 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 PAGA 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 PAGA 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 seven (7) days before the date by which Plaintiffs are 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 ten (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 seven (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 seven (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, Defendants provided figures as to the Class size as set forth in Paragraph 4.1 above. In regard hereto, Defendants are providing a declaration as set forth in Paragraph 7.1 above. Should the number of Workweeks in the Class Period increase by more than ten percent (10%) of the estimate stated herein in Paragraph 4.1 due to inaccurate information or a failure to disclose covered Class Members, Defendants will increase the Gross Settlement Amount by a proportionate additional amount for each additional workweek in excess of ten percent (10%).

10. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds ten percent (10%) of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that if Defendants withdraw 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, Defendants will remain responsible for paying all Settlement Administration Expenses incurred as of the date Defendants make this election to withdraw. Defendants must notify Class Counsel and the Court of its election to withdraw not later than fourteen (14) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. **MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than sixteen (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(1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (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 five (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 Administration 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 **Defendants** that any of the allegations in the Operative Complaint have merit or that **Defendants have** any liability for any claims asserted; nor should it be intended or construed as an admission by **Plaintiffs** that **Defendants'** 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**, **Defendants reserve** the right to contest certification of any class for any reasons, and **Defendants reserve** all available defenses to the claims in the Action, and **Plaintiffs reserve** the right to move for class certification on any grounds available and to contest **Defendants'** 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. **Plaintiffs, Class Counsel, Defendants** 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. **Plaintiffs, Class Counsel, Defendants** 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 **Plaintiffs** and **Defendants**, 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 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 a mediator and/or the Court for resolution.
- 13.7. No 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. No Tax Advice. Neither **Plaintiffs**, Class Counsel, **Defendants** 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 **Defendants** 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 **ninety (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, **Plaintiffs** shall destroy, all paper and electronic versions of Class Data received from **Defendants**.
- 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 **Plaintiffs and the Class:***

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To *Defendants*:

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Melanie Rollins
Devon Mills
Littler Mendelson P.C.
2049 Century Park East, Fifth Floor
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Tel.: (213) 443-4300
Fax: (213) 443-4299
E-mail: rblumberg@littler.com
mrollins@littler.com
dmills@littler.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 the entire period of this settlement process from the mediation on March 9, 2022 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 Salvador Venegas

Dated: _____

Plaintiff Sergio Lainez

Dated: _____

[name]
For Defendant WWF Operating Company, LLC

Dated: _____

[name]
For Defendant Danone North America Public Benefit Corporation

Dated: _____

[name]
For Defendant Danone US, LLC

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Salvador Venegas

Dated: _____

Edwin Aiwarzian
Lawyers for Justice, PC
Attorneys for Plaintiff Sergio Lainez

Dated: _____

Robert S. Blumberg
Littler Mendelson P.C.
Attorney for Defendants WWF Operating Company, LLC, Danone
North America Public Benefit Corporation and Danone US, LLC

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FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

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.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles, 75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391

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CLASS ACTION & REPRESENTATIVE CASES

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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. Culinary 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

Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

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 County, 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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June 3, 2021
CA2383

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency Online Filing	WWF Operating Company, LLC Certified Mail #70200640000213198445 Corporate Creations Network Inc. 4640 Admiralty Way, 5 th floor Marina del Rey, CA 90292
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Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 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 WWF Operating Company, LLC and/or Danone US, LLC and/or Danone North America Public Benefit Corporation in California and classified as non-exempt employees during the time period of June 3, 2020 until a date as determined by the Court. Our offices represent Plaintiff Salvador Venegas (“Plaintiff”) and other Aggrieved Employees in a lawsuit against WWF Operating Company, LLC and/or Danone US, LLC and/or Danone North America Public Benefit Corporation (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee in the position of a Production Associate from April of 2016 to December of 2020 and 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 Plaintiffs 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, Plaintiff and Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the correct total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to Plaintiff and other Aggrieved Employees failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2) as when the hours were added up they did not equal the actual amount of hours worked each pay period. 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 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.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
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Telephone: (858)551-1223
Facsimile: (858) 551-1232

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

SALVADOR VENEGAS and SERGIO
LAINEZ, on behalf of themselves and on
behalf of all persons similarly situated,
and on behalf of the State of California, as
private attorney generals,

Plaintiff,

vs.

WWF OPERATING COMPANY, LLC, a
Limited Liability Company; DANONE
NORTH AMERICA PUBLIC BENEFIT
CORPORATION, a Corporation; DANONE
US, LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **21STCV20991**

[Consolidated with Case No. 21PSCV00643 and
Case No. 21PSCV01017]

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

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Maren Nelson
Dept.: 17

Action Filed: June 4, 2021
Trial Date: Not yet set

DECLARATION OF SEAN HARTRANFT

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 remail 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 are set at a flat fee of
2 \$12,950.00.

3 I declare, under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct. Executed this 8th day of December 2022, at Tustin, California.

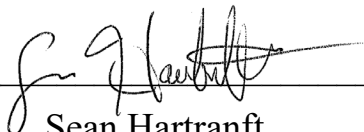
5
6
7 
8 Sean Hartranft

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: WWF - Danone

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	400
NCOA	Yes
Certified Spanish Translation	Yes
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	2	\$350.00

*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.

Subtotal \$650.00

PROJECT MANAGEMENT & NOTICING				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s) via mail, e-mail & fax	Hourly	\$70.00	3	\$210.00
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Rate	\$50.00	1	\$50.00
Toll Free Customer Service Representative	Flat Fee	\$75.00	1	\$75.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website, Includes Hosting	Flat Fee	\$750.00	1	\$750.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$3,475.00

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	400	\$800.00
USPS First Class Postage	Per Piece	\$0.60	400	\$240.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.50	80	\$200.00
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$1,540.00

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Check, Stub & Release - Print & Mail (W-2 and/or 1099)	Per Check	\$1.50	400	\$600.00
USPS First Class Postage	Per Piece	\$0.60	400	\$240.00
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$2.00	80	\$160.00
Reminder Postcard, Includes Postage	Per Piece	\$1.00	140	\$140.00
Reminder Notice via Email and Social Media	Flat Fee	\$100.00	1	\$100.00
Preparation of Taxes	Hourly	\$120.00	12	\$1,440.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$5,280.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	4	\$400.00
Project Manager Final Reporting	Hourly	\$120.00	4	\$480.00
Process Unclaimed Funds to State Controller	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$2,005.00

TOTAL CASE ESTIMATE: \$12,950.00

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.