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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

CHARLES HOWARD CLARK, an individual;

Plaintiff,

vs.

POWERSTONE PROPERTY MANAGEMENT,
INC., a California corporation; and DOES1
through 10, inclusive,

Defendants

Case No.: 30-2021-01212747-CU-OE-CXC

[Honorable Lon F. Hurwitz,
Department CX103]

**DECLARATION OF KANE MOON IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

*[Filed with Plaintiff's Notice of Motion and
Motion for Preliminary Approval, Declaration
of Plaintiff Charles Howard Clark, and
[Proposed] Order]*

PRELIMINARY APPROVAL HEARING

Date: March 29, 2024

Time: 1:30 PM

Dept: CX103

Complaint Filed: July 29, 2021

Trial Date: Not Set

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1. I am an attorney at law duly licensed to practice as such before all Courts of the State of California and am one of the attorneys of record for Plaintiff Charles Howard Clark and the putative Class. I have personal knowledge of the matters set forth herein and can competently testify to the facts described herein.

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5. During his entire employment with Defendant, Plaintiff was classified as non-exempt; paid on an hourly basis; and typically worked five days per workweek and eight or more hours per

1 workday. Further, Plaintiff was subjected to the same alleged unlawful labor practices as his
2 coworkers.

3 6. Defendant is a property management firm operating throughout California. Defendant
4 denies the allegations set out by Plaintiff and opposes the merits of this Action. First, Defendant
5 asserts it did not require or authorize any off-the-clock work and complied with all of its
6 compensation obligations, including compensating Class Members for any alleged off-the-clock
7 work, and therefore, Plaintiff and other Class Members were paid all wages owed. Second,
8 Defendant maintained that bonuses were discretionary, and thus, Defendant complied with its duty
9 to pay the regular rate of pay for overtime, meal/rest premiums, or sick pay. Third, Defendant
10 asserts it complied with all of its meal period and rest break obligations, and thus, Plaintiff and
11 other Class Members were provided the opportunity to take all code-compliant meal periods and
12 rest breaks to which they were entitled.

13 7. Next, Defendant asserts it complied with all of its reimbursement obligations, and
14 therefore, Plaintiff and other Class Members were compensated for any and all business expenses
15 incurred. Lastly, Defendant asserts it did not willfully fail to pay any wages, and therefore,
16 Plaintiff and other Class Members are not owed waiting time penalties for wages untimely paid
17 during employment or at termination. *See Pedroza v. PetSmart, Inc.* (C.D. Cal. June 14, 2012) No.
18 ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.

19 8. In addition, Defendant asserts it complied with all wage statement requirements, and
20 thus, Plaintiff and other Class Members suffered no actual damage or harm from inaccurate wage
21 statements. *See Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB,
22 2013 WL 622032, at *10 (“A plaintiff must adequately plead an injury arising from an employer’s
23 failure to provide full and accurate wage statements, and the omission of the required information
24 alone is not sufficient.”). Therefore, Defendant denies derivative liability on these bases, asserting
25 it did not engage in unfair business practices and does not owe civil penalties under PAGA. And
26 finally, Defendant asserts Plaintiff’s claims are individualized, and thus, improper for class
27 treatment.
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1 **DISCOVERY AND ANALYSIS**

2 9. The Parties mediated the Action with experienced, neutral mediator, Hon. Carl West
3 (Ret.), on May 5, 2023. In preparation for mediation, the Parties agreed to a meaningful, informal
4 exchange of data and documents. The data and documents included, but was not limited to, the
5 time and corresponding payroll records of a fifty percent sample of the putative Class; the
6 employee handbooks in effect during the Class Period; the total number of putative Class
7 Members and Aggrieved Employees; and the total number of workweeks and pay periods worked
8 by the putative Class Members and Aggrieved Employees. The data and documents enabled Class
9 Counsel and its expert to evaluate the alleged claims in light of relevant case and statutory law. In
10 turn, this allowed Class Counsel to estimate the probability of class certification, Plaintiff's
11 success on the merits, and Defendant's maximum monetary exposure for all claims and penalties.

12 **SETTLEMENT NEGOTIATIONS**

13 10. The Parties mediated the Action with professional, neutral mediator, Hon. Carl West
14 (Ret.), on May 5, 2023. The Parties went into the mediation willing to settle the dispute but also
15 prepared to litigate their respective positions through trial and appeal if a settlement was not
16 reached. Mediation was therefore adversarial and conducted at arm's length. The Parties also
17 went into the mediation willing to discuss and concede to the strengths and weaknesses of
18 Plaintiff's claims and Defendant's defenses. Mediation was resultingly successful, and a
19 settlement was reached.

20 11. The material terms of the Settlement are set out in the Joint Stipulation of Class and
21 PAGA Action Settlement. A true and correct copy of the Settlement is attached to the instant
22 Declaration as **Exhibit 1**. Class Counsel submitted the Settlement and the Motion for Preliminary
23 Approval to the Labor and Workforce Development Agency ("LWDA") on March 6, 2023. A
24 true and correct copy of the submission confirmation email is attached the instant Declaration as
25 **Exhibit 2**. Attached as **Exhibit 6** and **Exhibit 7** are the Exclusion and Objection Forms,
26 respectively, which Class Members may use to exclude themselves from the settlement or object
27 to the settlement in accordance. Settlement at ¶1.43. Class Counsel provided the LWDA with an
28 original notice of the alleged Labor Code violations before pursuing the alleged PAGA cause of

1 action on July 23, 2021. A true and correct copy of the notice is attached to the instant
2 Declaration as **Exhibit 3**.

3 **KEY TERMS OF THE PROPOSED SETTLEMENT**

4 12. “Gross Settlement Amount” means \$270,000.00, or the total amount Defendant agrees
5 to pay under the Settlement. *Settlement*, ¶ 1.22. The Gross Settlement Amount will be used to pay
6 the Individual Class Payments, PAGA Settlement Payment, Class Counsel Fees Payment, Class
7 Counsel Litigation Expenses Payment, Class Representative Service Payments, and Administration
8 Expenses Payment. *Id.* In addition to the key terms below, Defendant has elected to cut-off the
9 Class Period pursuant to the Escalator Clause (*Settlement* at ¶8). Thus, the Class Period will be the
10 period from July 26, 2017, to July 1, 2023, and the PAGA Period will be July 23, 2020 to July 1,
11 2023.

12 (a) “Individual Class Payment” means the individual payments made to each
13 Settlement Class Member from the Net Settlement Amount. *Settlement*, ¶
14 1.23.

15 (b) “PAGA Penalties” means \$20,000.000, the total amount of PAGA civil
16 penalties to be paid from the Gross Settlement Amount, and which shall be
17 allocated seventy-five percent to the LWDA (\$15,000.00) (“LWDA PAGA
18 Payment”) and twenty-five percent to the Aggrieved Employees (\$15,000.00)
19 (“Individual PAGA Payment”), in settlement of the Released PAGA Claims.
20 *Settlement*, ¶ 1.24,1.27,1.34).

21 (c) “Class Counsel Fees Payment” means the amount allocated to Class Counsel
22 for reimbursement of their reasonable fees incurred to prosecute the Action.
23 *Settlement*, ¶ 1.7. The Class Counsel Fees Payment is not to exceed
24 \$90,000.00, or one third of the Gross Settlement Amount. *Settlement*, ¶
25 3.2.2.

- (d) “Class Counsel Litigation Expenses Payment” mean the amount allocated to Class Counsel for reimbursement of reasonable expenses incurred to prosecute the Action. *Settlement*, ¶ 1.7. The Class Counsel Litigation Expenses Payment is not to exceed \$20,000.00. *Settlement*, ¶ 3.2.2. A true and correct copy of Class Counsel’s current litigation expenses are attached to this Declaration as **Exhibit 4**.
- (e) “Class Representative Service Payments” means the payment to the Class Representatives for initiating and providing services in support of the Action and for their general release. *Settlement*, ¶ 1.14. The Class Representative Service Payment is not to exceed \$7,500.00. *Settlement*, ¶ 3.2.1.
- (f) “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 of the Settlement. *Settlement*, ¶ 1.3. The Administration Expenses Payment is not to exceed \$10,000.00. *Settlement*, ¶ 2.3. A true and correct copy of the Administrator bid is attached to this Declaration as **Exhibit 5**.
- (g) “Class Period” means the period from July 26, 2017 to the date the Court preliminarily approves of the Settlement. *Settlement*, ¶ 1.12
- (h) “PAGA Period” means the period from July 23, 2020, to the date the Court preliminarily approves of the *Settlement*. ¶ 1.31
- (i) Escalator Clause – if the actual number of Workweeks is one hundred and twenty percent (120%) of the 19,000 Workweek estimate provided, Defendant may choose: 1) the Total Settlement Amount to be paid will increase by 2%; or 2) the Class Period will end on the date in which it encompasses 22,420 (118% of 19,000) Workweeks. *Settlement*. ¶ 8

1 13. “Effective Date” means the date by when both of the following have occurred: (a) the
2 Court has approved the Settlement; (b) the Court has issued the Final Order and entered Judgment
3 in accordance with terms described herein. *Settlement*, ¶ 1.18.

4 14. “Net Settlement Amount” means the Gross Settlement Amount less the following
5 payments in the amounts approved by the Court: (i) Individual PAGA Payments, (ii) the LWDA
6 PAGA Payment, (iii) Class Representative Service Payments, (iv) Class Counsel Fees Payment,
7 (v) Class Counsel Litigation Expenses Payment, and (vi) the Administration Expenses Payment.
8 The remainder is to be paid to Participating Class Members as Individual Class Payments..
9 *Settlement*, ¶ 1.28.

10 15. “Released Class Claims” means all claims that were alleged, or reasonably could have
11 been alleged, in the Operative Complaint that arose during the Class Period. *Settlement*, ¶¶ 1.39,
12 5.2.

13 16. “Released PAGA Claims” all claims under the California Labor Code Private Attorneys
14 General Act that were alleged, or reasonably could have been alleged, based on the claims asserted
15 in the Operative Complaint and/or Plaintiff’s Notice of Labor Code Violations and PAGA
16 Penalties. *Settlement*, ¶¶ 1.40, 5.3.

17 17. “Released Parties” means: Defendant and any parent, subsidiary, affiliate, predecessor
18 or successor entity, and all agents, employees, contracting parties, joint employers, officers,
19 directors and attorneys thereof. *Settlement*, ¶ 1.41.

20 **THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE**

21 18. The Settlement is fair and reasonable for the following reasons: it was the product of
22 extensive adversarial discussions and negotiations between the Parties; the terms reflect findings
23 made after an exhaustive exchange of data and documents between the Parties; the terms are
24 supported by an in-depth factual investigation and evaluation by Class Counsel and its expert,
25 which included a data-analysis of the time, payroll and policy records produced by Defendant;
26 and it subverts further litigation, and therefore, the risk of significant delay, the risks involved in
27 class certification, the challenge of succeeding on the merits even if the class is certified,
28 substantial litigation-related costs, and trial and appellate risk.

19. The Settlement is based on the following facts, as provided and/or substantiated by Defendant and the time and corresponding payroll records of the Class: (1) there are approximately 19,000 workweeks; (2) there are approximately 260 Class Members; (3) there are approximately 125 Aggrieved Employees who fall within the 1-year statute of limitations period for Labor Code sections 2698, *et. seq.* penalties; and (4) the Class Members have a weighted average regular rate of \$21.09 per hour.

Claim	Relevant Time Period	Rate	Number of Violations	Amount
Unpaid Wages due to Off-the-Clock work	19,000 Workweeks	\$21.09 Average Rate of Pay	6,667 Net Unpaid Hours due to Off-the-Clock Work Assuming 5 Minutes per Shift	***\$140,607.03 \$46,869.01
Unpaid Wages due to Failure to Pay Regular Rate	19,000 Workweeks	\$21.32 Average Regular Rate;	Violations Determined by Expert's review of Overtime, Meal Premiums, or Sick Pay in Pay Periods with Bonus	**\$7,350.00 \$3,675.00
Meal Period Violations	19,000 Workweeks	\$21.09 Average Rate of Pay	1,735 Net Meal Break Violations (5,032 violations with 3,297 paid premiums)	***\$36,591.15 \$12,197.05
Rest Break Violations	19,000 Workweeks	\$21.09 Average Rate of Pay	39,310.5 Rest Break Violations (assuming 50% violation rate)	*\$829,047.90 \$82,904.79
Unreimbursed Business Expenses Violations	19,000 Workweeks	\$20.00 per month for cell-phone use; \$25.00 per month for vehicle use	Assumptions Extrapolated to Class based on Expert's Analysis	*\$201,510.00 \$20,151.00
Waiting Time Penalties	Based On An Estimated 64 Terminated Class Members Within The 3-Year Statute Of Limitations	Violation Rate Based On Analysis Of Records By Expert	Violation Rate Based On Analysis Of Records By Expert For Each Pay Period	*\$316,942.00 \$31,694.20
Inaccurate Wage Statement Penalties	Based On 125 Class Members Within The 1-Year Statute Of Limitations	\$50/100 Per Pay Period	\$100 For Each Pay Period for 125 Employees During The 1-Year Statute Of Limitations	*\$418,250.00 41,825.00

PAGA Civil Penalties	Based On 125 Class Members Within The 1-Year Statute Of Limitations	\$100 Per Pay Period	\$100 For Each Pay Period For 125 Employees During The 1-Year Statute Of Limitations	*\$424,500.00 42,450.00
Total for All Claims				2,374,348.08 \$281,766.05
*These figures are discounted based on a 10% probability of prevailing on class certification and the merits. **These figures are discounted based on a 50% probability of prevailing on class certification and the merits. ***These figures are discounted based on a 33 1/3% probability of prevailing on class certification and the merits.				

20. The first unpaid wages claim is based on the fact that Defendant did not compensate Class Members for all hours worked. In particular, Defendant did not compensate Class Members for all hours during which Class Members were under the direction and control of Defendant but were not clocked in. Defendant failed to pay all wages owed by requiring employees to work off-the-clock by habitually requiring them to work before, or after their scheduled shift to complete work-related duties, such as to answer calls while on break from Defendant's residents, to answer the door to receive deliveries, to drive to the properties to drop off keys or meet with vendors, and other related tasks. Roughly estimating five off-the-clock minutes per Class Member per shift, Class Counsel and its data expert determined that Defendant did not compensate Class Members for at least 6,667 off-the-clock hours. Based on their average hourly rate, the estimated maximum exposure for this claim was \$140,607.03. Defendant nonetheless contended that off-the-clock work was not permitted or required and Class Members could have recorded the time they spent outside their scheduled hours. Although on the one hand this claim could be individualized in nature, and thus, not as amenable to class certification, the nature of Class Members' work lends itself to work related tasks arising outside of the actual scheduled time. Thus, proving that Defendant knew or should have known that in practice work was being performed off the clock could be easily determined. Nevertheless, in light of these defenses, and for purposes of settlement, Class Counsel discounted the maximum potential liability by two-thirds ($\$140,607.03 \times .33 = \$46,869.01$). **The realistic damage estimate for the unpaid wages claim is thus \$46,869.01.**

21. The second unpaid wages claim is based on the fact that bonuses were paid in the same pay period that Class Members worked overtime, earned or were entitled to a meal

premium, or had sick pay. Thus, Class Members would be entitled to a slightly higher hourly rate than their base rate because blending the bonus into the total compensation increases the net hourly value of Class Members' work and that slightly increased rate needs to form the basis for the overtime rate, the meal period premium, or sick hours paid. However, Defendant did not incorporate the regular rate for purposes of overtime, meal period premiums, or sick pay. The maximum exposure for this case, based on our expert's analysis of time and pay records was \$7,350.00. Defendant maintained that the bonuses were only employee referral bonuses and that those were discretionary and thus not subject to being incorporated into the regular rate. Although there might be scenarios where Defendant's argument could be correct, the fact that the bonus incentive was in the handbook and stated in non-discretionary terms is a factor weighing in favor of liability. Nevertheless, in light of these defenses, and for purposes of settlement, Class Counsel discounted the maximum potential liability by half ($\$7,350.00 \times .5 = \$3,675.00$). **The realistic damage estimate for the unpaid wages claim is thus \$3,675.00.**

22. The meal period claim is based on the fact that Defendant did not provide or maintain sufficient meal period policies or practices, such that Class Members were not always permitted or able to take meal periods and/or were sometimes subjected to late, short and/or interrupted meal periods, without compensation in lieu thereof. The meal period claim is also based on the fact that Defendant did not adequately inform Class Members of their right to take an *uninterrupted* meal period by the end of the fifth hour of work, or, for shifts greater than ten hours, by the end of the tenth hour of work. In reviewing the time and corresponding payroll records of the putative Class, Class Counsel and its data expert determined that Defendant had paid significant meal period premiums so the meal period claim against Defendant was weakened by that fact. Therefore, the maximum exposure for the meal period claim was \$36,591.15, after offsetting the approximately \$50,224.00 of meal premiums that were paid. However, based on Plaintiff's experience and the nature of the work itself (having to answer phones or help customers without notice), the extent of the violations was captured by the data. Therefore, Class Counsel discounted the potential liability by two-thirds ($\$36,591.15 \times .33 = \$12,197.05$). **The realistic damage estimate for the meal period claim is thus \$12,197.05.**

1 23. The rest break claim is based on the fact that Defendant did not provide or maintain
2 sufficient rest break policies or practices, such that Class Members were regularly required to
3 work in excess of four consecutive hours a day, or a major fraction thereof, without authorization
4 or permission to take a ten-minute, continuous and *uninterrupted* rest period, without
5 compensation in lieu thereof. Rest periods were not recorded but based on Plaintiff's experience
6 rest periods were constantly interrupted with the press of business. Thus, Class Counsel assumed a
7 50% violation rate and arrived at a maximum exposure of \$829,047.90. In response, Defendant
8 argued that the rest break policies were code compliant and any practical violation was Class
9 Members' own decision not to take a code compliant rest break. The fact that meal period
10 premiums were paid is evidence that Defendant was willing to pay premiums and that class
11 members were on notice that premiums were being paid. However, Plaintiff was not aware that
12 premiums were also available for non-code compliant rest breaks so there still could be an
13 argument to be had that there was a poorly administered rest period policy. Based on the general
14 difficulty of certifying rest period claims, and the challenges on the merits, Class Counsel
15 determined that a ninety percent discount was appropriate for this claim because is allowed for
16 Class Members to recover for inevitably some non-compliant rest period while heeding to the
17 realities and defenses involved in rest period claims. **The realistic damage estimate for the rest**
18 **break claim is thus \$82,904.79.**

19 24. The unreimbursed business expenses claim is based on the fact that Defendant did not
20 reimburse Class Members for all expenses Class Members incurred in direct discharge of their
21 duties. In particular, Defendant did not reimburse Class Members for use of their personal cell-
22 phone and vehicles for work purposes. In preparation for mediation, Class Counsel estimated that
23 Defendant should have reimbursed each Class Member approximately \$20.00 a month for their use
24 of personal cell-phones and \$25.00 a month for use of their personal vehicles. This yielded a
25 potential maximum exposure of \$201,510.00. Defendant argued that it had robust reimbursement
26 policies in its handbook, there were company vehicles that Class Members could use, and that
27 Defendant in-fact issued reimbursements for cell-phone use. Those facts severely affect the value
28 of this claim; however most of the cell-phone reimbursement were only a small nominal amount,

1 and company vehicles were not always available and Plaintiff was never reimbursed for his use of
2 his personal vehicle. In light of the defenses available here, and for purposes of settlement, Class
3 Counsel discounted the potential liability by ninety percent. **The realistic damage estimate for**
4 **the unreimbursed expenses claim is thus \$20,151.00.**

5 25. The derivative penalties, as indicated above, were calculated by taking into account the
6 above claims, defenses, maximum liabilities and reasonable discounts; their respective formulae
7 for calculation and statute of limitations; and the total number of Class Members who fall within
8 their respective statute of limitations. On these bases, the maximum potential liability of
9 Defendant for waiting time statutory penalties is \$316,942.00; inaccurate wage statement statutory
10 penalties is \$418,250.00; and PAGA civil penalties is \$424,500.00. The total maximum potential
11 liability of Defendant for statutory and civil penalties is thus \$1,159,692.00. Defendant
12 nonetheless contended that, in light of its defenses, the discretionary nature of statutory and civil
13 penalties, and the potential Due Process concerns that might arise from a putative award, it would
14 be unrealistic to expect the Court to award the full amount. For purposes of reaching a reasonable
15 settlement, Class Counsel agreed to discount this amount by ninety percent, in view of the fact that
16 the most significant claims could not be established on the face of the documents produced by
17 Defense Counsel. **The realistic damage estimate for all derivative penalties is thus**
18 **\$115,692.00.**

19 26. **The discounted claims and penalties aggregate to \$281,766.05, which represents**
20 **the realistic maximum recovery.** The Gross Settlement Amount of \$270,000.00 therefore
21 represents 95% of the realistic maximum recovery. In turn, an estimate of the Net Settlement
22 Amount can be calculated to be \$124,150.00 at this time.¹ The Class is comprised of 260 Class
23 Members. Thus, each Settlement Class Member is eligible to receive an average net benefit of
24 approximately \$477.50.

25
26 ¹ The Net Settlement Amount is the Gross Settlement Amount of \$270,000.00, minus
27 \$8,350.00 for the Administrator Expenses Payment, minus \$90,000.00 for the Class Counsel Fees
28 Payment, minus \$20,000.00 for the Class Counsel Litigation Expenses Payment, minus \$7,500.00
for the Class Representative Service Payments, and minus \$20,000.00 for PAGA Settlement
Payment.

1 27. The Gross Settlement Amount represents a substantial recovery when compared to the
2 realistic maximum recovery. Further, in light of the risks of litigation, the uncertainties involved in
3 achieving class certification, the burdens of proof necessary to establish liability, the probability of
4 appeal of a favorable judgment, the legitimate controversy that exists as to each cause of action,
5 the expense and time which would be required to prove the amount of wages due to each Class
6 Member and the possibility that the Court would discretionarily decide not to impose civil
7 penalties under PAGA, the Settlement is within the *ballpark* of reasonableness, and preliminary
8 settlement approval would be appropriate.

9 28. Moreover, in light of Plaintiff's legally and factually backed confidence in the merits of
10 his claims, the fact that the issues were fairly contested, and the risks and accompanying expense
11 of further litigation, the Settlement is in the best interest of the Class. Indeed, although the Parties
12 have already engaged in a significant amount of investigation, informal discovery and class-wide
13 data analysis, the Settlement avoids further formal written discovery, preparation for class
14 certification and trial, as well as the prospect of appeals in the wake of a disputed class
15 certification ruling for Plaintiff and/or an adverse summary judgment ruling. Were the Court to
16 certify any claims, Defendant could move to decertify the claims. As a result, the Parties would
17 incur considerably more attorneys' fees and costs through trial.

18 **THE CLASS COUNSEL FEES PAYMENT IS FAIR AND REASONABLE**

19 29. The Class Counsel Fees Payment is not to exceed one-third of the Gross Settlement
20 Amount, or \$90,000.00. *Settlement*, ¶ 3.2.2. The Class Counsel Fees Payment is based Class
21 Counsel's experience and qualifications, and can be justified under the common fund doctrine

22 **MY EXPERIENCE AND QUALIFICATIONS**

23 30. I received a B.A. in History in 1998 from UCLA. I received my J.D. from Loyola
24 Marymount Law School in 2006. I became an Active Member of the State Bar of California in
25 June 2007 and have been an Active Member in good standing continuously since then. I am a
26 current member of the California Employment Lawyers Association ("CELA"). I have been
27 selected to Super Lawyers each year from 2019 to 2023.

1 31. I co-founded Moon Law Group, PC in March 2010. My practice is focused exclusively
2 on advocating for the rights of employees in wage-and-hour litigation, almost entirely in class
3 actions, and my current billing rate is \$725.00 an hour.

4 32. For the past decade, I have built my practice to have an emphasis on employment and
5 related civil litigation cases and have both prosecuted and defended employment-related litigation
6 cases. I have been heavily, successfully, and continuously involved in active litigation and trial
7 work, and have conducted bench and jury trials on behalf of both employees and employers in
8 wage-and-hour cases.

9 33. I am experienced in prosecuting and defending employment matters, particularly class
10 actions. My firm has focused a substantial percentage of its practice on wage, hour, and working
11 conditions violations. In addition to the present case, I am also class counsel for other wage-and-
12 hour class action lawsuits pending in various counties throughout California, including in state
13 and federal courts. The following is a list of some of our recent class action settlements that have
14 received preliminary and final approval:

- 15 (a) Mark Brulee, et al. v. DAL Global Serv., LLC (C.D. Cal. Dec. 20, 2018,
16 No. CV 17-6433 JVS(JCGx)) 2018 WL 6616659 (class size approx. 2,650;
17 lead counsel). In approving my \$650 hourly rate, the Court found: “Class
18 Counsel’s declarations show that the attorneys are experienced and
19 successful litigators. Other courts have approved the attorneys’ current
20 rates for the Moon Law Group, PC attorneys.” (Id. at *10);
- 21 (b) Sison v. Cha Hollywood Med. Ctr., L.P. (LASC No. BC6441 29) (class
22 size approx. 2,100; co-counsel);
- 23 (c) Jones v. Fitness Alliance, LLC (Riverside Super. Court No. PSC1404079)
24 (class size approx. 1,000; lead counsel);
- 25 (d) Gomez v. H Mart Cos., Inc. (LASC No. BC671525) (class size approx.
26 2,500; co-counsel);
- 27 (e) Montoya v. Golden 1 Credit Union (Sacramento Super. Court No. 34-2018-
28 00228252) (class size approx. 1,900; lead counsel);

- (f) Campa v. Bloomingdeals, Inc. (LASC No. BC700366) (class size approx. 1,500; lead counsel);
- (g) Black v. Mission Healthcare Serv., Inc. (LASC No. 19STCV04602) (class size approx. 1,000; lead counsel);
- (h) Onofre v. Caitac Garment Processing, Inc. (LASC No. BC702283) (class size approx. 750; lead counsel);
- (i) Martinez v. Bail Hotline Bail Bonds, Inc. (LASC No. BC700131) (class size approx. 173; lead counsel);
- (j) Jones v. Citiguard, Inc. (LASC No. BC664890) (class size approx. 587; lead counsel);
- (k) Slaughter v. ACA Sec. Stems, LP (LASC No. BC699137) (class size approx. 300; lead counsel);
- (l) Taylor v. Sherman's Delicatessen & Bakery, LLC (LASC No. BC722765) (class size approx. 515; lead counsel);
- (m) Vertti v. Bagcraft Papercon III, LLC (LASC No. 19STCV12729) (class size approx. 260; lead counsel);
- (n) Rodriguez v. Rossmoyne, Inc. (LASC No. BC699137) (class size approx. 220; lead counsel);
- (o) Vargas v. AMS Paving, Inc. (LASC No. BC722767) (case size approx. 260; lead counsel);
- (p) Garcia v. Comfy U.S.A. Apparel, Inc. (LASC No. BC709630) (class size approx. 210; lead counsel);
- (q) Lagos v. ThyssenKrupp Elevator Corp. (LASC No. BC682972) (\$750,000 for 79 class members; lead counsel); and
- (r) Aparicio v. Lineage Logistics, LLC (LASC No. BC722764) (class size approx. 155; lead counsel).

1 34. The foregoing experience is helpful in assessing the reasonableness of settlements,
2 such as the one at issue here, and from this experience I concluded that this lawsuit could not
3 have been settled on better terms than provided under the present Settlement Agreement.

4 BRETT GUNTHER’S EXPERIENCE AND QUALIFICATIONS

5 35. Brett Gunther is an associate attorney at Moon Law Group, PC. Mr. Gunther
6 represents employees in both state and federal court, specifically in employment litigation cases
7 involving discrimination, harassment, and wrongful termination, as well as wage-and-hour class
8 action and representative actions concerning claims related to overtime and minimum wages,
9 meal and rest break violations, improper wage statements, PAGA, and unfair business practices.

10 36. Mr. Gunther received his Bachelor of Arts in Psychology and Human Development
11 from the University of California, San Diego and his Juris Doctorate from California Western
12 School of Law, where he excelled academically and made the Dean’s List for multiple terms. Mr.
13 Gunther also worked as a faculty research assistant for his Constitutional Law professor during
14 his final year.

15 37. Mr. Gunther has worked exclusively on behalf of employees since becoming a
16 member of the Bar in 2015, including on class and representative actions, and has been directly
17 involved in obtaining outstanding results for employees who have been wronged by their
18 employers, including, but is not limited to:

- 19 (a) Working as part of the four-attorney team to obtain class certification and a
20 trial verdict of \$2,000,000 on behalf of a class of thousands of retail
21 workers in the case *Felczer v. Apple Inc.*, San Diego Superior Court Case
22 No. 37-2011-00102593, (special verdict form filed on Dec. 9, 2016.)
- 23 (b) Following a defense verdict, Mr. Gunther prepared the briefing for a new
24 trial motion which resulted in the court ordering a new trial in *Contreras v.*
25 *Family Health Centers of San Diego*, San Diego Superior Court Case No.
26 37-2014-00026469-CU-WT-CTL, upheld on appeal in *Contreras-*
27 *Velazquez v. Family Health Centers of San Diego, Inc.* (Cal. Ct. App., Aug.
28 9, 2017, No. D071083) 2017 WL 3403146.

- (c) Preparing the opposition and defeating a motion for summary judgment in the United States District Court, Central District involving complex issues concerning employee misclassification and disability discrimination in *Mack v. Universal Truckload, LLC* (C.D. Cal., Dec. 18, 2020, No. 5:19-CV-02363-RGK-SP) 2020 WL 8175602.
- (d) Obtaining preliminary approval of a class and PAGA settlement for approximately 658 class members in the matter *Lopez v. Pacific Dutch Group, LLC, et al.*, (2022) Santa Barbara Superior Court Case Number 21CV01197.
- (a) Obtaining final approval of a PAGA settlement for approximately 759 employees in the matter *Cruz v. Crescent Hotels & Resorts, LLC*. (2022) Sacramento County Case No 34-2021-00299126-CU-OE-GDS.
- (b) Obtaining final approval of a PAGA settlement for approximately 82 employees in the matter *Barreno v. Republique, LLC*. (2021) Los Angeles County Case No 21STCV09903.
- (c) Obtaining final approval of a PAGA settlement for approximately 86 employees in the matter *Rosas v. DialMed, Inc.* (2021) Los Angeles County Case No 20STCV44300.
- (e) Obtaining preliminary and final approval of a class action and PAGA settlement on behalf of 658 class members in *Lopez v. Pacific Dutch Group, LLC, et al.*, (2022) Santa Barbara Superior Court Case Number 21CV01197.
- (f) Obtaining preliminary and final approval of a class action and PAGA settlement on behalf of 1,184 class members in *Cherazo v. Essendant Co., et al.* (2022) Los Angeles Superior Court Case Number 21STCV25368.
- (g) Obtaining preliminary and final approval of a class and PAGA settlement for approximately 367 class members *Garcia v. R&B Wholesale Distributors, Inc., et al.* (2022) San Bernardino Superior Court Case Number CIVSB2108856.

- 1 (h) Obtaining final approval of a PAGA settlement for approximately 785
2 aggrieved employees in the matter *Perez v. Nutricion Fundamental, Inc.*
3 (2022) Los Angeles County Case No 21STCV15036.

4 38. Mr. Gunther has been a member in good standing with the California State Bar since
5 2015 and is also admitted to practice in the United States District Court for the Central, Eastern,
6 and Southern Districts of California. Mr. Gunther's billing rate is \$550.00 per hour.

7 EDWIN KAMARZARIAN'S EXPERIENCE AND QUALIFICATIONS

8 39. Edwin Kamarzarian is an associate attorney at Moon Law Group, PC. Mr. Kamarzarian
9 represents employees in all aspects of employment litigation, including wage and hour class action
10 and representative actions involving claims related to overtime and minimum wages, meal and rest
11 break violations, improper wage statements, the California Private Attorneys General Act, and
12 unfair business practices.

13 40. Mr. Kamarzarian received his B.A. in Philosophy with honors from the University of
14 California, Riverside and his Juris Doctorate from Southwestern Law School. While in law school,
15 Mr. Kamarzarian served as a certified law clerk for the Los Angeles County District Attorneys
16 office.

17 41. Mr. Kamarzarian's current billing rate is \$500.00 per hour. During Mr. Kamarzarian's
18 tenure with Moon Law Group, PC, Mr. Kamarzarian has played a meaningful role in obtaining
19 outstanding results for employees who have been wronged by their employers. Mr. Kamarzarian's
20 litigation experience includes, but is not limited to:

- 21 (a) In July of 2021, Mr. Kamarzarian prepared the briefing submitted to JAMS to
22 deny arbitration of a class and representative action compelled to arbitration,
23 which was successful, resulting in the case being sent back to the superior court
24 in the matter of *Pagoulatos v. Coasthills Credit Union*, Santa Barbara Case
25 Number 20CV02801.
- 26 (b) In September of 2021, Mr. Kamarzarian successfully opposed a motion to
27 compel arbitration by arguing that Defendant waived its right to arbitrate under
28 the arbitration agreement, which was successful, resulting in a prompt

1 settlement on a class-wide basis in the matter of *Bustamante v. Virgil Advanced*
2 *Skill Nursing, Inc.*, Los Angeles Case Number 19STCV00801.

3 (c) In January 2022, Mr. Kamarzarian helped prepare the briefing in a class
4 certification motion filed by a co-Plaintiff, which was granted, in part. *Thong v.*
5 *Outlook Resources, Inc.*, Los Angeles Consolidated Case Number
6 20STCV43748.

7 (d) In January 2024, Mr. Kamarzarian prevailed on a writ of mandate in the 4th
8 Appellate District of California with an opinion certified for publication in the
9 matter of *Sierra v. Rudolph & Sletten, Inc.* Appellate Case Number D082429.

10 Since April 2021, Mr. Kamarzarian's practice has shifted to almost exclusively representing
11 employees in putative wage and hour cases. Mr. Kamarzarian's fees have been repeatedly
12 approved by multiple Courts in this state. Mr. Kamarzarian participated in the litigation and
13 resolution of many wage and hour class actions and representative actions, including obtaining
14 preliminary and final approval of settlements, and approval of PAGA settlements. A selection of
15 cases wherein Mr. Kamarzarian served as Class Counsel or PAGA Counsel includes: *Pagoulatos*
16 *v. Coasthills Credit Union*, Santa Barbara Case Number 20CV02801(\$1,100,00 for a class of
17 approximately 460 class members, approving \$400/hr.); *Bustamante v. Virgil Advanced Skill*
18 *Nursing, Inc.*, Los Angeles Case Number 19STCV00801 (\$700,000 for approximately 348 class
19 members, approving); *Barahona v. Methodist Hospital of Southern California*, Los Angeles Case
20 Number 20STCV09876 (\$5,000,000 for a class of approximately 3,329 class members); *Barrios*
21 *v. C.B. Nichols Egg Ranch*, San Bernardino Case Number CIVSB2112296 (\$875,000 for a class
22 of approximately 389 class members, approving \$400/hr.); *Bonine v. Wachter, Inc.*, Los Angeles
23 Case Number 20STCV31653 (\$354,000 for a class of approximately 185 class members); *Campos*
24 *v. Adecco USA, Inc.*, Contra Costa Case Number C21-00473 (\$170,000 for approximately 822
25 aggrieved employees, approving \$400/hr.); *Castillo v. Freedom Painting, Inc.*, Los Angeles Case
26 Number 20STCV22365 (\$250,000 for approximately 345 class members); *Dale v. Con-Lee*
27 *Restaurants, Inc.*, Santa Clara Case Number 20CV364938 (\$415,000 for approximately 1,612 class
28 members); *Drews v. Tuff Shed, Inc.*, Sacramento County Case Number 34-2021-00300020-CU-OE-

1 GDS (\$100,000 for approximately 565 aggrieved employees); *Elliott v. Sage Hospitality Resources,*
2 *LLC*, San Diego Case Number 37-2020-00043180-CU-OE-CTL (\$450,000 for approximately 454
3 class members, approving \$400/hr.); *Ellison v. Granite Hills Healthcare & Wellness Centre, LLC*,
4 San Diego Case Number 37-2021-00032864-CU-OE-CTL (\$130,000 for 666 aggrieved employees,
5 approving \$400/hr.); *Galvez v. Yamato Valencia, Inc.*, Los Angeles Case Number 20STCV22760
6 (\$300,000 for 439 class members, approving \$400/hr.); *Gonzalez v. A.M. Castaneda, Inc.*, San
7 Diego Case Number 37-2021-00017374-CU-OE-CTL (\$350,000 for approximately 311 class
8 members); *Gonzalez v. Paradigm Treatment Centers, LLC*, Los Angeles Case Number
9 21STCV25649 (\$95,000 for 212 aggrieved employees); *Gooding v. AAA Quality Services, Inc.*,
10 Kern Case Number BCV-21-100405 (\$510,000 for approximately 308 class members, approving
11 \$400/hr.); *Hickey v. Florence Crittenton Services of Orange County*, Orange Case Number 30-2020-
12 01168166-CU-OE-CXC (\$750,000 for approximately 823 class members); *Kwist v. Castle Oaks*
13 *Golf Management, LLC*, Sacramento Case Number 34-2020-00275335-CU-OE-GDS (\$150,000
14 for approximately 99 class members, approving \$400/hr.); and *Majdoub v. Argent Hotel*
15 *Management, LLC*, San Francisco Case Number CGC-20-582921 (\$1,800,000 for 2,304 class
16 members, approving \$400/hr.).

17 CONSIDERATIONS UNDER THE COMMON FUND DOCTRINE

18 42. I am informed and believe that the fee provision is reasonable. Not only is the fee
19 percentage requested less than that charged by my office for most employment cases, but also,
20 my office has invested significant time and resources into this case, with payment deferred to the
21 end of the case, and then, of course, contingent on the outcome.

22 43. It is further estimated that my office will need to expend at least another fifty to one
23 hundred hours to monitor the process leading up to final approval and payments made to the
24 Class. My office also bears the risk of taking whatever actions are necessary if Defendant fails to
25 pay.

26 44. The risk to my office has been significant, particularly if we would not have been
27 successful in pursuing this class action. In that case, we would have been left with no
28 compensation for all the time taken in litigating this case. Indeed, I have taken on a number of

1 class action cases that have resulted in thousands of attorney hours being expended and ultimately
2 having the defendant company going bankrupt. The contingent risk in these types of cases is very
3 real and occurs regularly. Furthermore, we were precluded from focusing on, or taking on, other
4 cases which could have resulted in a larger, and less risky, monetary gain.

5 45. Because most individuals cannot afford to pay for representation in litigation on an
6 hourly basis, Moon Law Group, PC represents virtually all of its employment law clients on a
7 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
8 we prevail at trial or successfully settle our clients' cases. Because Moon Law Group, PC is
9 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
10 her case, we cannot afford to represent an individual employee on a contingency basis if, at the
11 end of our representation, all we are to receive is our regular hourly rate for services. It is
12 essential that we recover more than our regular hourly rate when we win if we are to remain in
13 practice so as to be able to continue representing other individuals in civil rights employment
14 disputes.

15 46. As of the drafting of this motion, my office has incurred \$12,368.80 in expenses
16 litigating this Action, and we anticipate accruing additional costs up to Final Approval of the
17 Settlement. These expenses were reasonably necessary to the litigation and were actually incurred
18 by my office. They should be reimbursed in full, up to the maximum amount allowed in the
19 Settlement Agreement. In the event costs do not reach or exceed the maximum amount allowed in
20 the Settlement Agreement, the difference will revert to the Class Members.

21 **THE CLASS COUNSEL LITIGATION EXPENSES PAYMENT IS FAIR AND**
22 **REASONABLE**

23 47. The Class Counsel Litigation Expenses Payment is not to exceed is \$20,000.00.
24 *Settlement*, ¶ 3.2.2. The Class Counsel Litigation Expenses Payment will reimburse costs
25 reasonably and actually incurred by my office. My office has incurred \$12,368.80 in litigation
26 costs at this time. *See* Ex. 4.

1 **THE CLASS REPRESENTATIVE SERVICE PAYMENT IS FAIR AND REASONABLE**

2 48. Plaintiff cooperated immensely with my office throughout the course of the litigation.
3 Plaintiff took many actions to protect the interests of the Class, provided valuable information
4 regarding their hours worked and the duties they performed during those hours, and provided
5 valuable information regarding meal and rest periods taken and missed by Plaintiff and other
6 Class Members. Moreover, Plaintiff assisted in preparation for the mediation, provided my office
7 with the names and contact information of potential witnesses in this Action, and provided
8 information and documents relating to their employment with Defendant. In fact, the information
9 and documentation provided by Plaintiff was instrumental in establishing the wage and hour
10 violations alleged in this Action, and the recovery provided for in the Settlement would have been
11 impossible to obtain without their help.

12 49. Plaintiff created the opportunity for Class Members to participate in a settlement
13 which reimburses them for wage violations they may have never known about on their own or
14 been willing to pursue on their own. If these Class Members would have each tried to pursue their
15 legal remedies on their own, such would have resulted in each having to expend a significant
16 amount of their own monetary resources and time, which were obviated by Plaintiff putting
17 himself on the line on behalf of the other Class Members.

18 50. This class action would not have been possible without the aid of Plaintiff, who put his
19 own time and effort into this litigation and placed himself at risk for the sake of the Class. The
20 requested service payments for Plaintiff, for service as class representative, is a relatively small
21 amount of money considering the time and effort put into the litigation, and in comparison, to
22 enhancements granted in other class actions. The requested Service Payment is therefore
23 reasonable to compensate Plaintiff for their active participation in this lawsuit.

24 51. Plaintiff faced many risks for their role as Class Representative in this matter. In
25 particular, Plaintiff faced actual risk with their future employment, as putting himself on public
26 record in an employment lawsuit could very well affect his prospects for future employment.

27 Executed on March 6, 2024 at Los Angeles, California.



Kane Moon, Esq.

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EXHIBIT 1

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Attorneys for Defendant Powerstone Property Management, Inc.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE

CHARLES CLARK, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

POWERSTONE PROPERTY
MANAGEMENT, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2021-01212747-CU-OE-CXC

CLASS AND REPRESENTATIVE ACTION

[Hon. Lon Hurwitz, Dept. CX103]

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Charles Clark (“Plaintiff”) and defendant Powerstone Property Management, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Clark v. Powerstone Property Management, Inc.*, initiated on July 26, 2021, Case Number 30-2021-01212747-CU-OE-CXC.
- 1.2. “Administrator” means ILYM Group, Inc., 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 of the Settlement.
- 1.4. “Aggrieved Employee” means any person employed by Defendant in California and classified as a non-exempt employee who worked for Defendant during the PAGA Period.
- 1.5. “Class” means all persons employed by Defendant in California and classified as non-exempt who worked for Defendant during the Class Period.
- 1.6. “Class Counsel” means Kane Moon and Brett Gunther of Moon Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” or “Settlement 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.

1.11. “Class Notice” means the “Notice of Class Action Settlement”, 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 Period” means the period from July 26, 2017 to the date the Court preliminarily approves of the Settlement.

1.13. “Class Representative” means Charles Clark, the named Plaintiff in the Action seeking Court approval to serve as Class Representatives.

1.14. “Class Representative Service Payment” means the up to \$7,500 payment to each of the named Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Orange.

1.16. “Defendant” means named Defendant Powerstone Property Management, Inc.

1.17. “Defense Counsel” means James Rumm of Kennedy, McCarthy & Rumm, LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court has approved the Settlement; (b) the Court has issued the Final Order and entered Judgment in accordance with terms described herein; (c) if there is an appeal of the Court’s judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the California Supreme Court, and (iv) if there is an intervenor and no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

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

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

- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means Two Hundred and Seventy Thousand Dollars and Zero Cents (\$270,000.00) which is the total amount Defendant agrees to pay under this Settlement. In no event shall Defendant be obligated to pay more than the Gross Settlement Amount except as provided in Paragraphs 4.3 and 8 below (employers’ share of payroll taxes and escalator provision). The Gross Settlement Amount will be used to pay (i) Individual Class Payments, (ii) Individual PAGA Payments, (iii) the LWDA PAGA Payment, (iv) Class Counsel Fees, (v) the Class Counsel Litigation Expenses, (vi) Class Representative Service Payment, (vii) and the Administration Expense Payment.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: (i) Individual PAGA Payments, (ii) the LWDA PAGA Payment, (iii) Class Representative Service Payments, (iv) Class Counsel Fees Payment, (v) Class Counsel Litigation Expenses Payment, and (vi) the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the

- Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from July 23, 2020, to the date the Court preliminarily approves of the Settlement.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.33. "PAGA Notice" means Plaintiff's January 23, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiff" means Charles Clark, the named plaintiff in the Action.
- 1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.
- 1.40. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3 below.
- 1.41. "Released Parties" means: Defendant and any parent, subsidiary, affiliate, predecessor or successor entity, and all agents, employees, contracting parties, joint employers, officers, directors and attorneys thereof.
- 1.42. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. "Response Deadline" means 60 days after the Administrator mails Notice to Class

Members and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.45. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. **RECITALS.**

2.1. On July 26, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for 1) failure to pay minimum wages; 2) failure to pay overtime compensation; 3) failure to provide meal periods; 4) failure to authorize and permit rest breaks; 5) failure to indemnify necessary business expenses; 6) failure to timely pay final wages at termination; 7) failure to provide accurate itemized wage statements; and 8) unfair business practices. On July 26, 2022, Plaintiff filed a First Amended Complaint adding a Ninth Cause of Action against Defendant for PAGA civil penalties under California Labor Code § 2699 *et seq.*

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice, including by way of the July 23, 2021 PAGA Notice.

2.3. On May 5, 2023, the Parties participated in an all-day mediation presided over by experienced employment mediator Carl West, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, information sufficient to meaningfully evaluate the claims at issue, including applicable policy documents and a sample of time and pay records for the Class. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal.

App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) (“*Dunk/Kullar*”).

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraphs 4.3 and 8 below, Defendant promise to pay the total amount of Two Hundred and Seventy Thousand Dollars and Zero Cents (\$270,000.00). Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiff: Class Representative Service Payment to each of the named Class Representative of not more than Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member and Aggrieved Employee). Defendant will not oppose Plaintiff’s request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the

1 Net Settlement Amount. The Administrator will pay the Class Representative
2 Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and
3 liability for employee taxes owed on the Class Representative Service Payment.

4 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty-three
5 and one third percent (33 1/3%) of the Gross Settlement Amount (i.e., Ninety
6 Thousand Dollars and Zero Cents (\$90,000.00) and a Class Counsel Litigation
7 Expenses Payment of not more than Twenty Thousand Dollars and Zero Cents
8 (\$20,000.00)). Defendant will not oppose requests for these payments provided
9 that the payments do not exceed these amounts. Plaintiff and/or Class Counsel will
10 file a motion for Class Counsel Fees Payment and Class Litigation Expenses
11 Payment no later than 16 court days prior to the Final Approval Hearing. If the
12 Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
13 Expenses Payment less than the amounts requested, the Administrator will allocate
14 the remainder to the Net Settlement Amount. Released Parties shall have no
15 liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to
16 any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation
17 Expenses Payment. The Administrator will pay the Class Counsel Fees Payment
18 and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class
19 Counsel assumes full responsibility and liability for taxes owed on the Class
20 Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and
21 holds Defendant harmless, and indemnifies Defendant, from any dispute or
22 controversy regarding any division or sharing of any of these Payments.

23 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed Ten
24 Thousand Dollars and Zero Cents (\$10,000.00) except for a showing of good
25 cause and as approved by the Court. To the extent the Administration Expenses
26 are less or the Court approves payment less than \$10,000.00, the Administrator will
27 retain the remainder in the Net Settlement Amount.

28 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by

(a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The remaining Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members will be responsible and liable for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00) to be paid from the Gross Settlement Amount, with 75% (i.e., Fifteen Thousand Dollars and Zero Cents (\$15,000.00)) allocated to the LWDA PAGA Payment and 25% (i.e., Five Thousand Dollars and Zero Cents (\$5,000.00)) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (i.e., \$5,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)

1 multiplying the result by each Aggrieved Employee's PAGA Period Pay
2 Periods. Aggrieved Employees will be responsible and liable for any taxes
3 owed on their Individual PAGA Payment.

4 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,
5 the Administrator will allocate the remainder to the Net Settlement
6 Amount. The Administrator will report the Individual PAGA Payments on
7 IRS 1099 Forms.

8 **4. SETTLEMENT FUNDING AND PAYMENTS.**

9 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
10 to date, Defendant estimates there are approximately 260 Class Members who collectively
11 worked a total of 19,000 Workweeks, and 125 Aggrieved Employees who worked a total
12 of approximately 4,245 PAGA Pay Periods.

13 4.2. Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of
14 the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a
15 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator
16 must maintain the Class Data in confidence, use the Class Data only for purposes of this
17 Settlement and for no other purpose, and restrict access to the Class Data to Administrator
18 employees who need access to the Class Data to effect and perform under this Agreement.
19 Nothing in this confidentiality provision shall be construed or work to preclude Class
20 Counsel from performing their fiduciary duties to the Class. Defendant has a continuing
21 duty to immediately notify Class Counsel if it discovers that the Class Data omitted class
22 member identifying information and to provide corrected or updated Class Data as soon as
23 reasonably feasible. Without any extension of the deadline by which Defendant must send
24 the Class Data to the Administrator, the Parties and their counsel will expeditiously use
25 best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing
26 or omitted Class Data.

27 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
28 Amount, no later than six (60) days after the Court signs the Preliminary Approval Order.

Defendant will be responsible for the employer's share of payroll taxes, separate and apart from the Gross Settlement Amount. This amount shall be held in trust by the Settlement Administrator until after the Effective Date. If the Court does not grant Final Approval, this amount will be returned to Defendant.

4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days of the Effective Date, 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 Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

4.4.1. 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 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding

1 address. Within seven (7) days of receiving a returned check the Administrator
2 must re-mail checks to the USPS forwarding address provided or to an address
3 ascertained through the Class Member Address Search. The Administrator need
4 not take further steps to deliver checks to Class Members whose re-mailed checks
5 are returned as undelivered. The Administrator shall promptly send a replacement
6 check to any Class Member whose original check was lost or misplaced, requested
7 by the Class Member prior to the void date.

8 4.4.3. For any Class Member whose Individual Class Payment check or Individual
9 PAGA Payment check is uncashed and cancelled after the void date, the
10 Administrator shall transmit the funds represented by such checks to the California
11 Controller's Unclaimed Property Fund in the name of the Class Member thereby
12 leaving no "unpaid residue" subject to the requirements of California Code of Civil
13 Procedure § 384(b).

14 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
15 not obligate Defendant to confer any additional benefits or make any additional
16 payments to Class Members (such as 401(k) contributions or bonuses) beyond
17 those specified in this Agreement.

18 **5. RELEASES OF CLAIMS.**

19 Effective on the date when Defendant fully fund the entire Gross Settlement Amount and the Court
20 enters an order granting Final Approval of this Settlement, Plaintiff, Class Members, and Class Counsel
21 will release claims against all Released Parties as follows:

22 5.1. Plaintiff's Release.

23 5.1.1. Scope of Plaintiff's Release. Plaintiff and his respective former and present
24 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
25 assigns generally, release and discharge Released Parties from all claims,
26 transactions, or occurrences that occurred during the Class Period, including, but
27 not limited to: (a) all claims that were, or reasonably could have been, alleged,
28 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 ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

5.1.2. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint, including, e.g., any and all claims arising under California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages;

failure to timely pay wages during employment; failure to provide accurate wage statements; failure to keep adequate records; and unfair business practices arising under California Business and Professions Code section 17200 *et seq.* Excluded from this portion of the release are claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the Plaintiff's PAGA Notice. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Class Members Who Are Aggrieved Employees: All Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present spouses, family members, representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and/or the Plaintiff's PAGA Notice, including any claim for PAGA penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 218.6, 226, 226.7, 510, 512, 1174(d), 1194, 1194.2, 1197, 1198, 2802 and the applicable Industrial Welfare Commission Wage Orders based on any alleged failure to pay minimum wage; failure to pay overtime compensation; failure to pay paid time off wages; failure to provide meal periods; failure to authorize and permit rest periods; failure to indemnify necessary business expenses; failure to timely pay final wages; failure to timely pay wages during employment; failure to provide accurate wage statements; and/or failure to keep adequate records.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

6.1. Plaintiff's Responsibilities. Plaintiff will prepare 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 § 2699(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 Plaintiff confirming willingness and competency to serve as Class Representative; (v) a signed declaration from 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 § 2699.3(a)), this Agreement (Labor Code § 2699(l)(2)); (vi) all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator.

6.2. Responsibilities of Counsel. Class Counsel will be 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 Order to the Administrator.

6.3. 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.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve

as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. 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 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.

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

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

7.4. Notice to Class Members.

7.4.1. 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, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2. 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 Individual PAGA Payment (if applicable) 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.

7.4.3. Not later than three (3) business days after the Administrator’s receipt of any Class

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

8 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
9 and/or Pay Periods, and Requests for Exclusion will be extended an additional
10 fourteen (14) days beyond the sixty (60) days otherwise provided in the Class
11 Notice for all Class Members whose notice is re-mailed. The Administrator will
12 inform the Class Member of the extended deadline with the re-mailed Class
13 Notice.

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

24 7.5. Requests for Exclusion (Opt-Outs).

25 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
26 must send the Administrator, by fax, email, or mail, a signed written Request for
27 Exclusion not later than sixty (60) days after the Administrator mails the Class
28 Notice (plus an additional fourteen (14) days for Class Members whose Class

1 Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or
2 his/her representative that reasonably communicates the Class Member's election
3 to be excluded from the Settlement and includes the Class Member's name,
4 address and email address or telephone number. To be valid, a Request for
5 Exclusion must be timely faxed, emailed, or postmarked by the Response
6 Deadline.

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

17 7.5.3. Every Class Member who does not submit a timely and valid Request for
18 Exclusion is deemed to be a Participating Class Member under this Agreement,
19 entitled to all benefits and bound by all terms and conditions of the Settlement,
20 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3
21 of this Agreement, regardless whether the Participating Class Member actually
22 receives the Class Notice or objects to the Settlement.

23 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
24 Non-Participating Class Member and shall not receive an Individual Class
25 Payment or have the right to object to the class action components of the
26 Settlement. Because future PAGA claims are subject to claim preclusion upon
27 entry of the Judgment, Non-Participating Class Members who are Aggrieved
28 Employees are deemed to release the claims identified in Paragraph 5.3 of this

Agreement will still receive an Individual PAGA Payment, notwithstanding their Request for Exclusion from the Class portion of the Settlement.

7.6. Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days after the Administrator mails the Class Notice (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 in writing via fax, email or mail. The Administrator must request that the challenging Class Member submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

7.7. Objections to Settlement.

7.7.1. Only Participating Class Members (i.e., Class Members who do not submit valid and timely Requests for Exclusion) 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. Aggrieved Employees have no right to object to the PAGA portion of the Settlement.

7.7.2. For any Participating Class Member to object, the Class Member must send written objections to the Administrator, signed by the Class Member, by fax, email or mail, no later than sixty (60) days after the Administrator's mailing of the Class Notice (plus an additional fourteen (14) days for Class Members whose Class

1 Notice was re-mailed). The Settlement Administrator shall send all objections it
2 receives to Defense Counsel and Class Counsel within three (3) business days of
3 receipt. Participating Class Members may also appear in Court (or hire an attorney
4 to appear in Court on their behalf) to present verbal objections at the Final
5 Approval Hearing. The Court retains final authority with respect to the
6 consideration and admissibility of any Class Member objections.

7 7.7.3. Non-Participating Class Members (i.e., Class Members who submit valid and
8 timely Requests for Exclusion) have no right to object to any of the class action
9 components of the Settlement.

10 7.7.4. Aggrieved Employees shall have no right to object to the PAGA portion of the
11 Settlement and shall be bound by the Release of claims identified in Paragraph 5.3
12 of this Agreement.

13 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
14 performed or observed by the Administrator contained in this Agreement or otherwise.

15 7.8.1. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
16 promptly review on a rolling basis Requests for Exclusion to ascertain their
17 validity. Not later than 5 days after the expiration of the deadline for submitting
18 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
19 Defense Counsel containing (a) the names and other identifying information of
20 Class Members who have timely submitted valid Requests for Exclusion
21 (“Exclusion List”); (b) the names and other identifying information of Class
22 Members who have submitted invalid Requests for Exclusion; (c) copies of all
23 Requests for Exclusion from Settlement submitted (whether valid or invalid).

24 7.8.2. Weekly Reports. The Administrator must, on a weekly basis, provide written
25 reports to Class Counsel and Defense Counsel that, among other things, tally the
26 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
27 Requests for Exclusion (whether valid or invalid) received, objections received,
28 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks

1 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
2 Report”). The Weekly Reports must include the Administrator’s assessment of the
3 validity of Requests for Exclusion and attach copies of all Requests for Exclusion
4 and objections received.

5 7.8.3. Workweek and/or Pay Period Challenges. The Administrator has the authority to
6 address and make final decisions consistent with the terms of this Agreement on all
7 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
8 The Administrator’s decision shall be final and not appealable or otherwise
9 susceptible to challenge.

10 7.8.4. Administrator’s Declaration. Not later than fourteen (14) days before the date by
11 which Plaintiff is required to file the Motion for Final Approval of the Settlement,
12 the Administrator will provide to Class Counsel and Defense Counsel, a signed
13 declaration suitable for filing in Court attesting to its due diligence and compliance
14 with all of its obligations under this Agreement, including, but not limited to, its
15 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
16 of Class Notices, attempts to locate Class Members, the total number of Requests
17 for Exclusion from Settlement it received (both valid or invalid), the number of
18 written objections and attach the Exclusion List. The Administrator will
19 supplement its declaration as needed or requested by the Parties and/or the Court.
20 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

21 7.8.5. Final Report by Settlement Administrator. Within ten (10) days after the
22 Administrator disburses all funds in the Gross Settlement Amount, the
23 Administrator will provide Class Counsel and Defense Counsel with a final report
24 detailing its disbursements, by employee identification number only, of all
25 payments made under this Agreement. At least fifteen (15) days before any
26 deadline set by the Court, the Administrator will prepare, and submit to Class
27 Counsel and Defense Counsel, a signed declaration suitable for filing in Court
28 attesting to its disbursement of all payments required under this Agreement. Class

Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE

Based on its records at the time of mediation, Defendant estimated that there were approximately 19,000 Total Workweeks from July 26, 2017 to the date of preliminary approval. In the event the actual count of Workweeks during the Class Period increases by more than 18% from original estimate of 19,000 Workweeks, (i.e., by more than 3,420 Workweeks, or in other words, if the Workweeks worked between July 26, 2017 to the date the Court grants preliminary approval exceed 22,420), Defendant shall increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 18% (i.e., if there was 20% increase in the number workdays during the Class Period, Defendant would agree to increase the Settlement Fund by 2%) or Defendant, at its sole discretion, may elect to cut off the end date of the Class Period as of the date the number of Events Worked exceed one hundred and eighteen percent (118%) of the 19,000 estimate of Workweeks. For example, if the actual number of Workweeks is one hundred and twenty percent (120%) of the 19,000 Workweek estimate provided, Defendant may choose: 1) the Total Settlement Amount to be paid will increase by 2%; or 2) the Class Period will end on the date in which it encompasses 22,420 (118% of 19,000) Workweeks. Defendants will provide Plaintiff's Counsel with a declaration under oath as to the number of Class Members and Workweeks to support Defendant's selection of one of the above two options, prior to the filing of the motion for preliminary approval.

9. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds twenty percent (20%) of the total of all Class Members, Defendant may, but is not obligated, to elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than thirty (30) days after the expiration of the Opt-Out period; late elections will have no effect.

1 **10. MOTION FOR FINAL APPROVAL.**

2 Not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiff will
3 file in Court, a motion for final approval of the Settlement that includes a request for approval of the
4 PAGA settlement under Labor Code § 2699(*l*), a Proposed Final Approval Order and a proposed
5 Judgment (collectively “Motion for Final Approval”). Class Counsel and Defense Counsel will
6 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
7 concerning the Motion for Final Approval.

8 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
9 a Participating Class Member, including the right to file responsive documents in Court no
10 later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered
11 or accepted by the Court.

12 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
13 Approval on any material change to the Settlement (including, but not limited to, the scope
14 of release to be granted by Class Members), the Parties will expeditiously work together in
15 good faith to address the Court’s concerns by revising the Agreement as necessary to
16 obtain Final Approval. The Court’s decision to award less than the amounts requested for
17 the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel
18 Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute
19 a material modification to the Agreement within the meaning of this paragraph.

20 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
21 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
22 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
23 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
24 law.

25 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
26 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
27 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the
28 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.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments 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.

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed

1 as an admission by Plaintiff that Defendant's defenses in the Action have merit. The
2 Parties agree that class certification and representative treatment is for purposes of this
3 Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final
4 Approval or enter Judgment, Defendant reserves the right to contest certification of any
5 class for any reasons, and Defendant reserves all available defenses to the claims in the
6 Action, and Plaintiff reserves the right to move for class certification on any grounds
7 available and to contest Defendant's defenses. The Settlement, this Agreement and Parties'
8 willingness to settle the Action will have no bearing on, and will not be admissible in
9 connection with, any litigation (except for proceedings to enforce or effectuate the
10 Settlement and this Agreement).

11 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
12 Defense Counsel separately agree that, until the Motion for Preliminary Approval of
13 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize,
14 or cause or permit another person to disclose, disseminate or publicize, any of the terms of
15 the Agreement directly or indirectly, specifically or generally, to any person, corporation,
16 association, government agency, or other entity except: (1) to the Parties' attorneys,
17 accountants, or spouses, all of whom will be instructed to keep this Agreement
18 confidential; (2) counsel in a related matter only as necessary to litigate each related
19 matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in
20 response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued
21 by a state or federal government agency. Each Party agrees to immediately notify each
22 other Party of any judicial or agency order, inquiry, or subpoena seeking such information.
23 Plaintiff, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly
24 or indirectly, initiate any conversation or other communication, before the filing of the
25 Motion for Preliminary Approval, with any third party regarding this Agreement or the
26 matters giving rise to this Agreement except to respond only that "the matter was
27 resolved," or words to that effect. This paragraph does not restrict Class Counsel's
28 communications with Class Members in accordance with Class Counsel's ethical

obligations owed to Class Members.

12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees 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.

12.4. 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.

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

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

12.7. 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.

12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be

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

12.9. 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.

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

12.11. 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.

12.12. 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.

12.13. 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.

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 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, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is

1 inserted for convenience of reference only and does not constitute a part of this
2 Agreement.

3 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
4 to calendar days. In the event any date or deadline set forth in this Agreement falls on a
5 weekend or federal legal holiday, such date or deadline shall be on the first business day
6 thereafter.

7 12.17. Notice. All notices, demands or other communications between the Parties in connection
8 with this Agreement will be in writing and deemed to have been duly given as of the third
9 business day after mailing by United States mail, or the day sent by email or messenger,
10 addressed as follows:

11 To Plaintiff:

12 Kane Moon, Esq.
13 Brett Gunther, Esq.
14 MOON LAW GROUP, PC
1055 W. Seventh St., Suite 1880
Los Angeles, CA 90017

15 To Defendant:

16 James Rumm, Esq.
17 KENNEDY, McCARTHY & RUMM, LLP
18 20 Pacifica, Suite 460
Irvine, California 92618

19 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts
20 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement
21 shall be accepted as an original. All executed counterparts and each of them will be
22 deemed to be one and the same instrument if counsel for the Parties will exchange between
23 themselves signed counterparts. Any executed counterpart will be admissible in evidence
24 to prove the existence and contents of this Agreement.

25 12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
26 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
27 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330
28

to extend the date to bring a case to trial under CCP section 583.310 for the entire period of
this settlement process.

Plaintiff & Class Representative:

Dated: 8/31/2023

DocuSigned by:
Charles Howard Clark
FC6805D997C64A2...
By: _____
Charles Clark

Plaintiff's Counsel:

Dated: 8/31/2023

MOON LAW GROUP, PC
[Signature]
By: _____
Kane Moon
Brett Gunther
Attorneys for Plaintiff

Defendant:

Dated:

Powerstone Property Management, Inc.

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated:

KENNEDY, MCCARTHY & RUMM, LLP

By: _____
James Rumm
Attorneys for Defendant

1 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of
2 this settlement process.
3

4 **Plaintiff & Class Representative:**

5 Dated: By: _____
6 Charles Clark

7 **Plaintiff's Counsel:**

8 Dated: MOON LAW GROUP, PC

9 By: _____
10 Kane Moon
11 Brett Gunther
12 Attorneys for Plaintiff

13 **Defendant:**

14 Dated: November 20, 2023 Powerstone Property Management, Inc.

15 By: Michelle Burge
16 Print Name

17 Michelle Burge
18 Signature

19 CFO
20 Title

21 **Defendant's Counsel:**

22 Dated: 11-20-2023 KENNEDY, McCARTHY & RUMM, LLP

23 By: _____
24 James Rumm

25 Attorneys for Defendant
26
27
28

EXHIBIT A

|||||

<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Name/Address Changes (if any):

NOTICE OF CLASS ACTION SETTLEMENT

If you are or were a non-exempt, hourly California employee of Powerstone Property Management, Inc. at any time between July 26, 2017, to **July 1, 2023**, you may be able entitled to receive money from a Class Action Settlement.

A court approved this notice. This is not a solicitation from a lawyer. You are not being sued.

PLEASE READ THIS NOTICE.

Your legal rights are affected whether you act or don't act. Your legal rights and options—and the deadlines to use them—are explained in this notice.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE SETTLEMENT PAYMENT	You are not required to take action to receive a payment. If you do nothing, you will automatically receive a payment from the Settlement if the Court finally approves the Settlement. In exchange, you will be bound by the Settlement including the release of all claims covered by the Settlement.
REQUEST EXCLUSION	Request to be excluded and receive no benefits from the Settlement. If you submit a Request for Exclusion, you will not receive a settlement payment. However, if you are a PAGA Group Member, as defined below, you cannot opt-out of the PAGA Payment.
OBJECT	If you wish to object to the Settlement, you may submit a written objection and supporting papers to the Settlement Administrator. Any written objections will be provided to the Court. In order to object, you must not have excluded yourself from the Settlement.

1. Why should you read this Notice?

A proposed settlement (the "Settlement") has been reached in a class action lawsuit entitled *Clark v. Powerstone Property Management, Inc.*, in the Superior Court of the County of Orange, Case No. 30-2021-01212747-CU-OE-CXC (the "Action" or "Lawsuit"). The Defendant in the Action is Powerstone Property Management, Inc. (referred to in this Notice as "Defendant.")

The Court has granted preliminary approval of a “Settlement Class” defined as follows:

All persons employed in the State of California as hourly, non-exempt employees by Powerstone Property Management, Inc. at any time between July 26, 2017 to July 1, 2023.

The Court has also granted preliminary approval of a “PAGA Group” defined as follows:

All persons employed in the State of California as hourly, non-exempt employees by Powerstone Property Management, Inc. at any time between July 23, 2020 to July 1, 2023.

“Non-exempt” means an individual who is not exempt from the overtime provisions of the California Labor Code or applicable Industrial Welfare Commission Orders, and therefore is entitled to overtime pay for all hours worked beyond 40 in a workweek and eight hours in a workday as well as all the benefits under the California Labor Code.

Defendant’s employment records indicate that you meet one or both of these definitions, which makes you a member of the Settlement Class (referred to in this Notice as a “Class Member”) and possibly a member of the PAGA Group (referred to in this Notice as a “PAGA Group Member”). The Court directed that this Notice be sent to all Class Members and PAGA Group Members to inform you about the case and your rights and options before the Court decides to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to all Class Members who have not opted out of the Settlement and all PAGA Group Members.

This Notice explains the Lawsuit, the Settlement, your legal rights and options, what benefits are available and how to get them.

2. What is this Lawsuit about?

On July 26, 2021, Plaintiff Charles Clark filed a class action complaint against Defendant alleging several violations of California wage and hour laws. Plaintiff filed the Action on behalf of himself and on behalf of all current and former non-exempt, hourly employees. Plaintiff amended the class action complaint (referred to in this notice as the “Operative Complaint”) on July 26, 2022. In the Operative Complaint, Plaintiff alleges that Defendant committed the following violations: (1) Failure to Pay Minimum Wages [Cal. *Lab. Code* §§ 204, 1194, 1194. 2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. *Lab. Code* §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. *Lab. Code* §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. *Lab. Code* §§ 226. 7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. *Lab. Code* § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. *Lab. Code* §§ 201- 203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. *Lab. Code* § 226]; (8) Unfair Business Practices [Cal. *Bus. & Prof. Code* §§ 17200, *et seq.*]; and (9) a cause of action for Civil Penalties Under PAGA [Cal. *Lab. Code* § 2699, *et seq.*]. Defendant vigorously denies all the claims and contentions made in the Action and Operative Complaint and maintains it has fully complied with the law. However, Defendant has agreed to settle the Lawsuit to avoid the expense of litigation.

3. Why is there a Settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. This allows the Parties to avoid the risk and uncertainty of trial and any subsequent appeal, and all affected employees who have not opted out of the Settlement will receive compensation. The Settlement is not an admission of liability

by Defendant. Plaintiff and the attorneys believe the Settlement is fair, reasonable and adequate, and in the best interests of all Class Members.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

4. What are the terms of the Settlement?

Defendant will pay Two Hundred and Seventy Thousand Dollars and Zero Cents (\$270,000.00) to settle the Action (the “Gross Settlement Amount”). The Gross Settlement Amount includes: (a) all Settlement Payments to Participating Class Members; (b) the Service Award to Plaintiff (“the Class Representative”); (c) the Class Counsel’s attorneys’ fees and costs; (d) a payment to the California Labor and Workforce Development Agency for civil penalties brought under PAGA; (e) all PAGA Payments to the PAGA Group Members; and (f) the reasonable fees and costs of the Settlement Administrator. Defendant will pay their portion of all payroll taxes resulting from the Settlement in addition to the Maximum Settlement Amount.

The Court has preliminarily approved the following payments from the Gross Settlement Amount. Class Counsel will request that the Court award Class Counsel up to one-third (1/3) of the Maximum Settlement Amount (currently estimated to be Ninety Thousand Dollars and Zero Cents (\$90,000.00) in attorneys’ fees and up to Twenty Thousand Dollars and Zero Cents (\$20,000.00) in out-of-pocket litigation costs, up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for Settlement Administration Costs for the third-party Settlement Administrator, and up to Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00) for the Class Representative Service Payment in recognition of his time and service to the Class in pursuing the Action and in fulfilling his obligations as the Class Representative. Additionally, the Settlement provides for a payment of Twenty Thousand Dollars and Zero Cents (\$20,000.00) (the “PAGA Penalties”) to resolve claims under PAGA, of which Five Thousand Dollars and Zero Cents (\$5,000.00) will be distributed to the PAGA Group Members and Fifteen Thousand Dollars and Zero Cents (\$15,000.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”). This allocation of the PAGA Payment is required by California law. The final amounts of these various payments are all subject to Court approval.

After deductions of the preceding Court-approved payments, the remaining amount—the “Net Settlement Amount”—will be distributed to those Class Members who have not opted out of the Settlement (the “Participating Class Members”). No portion of the Gross Settlement Amount will be returned to Defendant.

5. How much can I expect to receive?

Each Participating Class Member will receive a *pro rata* share of the Net Settlement Amount based on the number of workweeks the person worked for Powerstone Property Management, Inc. as a non-exempt, hourly employee during the Class Period, defined as the period of time from July 26, 2017 to July 1, 2023. Any workweek in which a Class Member worked at least one day shall be counted as a workweek.

To calculate a Class Member’s Individual Settlement Payment, the Net Settlement Amount will be divided by the aggregate total number of workweeks of all Participating Class Members, resulting in the “Workweek Value.” Each Participating Class Member’s Individual Settlement Payment will be calculated by multiplying each individual Participating Class Member’s total number of workweeks by the Workweek Value.

Your Compensable Workweeks are: <<Workweeks>>

Your Estimated Individual Settlement Payment is: \$<<Est.SettlementAmt>>

All settlement payments are subject to taxation. Each Individual Settlement Payment will be allocated as follows: (a) 20% as wages that will be subject to deductions and withholdings for the employee's share of state and federal payroll taxes; and (b) 80% as penalties and interest that will not be subject to deductions and withholdings. Each Participating Class Member will receive an IRS Form W-2 with respect to the portion of the Settlement Payment allocated to wages and an IRS Form-1099 with respect to the portion of the Settlement Payment allocated to penalties and interest. Prior to mailing Settlement checks, the Settlement Administrator will calculate and deduct the employee's required withholdings and payroll taxes from the "wage" portion of the Settlement payment. Defendant will separately pay the employer's share of payroll taxes with respect to the "wage" portion of each Settlement payment.

Please note that each Participating Class Member will be responsible for his/her share of taxes attributable to the receipt of an Individual Settlement Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. Class Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Each PAGA Group Member will receive a *pro rata* share of the PAGA Payment based on the number of pay periods the person worked for Powerstone Property Management, Inc. as a non-exempt, hourly employee during the PAGA Period, defined as the period of time from July 23, 2020 to July 1, 2023. Any pay period in which a PAGA Group Member worked at least one day shall be counted as a pay period.

To calculate a PAGA Group Member's Individual PAGA Payment, the PAGA Payment will be divided by the aggregate total number of pay periods of all PAGA Group Members, resulting in the "Pay Period Value." Each PAGA Group Member's Individual Settlement Payment will be calculated by multiplying each individual PAGA Group Member's total number of pay periods by the Pay Period Value.

Your Compensable Pay Periods are: <<PayPeriods>>

Your Estimated Individual PAGA Payment is: \$<<Est.PAGAPaymentAmt>>

All settlement payments are subject to taxation. Each Individual PAGA Payment will be allocated as follows: 100% as penalties that will not be subject to deductions and withholdings. Each PAGA Group Member will receive an IRS Form-1099 for his or her Individual PAGA Payment.

Please note that each PAGA Group Member will be responsible for his/her taxes attributable to the receipt of an Individual PAGA Payment. The Parties and their attorneys cannot provide and will not provide any advice regarding tax obligations. PAGA Group Members should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

6. What if I disagree with the number of workweeks and/or pay periods credited to me in this Notice?

The information concerning the number of workweeks and/or pay periods you worked as an hourly, non-exempt employee during the Class Period and/or PAGA Period is based on Defendant's records. To dispute this number of workweeks and/or pay periods credited to you, you must send written notice to the Settlement Administrator. To be valid, your written dispute of weeks worked must: (1) include your full name, address, telephone number, and last four digits of the Social Security number; and (2) be accompanied by satisfactory evidence of the actual weeks worked as an hourly, non-exempt employee for Defendant during the Class Period and/or PAGA Period,

including any supporting documentation (e.g., copies of your pay stubs). To be timely, your written dispute of workweeks and/or pay periods worked must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator *at the address provided below*, and be postmarked on or before [REDACTED], 2024.

The Parties and the Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member. The Settlement Administrator will make the final decision as to how many workweeks and/or pay periods should be credited to the Class Member and/or PAGA Group Member and report the outcome to the Class Member and/or PAGA Group Member.

7. How and when will I get a payment? How do I update my address?

How do I receive money from the Settlement? You do not need to do anything to receive your Individual Settlement Payment and/or Individual PAGA Payment. Just watch your mail for a check and cash it when you get it. If you do not exclude yourself from the Settlement, you will automatically receive money from the Settlement. You do not need to make a claim or take any other action to receive your share of the Settlement.

When will I receive my Settlement payment? Class Members who do not opt out of the Settlement will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. PAGA Group Members will receive their payments only after the Court grants final approval to the Settlement and after any appeals are resolved. If there are appeals, resolving them can take time. Please be patient.

Settlement payment checks must be cashed soon after receipt. The Settlement checks will be able to be cashed for 180 days after they are issued. After 180 days, the Settlement checks will no longer be able to be cashed. Any funds represented by Settlement checks remaining uncashed for more than 180 days after issuance shall be transmitted to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Code of Civil Procedure Sections 1500 - 1582, in the names of those Participating Class Members and/or PAGA Group Members who did not cash their checks until such time they claim their property.

Change of address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure that you receive your Settlement payment. If you change your address, or if this notice was not mailed to your correct address, you should immediately provide your current address to the Settlement Administrator. The Settlement Administrator can be reached at (xxx) xxx-xxxx, or at the address provided below.

8. What claims are being released by the Settlement?

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, all Participating Class Members shall release the Released Parties from the Released Claims for the Class Period, which is defined as the period of time between July 26, 2017, to July 1, 2023.

The Released Claims are defined as all causes of action and claims that were alleged in the Action or reasonably could have been alleged based on the facts and legal theories contained in the Action, including all of the following claims for relief from July 26, 2017, to July 1, 2023, including, but not limited to, claims pursuant to *Labor Code* sections, 201, 202, 203, 204, 210, 226(a), 226.2, 226.3, 226.7, 510, 512, 1174(d), 1182.5, 1194, 1194.2, 1197, 1197.1, 2800, 2802, 2810.5, 2699, *et seq.*, and the Industrial Welfare Commission Wage Orders, and also any claim for unpaid wages, including under any theory of rounding, unpaid minimum wage, off-the-clock work, meal and rest period violations, waiting time penalties, itemized wage statement penalties, expense

reimbursements, safety equipment reimbursements, wages for unpaid time, other related wages, restitution, disgorgement, civil or statutory penalties, attorneys' fees, and/or costs and all claims under the Private Attorneys General Act of 2004, under the Unfair Competition Law, *Business & Professions Code* section 17200, *et seq.*, and/or which are alleged in the Lawsuit within the Class Period as well as claims for Civil Penalties pursuant to the Private Attorney's General Act of 2004, Labor Code §§ 2698, *et seq.* The Class Released Claims only covers the time period of July 26, 2017, to July 1, 2023.

Other than for Plaintiff, claims of Participating Class Members, if any, for vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period are not encompassed within the definition of "Class Released Claims."

Any Class Member who does not request exclusion by the applicable deadline will be considered to have accepted the release and to have waived any and all of the Released Claims against the Released Parties.

If the Settlement is approved by the Court, a Judgment will be entered by the Court. Upon the Effective Date of the Judgment, Plaintiff and the LWDA shall release the Released Parties from the PAGA Released Claims for the PAGA Period, which is defined as the period of time between July 23, 2020, to July 1, 2023.

The PAGA Released Claims are defined as all for claims for civil penalties under the California Labor Code Private Attorneys General Act of 2004 arising from July 23, 2020, to July 1, 2023 that were alleged in Plaintiff's LWDA Exhaustion Letter or to the extent alleged in Plaintiff's First Amended Complaint, including, but not limited to the following claims for relief: (1) Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201- 203]; (7) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*] and (9). Civil Penalties pursuant to the Private Attorney's General Act of 2004. (collectively, the "PAGA Released Claims"). The PAGA Released Claims only covers the time period of July 23, 2020, to July 1, 2023.

PAGA Group Members cannot opt out of or object to the foregoing PAGA Released Claims.

Released Parties for both the Class and PAGA Released Claims include Defendant Powerstone Property Management, Inc. and its parent, subsidiary, affiliate, predecessor or successor entity, and all agents, employees, contracting parties, joint employers, officers, directors and attorneys thereof.

9. What are my options?

a. **Participate in the Settlement and Receive a Settlement Payment.** If you want to participate in the Settlement, you do not have to do anything. You will receive your Individual Settlement Payment automatically if the Settlement is finally approved by the Court. If applicable, you will receive your Individual PAGA Payment automatically if the Settlement is finally approved by the Court.

b. **Exclude yourself from the Settlement.** If you do not want to be part of the Settlement, you can request to be excluded from the Settlement completing the enclosed Request for Exclusion Form and mailing it to the Settlement Administrator. If you exclude yourself, you will not receive your Individual Settlement Payment, you will not be subject to the terms of the Settlement, and you will retain whatever rights you may currently have. To

be valid, your Request for Exclusion Form must include your signature and must be timely. You may use the Request for Exclusion Form, which is attached hereto as Exhibit A, to exclude yourself. If you elect to exclude yourself, but do not use the included form, your request for exclusion must : (1) include your full name, address, and last four digits of the Social Security number; (2) your approximate dates of employment with Defendant; and (3) a clear statement that you wish to be excluded from the Settlement in *Clark v. Powerstone Property Management, Inc.*, Superior Court of the County of Orange, Case No. 30-2021-01212747-CU-OE-CXC. To be timely, a Request for Exclusion must be mailed by first-class U.S. Mail, or the equivalent, to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], 2024.

If applicable, you may not exclude yourself from the PAGA Group and you will receive your PAGA Payment even if you request exclusion.

c. **Object to the Settlement.** If you're a Class Member, you can object to the Settlement if you don't like any part of it. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views. If the Court rejects your objection and finally approves the Settlement, you will still be bound by the terms of the Settlement, but you will also receive a monetary award.

To object, you may submit a written objection stating why you object to the Settlement using the included Objection Form, or you may simply appear at the Final Approval Hearing set for [REDACTED], 2024 at [REDACTED] a.m. in the Orange County Superior Court and discuss your objection with the Court and the Parties at your own expense. Written objections must include: (i) your full name, current address, and last four digits of the Social Security number; (ii) the approximate dates of your employment at Defendants; (iii) the case name and number (*Clark v. Powerstone Property Management, Inc.*, Superior Court of the County of Orange, Case No. 30-2021-01212747-CU-OE-CXC); (iii) a written statement of all grounds for the objection accompanied by any legal support for such objection; and (iv) copies of any papers, briefs, or other documents on which the objection is based, if any; (v) your signature. You may use the Objection Form, which is attached hereto as Exhibit B, to object. To be timely, a written objection must be mailed by first-class U.S. Mail to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], 2024.

Please note that you cannot both exclude yourself and object to the Settlement. In order for you to object to this Settlement, or any term of it, you may not submit a Request for Exclusion.

10. Who are the attorneys representing Plaintiff and the Settlement Class?

The Court has appointed the following lawyers as "Class Counsel" to represent all Class Members:

MOON LAW GROUP, PC
Kane Moon (SBN 249834)
Brett Gunther (SBN 306448)
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017

You will not be charged for these lawyers.

11. How will the attorneys for the Settlement Class be paid?

All payments for Class Counsel's attorneys' fees and costs will be made from the Gross Settlement Amount. Class Counsel intends to request an award of attorneys' fees up to one-third (1/3) of the Gross Settlement Amount

(currently estimated to be Ninety Thousand Dollars and Zero Cents (\$90,000.00)), plus reimbursement of reasonable, actual out-of-pocket costs incurred in the litigation, up to Twenty Thousand Dollars and Zero Cents (\$20,000.00). Class Counsel has been prosecuting this Action on behalf of Plaintiff and the Settlement Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs. The Court will decide the amount of fees and expenses to award at the Final Approval Hearing.

12. When and where will the Court decide to approve the Settlement?

The Court has preliminarily approved the Settlement and will hold a hearing, called a Final Approval Hearing, to decide whether to give Final Approval to the Settlement. The Court will hold the Final Approval Hearing on **August 2, 2024, at 1:30 p.m.**, in Department CX103 of the Orange County Superior Court located at 751 W Santa Ana Blvd, Santa Ana, California 92701, before the Honorable Lon Hurwitz. At the Final Approval Hearing, the Court will rule on Class Counsel's request for attorneys' fees and litigation costs, the Class Representative Service Award, and the Settlement Administration Costs.

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the hearing. If you did not submit a Request for Exclusion, you or your attorney may appear at the hearing at your own expense and request to be heard. The Final Approval Hearing may be postponed without further notice.

13. Will I be subject to discipline if I participate in the Settlement?

No. Defendant approves the Settlement and will not retaliate in any way against any Class Member for participating in the Settlement. Your decision to participate, not participate, or object to this Settlement will not affect your employment with Powerstone Property Management, Inc. or its treatment of you as a former employee.

14. What is the Settlement Administrator's address?

Any Request for Exclusion, Notice of Objection, address change request, and all other correspondence intended for the Settlement Administrator must be mailed to the Settlement Administrator at the following address:

Clark v. Powerstone Property Management, Inc.
c/o IYLM Group, Inc. Settlement Administrators
14771 Plaza Dr., Ste. L
Tustin, California 92780

15. How Can I Get Additional Information?

If you have questions, you can call the Settlement Administrator at (800) XXX-XXXX and/or Class Counsel at (213) 232-3128. For the precise terms and conditions of the settlement, you may review the detailed "Joint Stipulation of Class Settlement and Release of Claims" which is available for viewing online, free of charge, at the Settlement Administrator's website: [WEBSITE URL]. The pleadings and other court records in the lawsuit are available online, free of charge, at [Settlement Administrator WEBSITE URL]. The records may also can be examined, free of charge, in person at any time during regular business hours at the Clerk's Office of the Superior Court of California, County of Orange, 751 W Santa Ana Blvd, Santa Ana, California 92701, or online at <https://www.occourts.org/online-services/case-access/>; or you may contact the Settlement Administrator at Tel: (XXX) XXX-XXX. To view the "Class Action and PAGA Settlement Agreement and Class Notice" from the

Court's website, it must be purchased and is available for purchase as part of the Declaration of Kane Moon, Exhibit 1, filed on [filing date]. Additionally, if you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is above, and they will provide you with a copy via e-mail free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANT'S MANAGERS, SUPERVISORS,
OR ATTORNEYS ABOUT THIS SETTLEMENT

They will not be able to assist you.

EXHIBIT 2

EXHIBIT 3

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

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

Allen Feghali, Esq.
Allen.Feghali@moonyanglaw.com

July 23, 2021

VIA ONLINE SUBMISSION

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

VIA CERTIFIED MAIL

Powerstone Property Management, Inc.
9060 Irvine Center Drive, Suite 200
Irvine, CA 92618

Notice of Labor Code Violations and PAGA Penalties

Re: ***Charles Clark v. Powerstone Property Management, Inc.***

To Whom It May Concern:

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

Plaintiff wishes to pursue a PAGA representative action on behalf of Plaintiff as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

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

Factual Background Regarding Plaintiff's Employment with Defendant

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

Plaintiff worked for Defendant as a property manager from approximately September 2020 to October 2020, primarily in Orange County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and in excess of 8 hours each workday.

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

Failure to Pay for All Hours Worked, Including Overtime

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

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

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

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiffs and the Aggrieved Employees for all hours worked, including all overtime wages. For example, Plaintiff and the Aggrieved Employees were occasionally required to work through their meal periods, either fully or partially. However, Plaintiff and the Aggrieved Employees were not paid for working during this time. As a result, Plaintiff and the Aggrieved Employees were not paid all wages owed to them, and Defendants failed to pay for all hours worked.

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

Failure to Provide Meal Periods

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

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

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

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

Failure to Authorize and Permit Rest Periods

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

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

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

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

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

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

Defendant's failure to provide and maintain records required by the Labor Code IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and

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

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

Failure to Reimburse and Indemnify Expenses

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

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the use of their own personal cellular telephones for work-related purposes. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

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

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to

fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

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

The statute further provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees." (Lab. Code § 226(e)(1).)

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

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

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

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

Failure to Pay All Earned Wages Twice Per Month

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

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

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

Action for Civil Penalties Under PAGA

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

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;

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

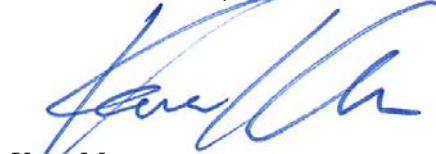
Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

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

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

Sincerely,

MOON & YANG, APC



Kane Moon
Attorney at Law

EXHIBIT 4

Activities Export

02/19/2024

3:15 PM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
12/12/2023	\$	Ace ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$44.00	-	\$44.00
12/02/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$34.24	-	\$34.24
09/22/2023	\$	Orange Country Superior Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$7.50	-	\$7.50
09/22/2023	\$	Orange Country Superior Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$7.50	-	\$7.50
05/25/2023	\$	Berger Consulting (expert fee) Invoice Number 8713 ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$810.00	-	\$810.00
04/19/2023	\$	Mediation fee (p) ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$4,975.00	-	\$4,975.00
04/06/2023	\$	Berger Consulting ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$2,475.00	-	\$2,475.00
03/30/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone	Andrea Marin	1.00	\$14.31	-	\$14.31

Activities Export

02/19/2024
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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Property Management (Class - CF) (ED)					
03/13/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$14.31	-	\$14.31
03/03/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$14.31	-	\$14.31
01/31/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$45.11	-	\$45.11
01/31/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$14.31	-	\$14.31
01/27/2023	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$14.31	-	\$14.31
12/16/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
12/13/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$13.90	-	\$13.90
							\$0.00 0.00h	\$12,368.80 0.00h

Activities Export

02/19/2024

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Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
12/09/2022	\$	FedEx ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$45.30	-	\$45.30
12/07/2022	\$	FedEx ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$45.30	-	\$45.30
10/28/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
10/17/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$75.67	-	\$75.67
10/11/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Andrea Marin	1.00	\$13.90	-	\$13.90
10/07/2022	\$	Superior Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$22.50	-	\$22.50
10/07/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
10/07/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone	Seung Yang	1.00	\$13.90	-	\$13.90

Activities Export

02/19/2024
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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Property Management (Class - CF) (ED)					
09/13/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$38.01	-	\$38.01
09/13/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
09/01/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
08/15/2022	\$	OC Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$30.00	-	\$30.00
08/15/2022	\$	OC Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$16.89	-	\$16.89
07/25/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$633.14	-	\$633.14
07/25/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
							\$0.00 0.00h	\$12,368.80 0.00h

Activities Export

02/19/2024

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Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/24/2022	\$	Journal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$75.67	-	\$75.67
06/24/2022	\$	Journal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$75.67	-	\$75.67
06/13/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
05/27/2022	\$	OC Court ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$7.50	-	\$7.50
05/27/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$11.58	-	\$11.58
05/13/2022	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.90	-	\$13.90
11/01/2021	\$	Ace ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$68.00	-	\$68.00
09/27/2021	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone	Seung Yang	1.00	\$13.43	-	\$13.43

Activities Export

02/19/2024
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Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Property Management (Class - CF) (ED)					
09/27/2021	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$44.69	-	\$44.69
09/27/2021	\$	One Legal ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
08/31/2021	\$	Ace ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$50.20	-	\$50.20
08/31/2021	\$	Ace ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$71.75	-	\$71.75
07/31/2021	\$	Ace ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$91.50	-	\$91.50
07/30/2021	\$	Admin fee ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$750.00	-	\$750.00
07/30/2021	\$	Complaint fee ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$1,490.77	-	\$1,490.77
							\$0.00 0.00h	\$12,368.80 0.00h

Activities Export

02/19/2024
3:15 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
07/22/2021	\$	PAGA ● Unbilled	01315-Clark Clark v. PowerStone Property Management (Class - CF) (ED)	Seung Yang	1.00	\$75.00	-	\$75.00
							\$0.00 0.00h	\$12,368.80 0.00h

EXHIBIT 5

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case re: v. Overstoe Property Management, Inc.

Effective Date: 12, 2023

Requesting Law Firm:

Attorney Contact:

E-Mail Address:

ILYM Group Contact:

E-Mail Address:

Contact Number:

Moon Yang, APC

Linh Tran

linh.tran@moonyanglaw.com

Lisa Mullins

Lisa@ilymgroup.com

714.878.8836

Estimated Hours for Activities

Activities	
Estimated hours for Initial Setup	260
Estimated hours for Ongoing Services	100
Estimated hours for Reporting	100
Estimated hours for Certification	100

Activity Description Rate per Hour Total Hours Total Cost

Initial Setup - Import and Formatting of Data*				
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.

Total \$600.00

Ongoing Services				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Staff hours for Processing Returned Mail	Hourly	\$70.00	2	\$140.00
Staff hours for Processing Opt-Outs, Disputes & Objections	Hourly	\$70.00	2	\$140.00
Report Processing	Hourly	\$70.00	3	\$210.00
NCOA	Flat Fee	\$50.00	1	\$50.00
Toll-Free Call Center Support	Flat Fee	\$72.50	1	\$72.50
Static Website, Includes Hosting	Flat Fee	\$750.00	1	\$750.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
Status Reports	Flat Fee	\$750.00	1	waived

Total \$2,002.50

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity

Rate per

unit cost

Volume

Amount

Case Administration				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	260	\$390.00
USPS First Class Postage	Per Piece	\$0.60	260	\$156.00
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$2.00	52	\$104.00
Storage, Photocopies, Deliveries	Flat Fee	\$252.50	1	\$252.50

Subtotal

\$62.00

Banking & Accounting				
Distribution Setup & Management	Hourly	\$150.00	3	\$450.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	2	\$250.00
Check Stub & Release - (including -2 & 1099)	Per Check	\$1.00	260	\$260.00
Check Mailing Postage	Per Piece	\$0.60	260	\$156.00
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$1.50	26	\$39.00
Preparation of Taxes	Hourly	\$125.00	2	\$250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal

\$2,000.00

Case Final Reporting				
Data Manager Final Reporting	Hourly	\$120.00	1	\$120.00
Project Manager Final Reporting	Hourly	\$125.00	2	\$250.00
Process Unclaimed Funds to State Controllers Office	Hourly	\$300.00	1	\$300.00
Declarations	Hourly	\$125.00	2	\$250.00

Subtotal

\$200.00

Total Case Estimate: \$8,300.00

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 maintains 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.

EXHIBIT 6

Clark v. Powerstone Property Management, Inc.
Orange County Superior Court Case No. 30-2021-01212747-CU-OE-CXC



<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Last 4 digits of SSN

Name/Address Changes (if any):

REQUEST FOR EXCLUSION FORM

You are receiving this form because you may be entitled to receive money from a Class Action Settlement.

Use and return this form only if you wish to be excluded from the Class and do not wish to receive a settlement payment. If you exclude yourself from the Class by signing and returning this form, you will not receive your Individual Settlement Payment, you will not be subject to the terms of the Settlement, and you will retain whatever rights you may currently have.

If you wish to remain in the Class and receive a settlement payment, you may disregard this form. You do not need to do anything, and you will receive a check by U.S. Mail.

To be valid, your Exclusion Request Form must be signed by you, returned to the Settlement Administrator at the address provided below, and be postmarked on or before [REDACTED], [REDACTED].

I HEREBY CONFIRM THAT I HAVE RECEIVED NOTICE OF THE PROPOSED SETTLEMENT IN THE *Clark v. Powerstone Property Management, Inc.* ACTION AND WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS. I UNDERSTAND THAT I WILL NOT RECEIVE A SETTLEMENT PAYMENT OR OTHER SETTLEMENT BENEFITS AND WILL NOT BE BOUND BY THE CLASS SETTLEMENT INCLUDING THE RELEASE OF CLASS CLAIMS. HOWEVER, I WILL STILL RECEIVE MY PAGA PAYMENT AND BE SUBJECT TO THE PAGA RELEASE AND OTHER SETTLEMENT TERMS APPLICABLE TO PAGA

Dated: _____

Signature: _____

What is the Settlement Administrator's address?

Clark v. Powerstone Property Management, Inc.
c/o IYLM Group, Inc. Settlement Administrators
14771 Plaza Dr., Ste. L
Tustin, California 92780
(800) [REDACTED]

EXHIBIT 7

Clark v. Powerstone Property Management, Inc.
Orange County Superior Court Case No. 30-2021-01212747-CU-OE-CXC

|||||

<<PSA ID>>

<<First Last>>

<<Address>>

<<City, State, Zip, Country>>

Last 4 digits of SSN

Name/Address Changes (if any):

OBJECTION FORM

You are receiving this form because you may be entitled to receive money from a Class Action Settlement.

Use and return this form only if you wish to object to the settlement. If your objection is rejected by the Court, you will receive your Individual Settlement Payment, you will be subject to the terms of the Settlement, and you will release claims as set forth in the Settlement and Notice.

To be valid, your Objection Form must be signed by you, and returned to the Settlement Administrator at the address provided below and be postmarked on or before [REDACTED], ____.

I object to the settlement in *Clark v. Powerstone Property Management, Inc.* because

Dated: _____

Signature: _____

What is the Settlement Administrator's address?

Clark v. Powerstone Property Management, Inc.
c/o IYLM Group, Inc. Settlement Administrators
14771 Plaza Drive, Suite "L"
Tustin, California 92780
(800) [REDACTED]

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 1055 W. Seventh St., Suite 1880, Los
5 Angeles, California 90017. On **December 07, 2021**, I served the foregoing document described
6 as:

7 **DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFF'S MOTION FOR**
8 **PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

9 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
10 addressed as follows:

11 JAMES RUMM
12 **KENNEDY, McCARTHY & RUMM, LLP**
13 9210 Irvine Center Drive,
14 Irvine, CA 92618
15 (949) 705-6611 (Main)
16 (949) 889-2341 (Direct)
17 jrumm@KMRLawyers.com

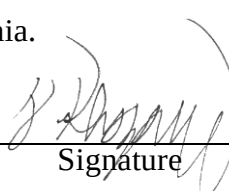
18 Attorneys for Defendant PowerStone Property Management, Inc

19 [✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the
20 parties to accept electronic service, I caused the documents to be sent to the persons at
21 the electronic service addresses listed above via e-mail. I did not receive an error
22 message.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Executed this, **March 6, 2024** at Los Angeles, California.

26 Jason Khozam
27 Type or Print Name

28 
Signature