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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

CAROLINE DELGADO, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

PARAMIT CORPORATION, a California
corporation; R & D TECHNICAL SERVICES,
INC., a California corporation; and DOES 1
through 10, inclusive,

Defendants.

JOSE GARDUNO & JUAN PADILLA, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

PARAMIT CORPORATION., a California
Corporation; R & D TECHNICAL SERVICES,
INC., a California Corporation; and DOES 1-50,
inclusive.

Defendants.

Case No.: 21CV383975

CLASS ACTION

[Honorable Sunil R. Kulkarni]

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

Complaint filed: July 2, 2021
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs CAROLINE DELGADO, JOSE GARDUNO and JUAN PADILLA (“Plaintiffs”) and Defendants PARAMIT CORPORATION and R & D TECHNICAL SERVICES, INC. (“Defendants”). The Agreement refers to Plaintiffs and Defendants collectively as the “Parties.”

1. **DEFINITIONS.**

- 1.1. “Action” means the lawsuits alleging wage and hour violations against Defendants captioned *Caroline Delgado v. Paramit Corporation, R & D Technical Services, Inc., et al.*, filed on July 2, 2021, and pending in Superior Court of the State of California, County of Santa Clara, Case No.: 21CV383975, and *Jose Garduno & Juan Padilla v. Paramit Corporation, R & D Technical Services, Inc., et. al.*, filed on August 9, 2021, and pending in Superior Court of the State of California, County of Santa Clara, Case No. 21CV385443.
- 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 those current and former non-exempt employees who worked for Defendants in California from July 1, 2020 to January 31, 2023.
- 1.5. “Class” means all current and former non-exempt employees who worked for Defendants in California during the Covered Period.
- 1.6. “Class Counsel” means Moon & Yang, APC and Falakassa Law, P.C.
- 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 Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Covered 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 COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish, in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
- 1.12. “Covered Period” means the period from July 2, 2017 until January 31, 2023.
- 1.13. “Class Representative” means the named Plaintiffs in the operative complaints in the Action seeking Court approval to serve as Class Representatives.
- 1.14. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Santa Clara.
- 1.16. “Defendants” means named defendants Paramit Corporation and R&D Technical Services, Inc.
- 1.17. “Defense Counsel” means Macias Rodriguez Adams, LLP and Sweeney Mason, LLP.
- 1.18. “Effective Date” means: (1) the date that a final approval order is entered if no Class Member submits an objection to the Settlement or all objections submitted are expressly withdrawn, or (2) when the final approval of the settlement can no longer be appealed, if any Class Member submits an objection that is not expressly withdrawn, which would be no sooner than 60 days after the order approving the settlement is signed by the Court.

- 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 \$1,200,000.00 which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraphs 3.1 and 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administrator’s Expenses.
- 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 Covered 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: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and 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 Defendants for at least one day during the PAGA Period.

1.31. “PAGA Period” means the period from July 1, 2020 to January 31, 2023.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *Et seq.*).

1.33. “PAGA Notice” means Plaintiff Caroline Delgado’s July 1, 2021 letter and Plaintiffs Jose Garduno and Juan Padilla’s August 9, 2021 letter to Defendants and the LWDA providing notice pursuant to Labor Code § 2699.3(a) attached hereto as **Exhibit B**.

1.34. “PAGA Penalties” means the total amount of PAGA civil penalties (\$120,000) to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$30,000.00) and the 75% to LWDA (\$90,000.00) 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. “Plaintiffs” means CAROLINE DELGADO, JOSE GARDUNO and JUAN PADILLA, the named plaintiffs 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 5.2 below.

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

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 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, 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. The Response Deadline for Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall be extended by 14 calendar days beyond the original Response Deadline.

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 Defendants for at least one day, during the Covered Period.

2. **RECITALS.**

2.1. On July 2, 2021, Plaintiff Delgado commenced this Action by filing a Complaint alleging causes of action against Defendants for: (1) failure to provide meal periods (Lab. Code §§ 204, 223, 226.7, 512 and 1198 and Wage Order); (2) failure to provide rest periods (Lab. Code §§ 204, 223, 226.7 and 1198 and Wage Order); (3) failure to pay all hourly wages (Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1 and 1198 and Wage Order as to minimum wage), including both minimum wage, straight time and overtime; (4) failure to maintain and provide accurate itemized wage statements (Lab. Code §§ 226(a) 1174); (5) failure to timely pay all wages and final wages (Lab. Code §§ 201, 202, 203, 204, 210); (6) failure to indemnify necessary business expenses (Lab. Code § 2802); and (7) unfair competition (Bus. & Prof. Code §§ 17200 et seq.). On September 9, 2021, Plaintiff Delgado filed a First Amended Complaint alleging an additional cause of action against Defendants for violation of the PAGA. The First Amended Complaint, or any subsequently filed complaint, is the operative complaint in the Action (the "Operative Complaint.") Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and deny any and all

liability for the causes of action alleged.

2.2. Separately, Plaintiffs Jose Garduno and Juan Padilla filed an action entitled *Jose Garduno & Juan Padilla v. Paramit Corporation, R & D Technical Services, Inc., et. al.*, pending in Superior Court of the State of California, County of Santa Clara, Case No. 21CV385443.

In addition to the claims alleged in the First Amended Complaint filed by Plaintiff Delgado, Plaintiffs Jose Garduno and Juan Padilla alleged a claim for unlawful deductions from wages.

2.3. Pursuant to Labor Code § 2699.3(a), Plaintiffs gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.4. On September 9, 2022, the Parties participated in an all-day mediation presided over by Tripper Ortman, which led to this Agreement to settle the Action.

2.5. Prior to mediation, Plaintiffs obtained, through informal discovery, electronic time and pay records, policy documents, Plaintiffs' personnel file, and data about the class. Plaintiffs' 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*").

2.6. The Court has not granted class certification.

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendants promise to pay \$1,200,000.00 and no more as the Gross Settlement Amount, and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiffs: Class Representative Service Payments to each Class Representative of not more than \$7,500.00 each (for a total maximum request of \$22,500.00), in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members. Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the payment of each Class Representative Service Payment using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on their Class Representative Service Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%, which is currently estimated to be \$400,000.00 and Class Counsel Litigation Expenses Payment of not more than \$30,000.00. Defendants will not oppose requests for these payments provided they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or

Class Counsel Litigation Expenses Payment. The Administrator will report payment of the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless and indemnifies Defendants from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$20,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less than \$20,000 or the Court approves payment of less than \$20,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Covered Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 30% 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 70% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any

Individual Class Payments.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$120,000.00 to be paid from the Gross Settlement Amount, with 75% (\$90,000.00) allocated to the LWDA PAGA Payment and 25% (\$30,000.00) 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 (\$30,000.00) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendants estimate there are approximately 560 Class Members who collectively worked a total of 62,500 Workweeks, and approximately 415 Aggrieved Employees who worked a total of approximately 14,000 PAGA Pay Periods.

4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data

1 to Administrator employees who need access to the Class Data to effect and perform under
2 this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if
3 they discover that the Class Data omitted class member identifying information and to
4 provide corrected or updated Class Data as soon as reasonably feasible. Without any
5 extension of the deadline by which Defendants must send the Class Data to the
6 Administrator, the Parties and their counsel will expeditiously use best efforts, in good
7 faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class
8 Data.

9 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
10 Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
11 taxes by transmitting the funds to the Administrator no later than 28 days after the
12 Effective Date.

13 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants fund the
14 Gross Settlement Amount, the Administrator will mail checks for all Individual Class
15 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
16 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
17 Litigation Expenses Payment, and the Class Representative Service Payments.
18 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
19 Payment and the Class Representative Service Payments shall not precede disbursement of
20 Individual Class Payments and Individual PAGA Payments.

21 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
22 Individual PAGA Payments and send them to the Class Members via First Class
23 U.S. Mail, postage prepaid. The face of each check shall prominently state the
24 date (not less than 180 days after the date of mailing) when the check will be
25 voided. The Administrator will cancel all checks not cashed by the void date. The
26 Administrator will send checks for Individual Settlement Payments to all
27 Participating Class Members (including those for whom Class Notice was returned
28 undelivered). The Administrator will send checks for Individual PAGA Payments

1 to all Aggrieved Employees including Non-Participating Class Members who
2 qualify as Aggrieved Employees (including those for whom Class Notice was
3 returned undelivered). The Administrator may send Participating Class Members a
4 single check combining the Individual Class Payment and the Individual PAGA
5 Payment. Before mailing any checks, the Settlement Administrator must update
6 the recipients' mailing addresses using the National Change of Address Database.

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

16 4.4.3. For any Class Member whose Individual Class Payment check or Individual
17 PAGA Payment check is uncashed and cancelled after the void date, the
18 Administrator shall transmit the funds represented by such checks to the State Bar
19 Justice Gap Fund.

20 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
21 not obligate Defendants to confer any additional benefits or make any additional
22 payments to Class Members (such as 401(k) contributions or bonuses) beyond
23 those specified in this Agreement.
24

25 **5. RELEASES OF CLAIMS.**

26 Effective on the date when Defendants fully fund the entire Gross Settlement Amount and fund all
27 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Class
28 Members, and Class Counsel will release claims against all Released Parties as follows:

1 5.1. Plaintiffs' Release.

2 5.1.1. Scope of Plaintiffs' Release. Plaintiffs and their respective former and present
3 spouses, representatives, agents, attorneys, heirs, administrators, successors, and
4 assigns generally, release and discharge Released Parties from all claims,
5 transactions, or occurrences, including, but not limited to: (a) all claims that were,
6 or reasonably could have been, alleged, based on the facts contained, in the Action
7 including the Operative Complaint and (b) all PAGA claims that were, or
8 reasonably could have been, alleged based on facts contained in the Action
9 including the Operative Complaint and Plaintiffs PAGA Notice. ("Plaintiffs
10 Release.") Plaintiffs' Release does not extend to any claims or actions to enforce
11 this Agreement, or to any claims for vested benefits, unemployment benefits,
12 disability benefits, social security benefits, workers' compensation benefits that
13 arose at any time, or based on occurrences outside the Covered Period. Plaintiffs
14 acknowledge that Plaintiffs may discover facts or law different from, or in addition
15 to, the facts or law that Plaintiffs now know or believe to be true but agree,
16 nonetheless, that Plaintiffs' Release shall be and remain effective in all respects,
17 notwithstanding such different or additional facts or Plaintiffs discovery of them.

18 5.1.2. Plaintiffs' Waiver of Rights Under California Civil Code § 1542. For purposes of
19 Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights,
20 and benefits, if any, of Section 1542 of the California Civil Code, which reads:

21 **A general release does not extend to claims that the creditor or**
22 **releasing party does not know or suspect to exist in his or her favor**
23 **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.

24 5.2. Release by Participating Class Members: All Participating Class Members, on behalf of
25 themselves and their respective former and present representatives, agents, attorneys, heirs,
26 administrators, successors, and assigns, release Released Parties from (i) all claims that
27 were alleged, or reasonably could have been alleged, based on the same factual predicate
28 as the claims stated in the Action and the Operative Complaint, including, but not limited

to all wage and hour claims that could have been raised by Plaintiffs such as all claims and causes of action related to or arising out of meal periods, rest breaks, unpaid wages, unpaid overtime, shift premiums, bonuses/commissions, unreimbursed expenses, unlawful deductions, inaccurate wage statements, waiting time penalties, failure to maintain payroll records, failure to timely pay wages during employment, vacation pay, and sick leaves. The period of the release shall extend to the limits of the Covered Period. 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 Covered Period.

5.3. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the same factual predicate as the claims stated in the Action and the Operative Complaint and the PAGA Notice attached hereto as **Exhibit B**. The period of the release shall extend to the limits of the PAGA Period.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendants' Declarations in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator, should such conflicts exist.

6.2. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the

notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 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 the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code § 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this Agreement (Labor Code § 2699(l)(2)); and, (vi) all facts relevant to any actual or potential conflict of interest with Class Members and/or the Administrator.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

6.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does

not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

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 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, PAGA Members, 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 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

1 to this Agreement as **Exhibit A**. The first page of the Class Notice shall
2 prominently estimate the dollar amounts of any Individual Class Payment and/or
3 Individual PAGA Payment payable to the Class Member, and the number of
4 Workweeks and PAGA Pay Periods (if applicable) used to calculate these
5 amounts. Before mailing Class Notices, the Administrator shall update Class
6 Member addresses using the National Change of Address database.

7 7.4.3. Not later than three business days after the Administrator's receipt of any Class
8 Notice returned by the USPS as undelivered, the Administrator shall re-mail the
9 Class Notice using any forwarding address provided by the USPS. If the USPS
10 does not provide a forwarding address, the Administrator shall conduct a Class
11 Member Address Search, and re-mail the Class Notice to the most current address
12 obtained. The Administrator has no obligation to make further attempts to locate
13 or send Class Notice to Class Members whose Class Notice is returned by the
14 USPS a second time.

15 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
16 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14
17 days beyond the 45 days otherwise provided in the Class Notice for all Class
18 Members whose notice is re-mailed. The Administrator will inform the Class
19 Member of the extended deadline with the re-mailed Class Notice.

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

1 7.5. Requests for Exclusion (Opt-Outs).

2 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
3 must send the Administrator, by fax, email, or mail, a signed written Request for
4 Exclusion not later than 45 days after the Administrator mails the Class Notice
5 (plus an additional 14 days for Class Members whose Class Notice is re-mailed).

6 A Request for Exclusion is a letter from a Class Member or his/her representative
7 that reasonably communicates the Class Member's election to be excluded from
8 the Settlement and includes the Class Member's name, address and email address
9 or telephone number. To be valid, a Request for Exclusion must be timely faxed,
10 emailed, or postmarked by the Response Deadline.

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

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

27 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
28 Non-Participating Class Member and shall not receive an Individual Class

1 Payment or have the right to object to the class action components of the
2 Settlement. Because future PAGA claims are subject to claim preclusion upon
3 entry of the Judgment, Non-Participating Class Members who are Aggrieved
4 Employees are deemed to release the claims identified in Paragraph 5.3 of this
5 Agreement and are eligible for an Individual PAGA Payment.

6 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the
7 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose
8 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
9 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member
10 may challenge the allocation by communicating with the Administrator via fax, email or
11 mail. The Administrator must encourage the challenging Class Member to submit
12 supporting documentation. In the absence of any contrary documentation, the
13 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
14 correct so long as they are consistent with the Class Data. The Administrator's
15 determination of each Class Member's allocation of Workweeks and/or Pay Periods shall
16 be final and not appealable or otherwise susceptible to challenge. The Administrator shall
17 promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
18 to Defense Counsel and Class Counsel and the Administrator's determination of the
19 challenges.

20 7.7. Objections to Settlement.

21 7.7.1. Only Participating Class Members may object to the class action components of
22 the Settlement and/or this Agreement, including contesting the fairness of the
23 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
24 Counsel Litigation Expenses Payment and/or Class Representative Service
25 Payments.

26 7.7.2. Participating Class Members may send written objections to the Administrator, by
27 fax, email, or mail. In the alternative, Participating Class Members may appear in
28 Court (or hire an attorney to appear in Court) to present verbal objections at the

1 Final Approval Hearing. A Participating Class Member who elects to send a
2 written objection to the Administrator must do so not later than 45 days after the
3 Administrator's mailing of the Class Notice (plus an additional 14 days for Class
4 Members whose Class Notice was re-mailed).

5 7.7.3. Non-Participating Class Members have no right to object to any of the class action
6 components of the Settlement.

7 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be
8 performed or observed by the Administrator contained in this Agreement or otherwise.

9 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
10 and maintain and use an internet website to post information of interest to Class
11 Members including the date, time and location for the Final Approval Hearing and
12 copies of the Settlement Agreement, Motion for Preliminary Approval, the
13 Preliminary Approval Order, the Class Notice, the Motion for Final Approval, the
14 Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses
15 Payment and Class Representative Service Payment, the Final Approval Order and
16 the Judgment. The Administrator will also maintain and monitor an email address
17 and a toll-free telephone number to receive Class Member calls, faxes and emails.

18 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
19 promptly review on a rolling basis Requests for Exclusion to ascertain their
20 validity. Not later than five days after the expiration of the deadline for submitting
21 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
22 Defense Counsel containing (a) the names and other identifying information of
23 Class Members who have timely submitted valid Requests for Exclusion
24 ("Exclusion List"); (b) the names and other identifying information of Class
25 Members who have submitted invalid Requests for Exclusion; (c) copies of all
26 Requests for Exclusion from Settlement submitted (whether valid or invalid).

27 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
28 reports to Class Counsel and Defense Counsel that, among other things, tally the

1 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
2 Requests for Exclusion (whether valid or invalid) received, objections received,
3 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks
4 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
5 Report”). The Weekly Reports must include the Administrator’s assessment of the
6 validity of Requests for Exclusion and attach copies of all Requests for Exclusion
7 and objections received.

8 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
9 address and make final decisions consistent with the terms of this Agreement on all
10 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
11 The Administrator’s decision shall be final and not appealable or otherwise
12 susceptible to challenge.

13 7.8.5. Administrator’s Declaration. Not later than 14 days before the date by which
14 Plaintiffs are required to file the Motion for Final Approval of the Settlement, the
15 Administrator will provide to Class Counsel and Defense Counsel, a signed
16 declaration suitable for filing in Court attesting to its due diligence and compliance
17 with all of its obligations under this Agreement, including, but not limited to, its
18 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
19 of Class Notices, attempts to locate Class Members, the total number of Requests
20 for Exclusion from Settlement it received (both valid or invalid), the number of
21 written objections and attach or include within the declaration the Exclusion List.
22 The Administrator will supplement its declaration as needed or requested by the
23 Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s
24 declaration(s) in Court.

25 7.8.6. Final Report by Settlement Administrator. Within 14 days after the Administrator
26 disburses all funds in the Gross Settlement Amount, the Administrator will provide
27 Class Counsel and Defense Counsel with a final report detailing its disbursements
28 by employee identification number only of all payments made under this

1 Agreement. At least 14 days before any deadline set by the Court, the
2 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
3 signed declaration suitable for filing in Court attesting to its disbursement of all
4 payments required under this Agreement. Class Counsel is responsible for filing
5 the Administrator's declaration in Court.
6

7 **8. ESCALATOR CLAUSE**

8 In the event of an increase in workweeks of more than 10% from the original estimate of 62,500
9 workweeks worked by employees during the Covered Period, (i.e., exceeds 68,750 workweeks),
10 Defendants will either (a) increase the Gross Settlement Amount by a pro-rata dollar value equal to the
11 number of workweeks in excess of 68,750 workweeks, or (b) elect to set the end date for the Covered
12 Period on the date when the total workweeks for the Covered Period would be 68,750.
13

14 **9. DEFENDANTS' RIGHT TO WITHDRAW.**

15 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of
16 all Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The
17 Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect
18 whatsoever, and that neither Party will have any further obligation to perform under this Agreement;
19 provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses
20 incurred to that point. Defendants must notify Class Counsel and the Court of its election to withdraw not
21 later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late
22 elections will have no effect.
23

24 **10. MOTION FOR FINAL APPROVAL.**

25 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a
26 motion for final approval of the Settlement that includes a request for approval of the PAGA settlement
27 under Labor Code § 2699(I), a Proposed Final Approval Order and a proposed Judgment (collectively
28 "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not

1 later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel
2 will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any
3 disagreements concerning the Motion for Final Approval.

4 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
5 a Participating Class Member, including the right to file responsive documents in Court no
6 later than five court days prior to the Final Approval Hearing, or as otherwise ordered or
7 accepted by the Court.

8 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
9 Approval on any material change to the Settlement (including, but not limited to, the scope
10 of release to be granted by Class Members), the Parties will expeditiously work together in
11 good faith to address the Court's concerns by revising the Agreement as necessary to
12 obtain Final Approval. The Court's decision to award less than the amounts requested for
13 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
14 Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute
15 a material modification to the Agreement within the meaning of this paragraph.

16 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
17 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
18 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
19 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
20 law.

21 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
22 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
23 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the
24 Parties, their respective counsel, and all Participating Class Members who did not object to
25 the Settlement as provided in this Agreement, waive all rights to appeal from the
26 Judgment, including all rights to post-judgment and appellate proceedings, the right to file
27 motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The
28 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 Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

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 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 Defendants that any of the allegations in the Actions including the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for

1 purposes of this Settlement only. If, for any reason the Court does grant Preliminary
2 Approval, Final Approval or enter Judgment, Defendants reserve the right to contest
3 certification of any class for any reasons, and Defendants reserve all available defenses to
4 the claims in the Action, and Plaintiffs reserve the right to move for class certification on
5 any grounds available and to contest Defendants' defenses. The Settlement, this
6 Agreement and Parties' willingness to settle the Action will have no bearing on, and will
7 not be admissible in connection with, any litigation (except for proceedings to enforce or
8 effectuate the Settlement and this Agreement).

9 12.2. No Public Comment. Other than necessary disclosure made to or by order of the Court,
10 necessary disclosures to be made to the LWDA, or to the Class Members and Aggrieved
11 Employees, Plaintiffs and Class Counsel shall not directly or indirectly disclose the facts,
12 Gross Settlement Amount, or terms of this class and representative action settlement to the
13 media, the press, or on any website, or otherwise issue any public statements or
14 advertisements in any form or media concerning the settlement. This provision shall not
15 prohibit Class Counsel from responding to specific questions from Class Members and
16 Aggrieved Employees, and nothing herein shall be interpreted as preventing any good faith
17 communication by Class Counsel and/or any Parties with the Court, the Class Members,
18 Aggrieved Employees, or the Administrator. Nothing in this provision shall be construed
19 as preventing the Parties from disclosing the Settlement to third parties without identifying
20 the case name, case number, or names of any of the Parties or Released Parties. Class
21 Counsel shall also be allowed to refer to the Action and Settlement in other litigations to
22 support their adequacy as attorneys for a putative class or PAGA group or to justify an
23 award of attorneys' fees. This paragraph also shall not be construed to restrict Class
24 Counsel's communications with Class Members in accordance with Class Counsel's
25 ethical obligations owed to Class Members.

26 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
27 employees will not solicit any Class Member to opt out of or object to the Settlement, or
28 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 Plaintiffs and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

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 Plaintiffs, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

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

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

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

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

To PLAINTIFF:

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

Joshua S. Falakassa
josh@falakassalaw.com
FALAKASSA LAW, P.C.
1901 Avenue of the Stars, Suite 450
Los Angeles, California 90067
Telephone: (818) 456-6168
Facsimile: (888) 505-0868

To DEFENDANTS:

Jose Macias Jr.
jose@mra-llp.com
Hector Rodriguez
hector@mra-llp.com
Travis M. Adams
travis@mra-llp.com
MACIAS RODRIGUEZ ADAMS LLP
1550 The Alameda, Suite 332
San Jose, CA 95126
Telephone: (408) 455-1243

Roger M. Mason
rmason@smwb.com
Rachael E. Brown
reb@smwb.com
SWEENEY MASON LLP
983 University Avenue, Suite 104C
Los Gatos, CA 95032-7637
Telephone: (408) 356-3000
Facsimile: (408) 354-8839

12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts

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

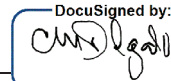
12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, pursuant to Code of Civil Procedure § 583.330 they agree extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff & Class Representative:

Dated: 1/3/2023

By: _____

CAROLINE DELGADO

DocuSigned by:

 7E7F1D26946B4F3...

Plaintiff & Class Representative:

Dated: January __, 2023

By: _____

JOSE GARDUNO

Plaintiff & Class Representative:

Dated: January __, 2023

By: _____

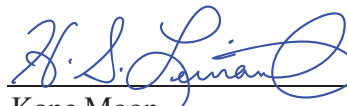
JUAN PADILLA

Plaintiff's Counsel:

Dated: January 3, 2023

MOON & YANG, APC

By: _____


 Kane Moon
 H. Scott Leviant
 Mariam Ghazaryan

Attorneys for Plaintiff, CAROLINE DELGADO

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

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement, pursuant to Code of Civil Procedure § 583.330 they agree extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

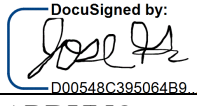
Plaintiff & Class Representative:

Dated: November __, 2022

By: _____
CAROLINE DELGADO

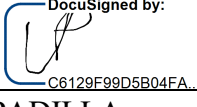
Plaintiff & Class Representative:

Dated: January __, 2023
1/3/2023

By:  _____
JOSE GARDUNO

Plaintiff & Class Representative:

Dated: January __, 2023
1/3/2023

By:  _____
JUAN PADILLA

Plaintiff's Counsel:

Dated: January __, 2023

MOON & YANG, APC

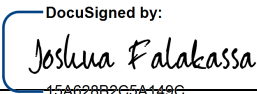
By: _____
Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff, CAROLINE DELGADO

Plaintiff's Counsel:

Dated: January __, 2023
1/3/2023

FALAKASSA LAW

By: 
Joshua Falakassa

Attorneys for Plaintiff, JOSE GARDUNO

Defendant:

Dated: January __, 2023

PARAMIT CORPORATION

By: _____
Print Name

Signature

Title

Defendant:

Dated: January __, 2023

R & D TECHNICAL SERVICES, INC

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated: January __, 2023

MACIAS RODRIGUEZ ADAMS LLP

By: _____
Jose Macias, Jr.
Hector Rodriguez
Attorneys for Defendant PARAMIT
CORPORATION

Plaintiff's Counsel:

Dated: January __, 2023

FALAKASSA LAW

By: _____

Joshua Falakassa

Attorneys for Plaintiff, JOSE GARDUNO

Defendant:

Dated: January __, 2023

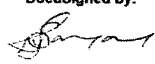
PARAMIT CORPORATION

By: Faiyaz syed Jenny Zhao

Print Name

1/18/2023

1/18/2023

DocuSigned by:

BEA9E100C4B343D

DocuSigned by:

2C5ECA97518A440...

Signature

President and COO

Head of Finance&Controlling

Title

Defendant:

Dated: January __, 2023

R & D TECHNICAL SERVICES, INC

By: _____

Print Name

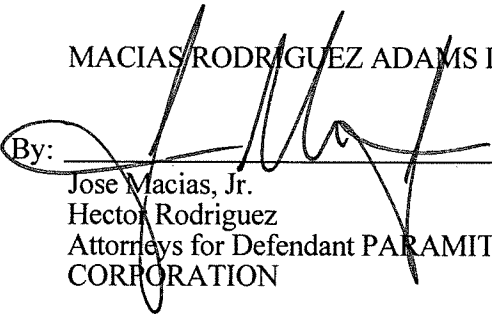
Signature

Title

Defendant's Counsel:

Dated: January 18, 2023

MACIAS RODRIGUEZ ADAMS LLP

By: 

Jose Macias, Jr.
Hector Rodriguez
Attorneys for Defendant PARAMIT
CORPORATION

1 **Plaintiff's Counsel:**

2 Dated: January __, 2023

FALAKASSA LAW

3
4 By: _____

Joshua Falakassa

5 Attorneys for Plaintiff, JOSE GARDUNO

6 **Defendant:**

7 Dated: January __, 2023

PARAMIT CORPORATION

8 By: _____

9 Print Name

10 _____
11 Signature

12 _____
13 Title

14 **Defendant:**

15 Dated: January 9, 2023

R & D TECHNICAL SERVICES, INC

16 By: DEAN COLDIRON

17 Print Name

18 
19 Signature

20 See Treasurer
21 Title

22 **Defendant's Counsel:**

23 Dated: January __, 2023

MACIAS RODRIGUEZ ADAMS LLP

24
25 By: _____

26 Jose Macias, Jr.

Hector Rodriguez

27 Attorneys for Defendant PARAMIT

28 CORPORATION

Defendant's Counsel:

Dated: ^{March} ~~January~~ 22, 2023

SWEENEY MASON LLP

By: _____

Roger M. Mason

Rachael E. Brown

Attorneys for Defendant R & D TECHNICAL
SERVICES, INC

Exhibit “A”

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

*Delgado v. Paramit Corporation, et al., Santa Clara Superior Court Case No.: 21CV383975
Garduno, et al. v. Paramit Corporation, et. al., Santa Clara Superior Court Case No. 21CV385443*

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against defendants PARAMIT CORPORATION and R & D TECHNICAL SERVICES, INC. ("Defendants")¹ for alleged wage and hour violations. The Action was filed by former employees of Defendants, Caroline Delgado, Jose Garduno and Juan Padilla ("Plaintiffs"), and seeks payment of (1) back wages and other relief for a class of hourly non-exempt employees ("Class Members") who worked for Defendants during the Covered Period (July 2, 2017 until January 31, 2023); and, (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly non-exempt employees who worked for Defendants during the PAGA Period (July 1, 2020 to January 31, 2023) (the "Aggrieved Employees").

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund an Individual PAGA Payment and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendants' records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your individual share of the Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants' records you are not eligible for such a payment under the Settlement because you didn't work during the covered period.)

The above estimates are based on Defendant's records showing that you worked [REDACTED] workweeks during the Covered Period, and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks or pay periods during either of the respective periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

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

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

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

¹ All key terms herein are further defined in the Parties' CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an individual share of the Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay individual shares of the PAGA Payment to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement except with respect to the PAGA Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on . You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by	The amount of your Individual Class Payment and share of the PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Covered Period, and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Covered Period Workweeks and number of PAGA Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendants. The Action accuses Defendants of violating California labor laws by failing to pay overtime wages, minimum and straight time wages, wages due upon termination, unlawfully deducting money from wages, and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA Claims"). Plaintiffs are represented by attorneys in the Action: Moon & Yang, APC, and Falakassa Law, P.C. ("Class Counsel.")

Defendants deny all liability arising from the Action and are confident they have strong legal and factual defenses to Plaintiffs' claims. Defendants contend that, at all relevant times, Defendants properly compensated all employees and fully complied with all applicable laws. Defendants also deny the Action is appropriate to maintain as a class or representative action.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator, Tripper Ortman, to resolve the Action by negotiating and

to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant will Pay \$1,200,000.00 as the Gross Settlement Amount (GSA). Defendants have agreed to deposit the GSA into an account controlled by the Administrator of the Settlement. The Administrator will use the GSA to pay the Individual Class Payments, individual shares of the Individual PAGA Payment, Class Representative Incentive Awards, Class Counsels’ attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will fund the GSA not more than 28 days after the Judgment entered by the Court become final. The Judgment will be final when the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from GSA. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the GSA, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$400,000.00 (33 and 1/3% of the GSA) to Class Counsel for attorneys’ fees and up to \$30,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$7,500.00 for the Class Representative Service Payments (for a total of \$22,500.00) for filing the Action, working with Class Counsel and representing the Class.
- C. Up to \$20,000.00 to the Administrator for services administering the Settlement.
- D. \$120,000.00 for PAGA Penalties, allocated 75% to the LWDA (\$90,000.00) and 25% in Individual PAGA Payments (\$30,000.00) to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the GSA (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Covered Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendants are asking the Court to approve an allocation of 30% of each Individual Class Payment to taxable wages (“Wage Portion”) and 70% to interest and penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes it owes on the Wage portion. The individual shares of the PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report any individual share of the PAGA Payment and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be paid to the *cy pres* selected by the parties: State Bar Justice Gap Fund, Office of Access & Inclusion–Justice Gap Fund, The State Bar of California, 180 Howard St., San Francisco, CA 94105.

6. Requests for Exclusion from the Class Settlement (Opt-Out Request). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Opt-

Out Request by the [REDACTED] Response Deadline. The Opt-Out Request should be a signed letter from a Class Member setting forth a Class Member's name and enough information to identify the Class Members (you should also print your name to prevent misunderstandings about your signature and, if you have a very common name be sure that your return address is in the letter to correctly identify you; do not include other personally identifying information beyond your name and address), and a simple statement asking to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendants.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class (Non-Participating Class Members) remain eligible for individual shares from the Individual PAGA Payment and are required to give up their right to assert PAGA Claims against Defendants based on the alleged PAGA violations in the Action.

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

8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Opt-Out Requests. The Administrator will also decide Class Member Challenges over Workweeks and/or Pay Periods, mail and re-mail settlement checks and tax forms, and perform other tasks to administer the Settlement. The Administrator's contact information is in Section 9 below.

9. Participating Class Members' Release. Upon the Date of Finality, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of another lawsuit against Defendants or their related entities for wages based on the Covered Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The claims released are claims for: failure to provide all meal periods, failure to provide all rest breaks, all forms of unpaid wages (including overtime, shift premiums, bonuses/commissions, and vacation pay and sick pay), failure to reimburse expenses, unlawful deductions from wages, inaccurate wage statements, waiting time penalties for late payment of final wages, failure to maintain payroll records, and failure to timely pay wages during employment. This is a summary of the terms of the release. The Agreement contains the full release language.

10. Aggrieved Employees' PAGA Release. Upon the Date of Finality, all Aggrieved Employees will be barred from asserting PAGA Claims against the Released Parties, including Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the same factual predicate as the claims stated in the Action and the Operative Complaint and the PAGA Notice attached [to the Agreement] as Exhibit B. The period of the release shall extend to the limits of the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

3. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$30,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.

4. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Covered Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks and/or Pay Periods based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Class Members) and Defendants' Counsel.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., Class Members who don't opt-out) and all Class Members who qualify as Aggrieved Employees, whether they opt out or not. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single individual share of the PAGA Payment check to every PAGA Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member who is eligible as an Aggrieved Employee).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

The easiest way to request exclusion is to send a written and signed Opt-Out Request by the [REDACTED] Response Deadline. The Opt-Out Request should be a signed letter from you setting forth a your name and enough information to identify you (you should also print your name to prevent misunderstandings about your signature and, if you have a very common name be sure that your return address is in the letter to correctly identify you; do not include other personally identifying information beyond your name and address), and a simple statement asking to be excluded from the Settlement. You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendants are asking the Court to approve. At least 16 court days before the [REDACTED] Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and a request for awards of fees, litigation expenses and an Incentive Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Awards. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for awards of fees, litigation expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action and include your name, address and email address or telephone number and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally hire a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in Department 1 of the Santa Clara Superior Court, located at 191 North First Street San Jose, CA 95113. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the GSA will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend).

It's possible the Court will reschedule the Final Approval Hearing. You should contact Class Counsel to verify the date and time of the Final Approval Hearing if you are planning to attend the hearing or have your own lawyer attend.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Santa Clara Superior Court websites: www.sccourt.org and www.scefiling.org.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

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Los Angeles, California 90067
Telephone: (818) 456-6168
Facsimile: (888) 505-0868

Settlement Administrator:

Name of Company: ILYM Group, Inc.
Email Address:
Mailing Address:
Telephone:
Fax Number:

The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of Santa Clara's Electronic Filing and Service Website at www.scefiling.org, or (b) in person at Records, Superior Court of California, County of Santa Clara, 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or change your mailing address.

PLEASE DO NOT TELEPHONE THE COURT OR DEFENDANTS' COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE SETTLEMENT PROCESS

Exhibit “B”

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

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

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

July 1, 2021

VIA ONLINE SUBMISSION

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

VIA CERTIFIED MAIL

Paramit Corporation
18735 Mandrone Parkway
Morgan Hill, CA 95037

VIA CERTIFIED MAIL

R & D Technical Services, Inc.
2005 De La Cruz Blvd., Suite 225
Santa Clara, CA 95050

Notice of Labor Code Violations and PAGA Penalties

Re: ***Caroline Delgado v. Paramit Corporation, and R & D Technical Services, Inc.***

To Whom It May Concern:

Please be advised that my office has been retained by Caroline Delgado (“Plaintiff”) to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Paramit Corporation, and R & D Technical Services, 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 Santa Clara 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 material handler from approximately November 2020 to March 2021, primarily in Santa Clara 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 Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Defendants regularly use a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Also throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Plaintiff and the Aggrieved Employees were required to work off-the-clock. For example, Plaintiff and the Aggrieved Employees were required to wait in line in order to clock into work, uncompensated.

In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

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

Failure to Provide Meal Periods

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

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

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

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

Failure to Authorize and Permit Rest Periods

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

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

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

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records

showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

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

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

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

Failure to Reimburse and Indemnify Expenses

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

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the purchase of scissors, pens, and safety equipment such as hand sanitizers and masks. Further, Plaintiff and the Aggrieved Employees were required to use their own cellular telephones for work purposes, for example to text supervisors regarding work and overtime. 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).

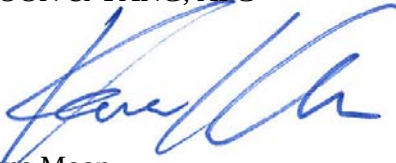
Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

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

LWDA
Notice of Labor Code Violations and PAGA
July 1, 2021
Page 9 of 9

Sincerely,

MOON & YANG, APC

A handwritten signature in blue ink, appearing to read 'Kane Moon', is written over the firm name.

Kane Moon
Attorney at Law



Joshua S. Falakassa
Arash Khosrowshahi
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August 9, 2021

SUBMITTED VIA LWDA'S PAGA CLAIM NOTICE ONLINE PORTAL

PARAMIT CORPORATION
BALBIR S. RATAUL
18735 MADRONE PARKWAY
MORGAN HILL CA 95037

R & D TECHNICAL SERVICES, INC.
DEAN COLDIRON
2005 DE LA CRUZ BLVD #225
SANTA CLARA CA 95050

Re: Jose Garduno & Juan Padilla v. Paramit Corporation and R & D Technical Services, Inc. et al.
Notice of Intent to File Suit for California Labor Code § 2698 et seq. Penalties

To Whom It May Concern:

This office represents Jose Garduno and Juan Padilla (hereinafter "Mr. Garduno and Mr. Padilla") and a proposed group of current and former employees working for Paramit Corporation and R & D Technical Services, Inc. (hereinafter "Paramit") and any of its affiliated and/or predecessor or merged entities in the State of California for violations of the California Labor Code §§ 201-203, 204, 210, 221, 224, 226(a), 226 (e), 226.3, 510, 512, 516, 1174, 1174.4, 1194, 1194.2, 1197.1, 1199, 2802, and all applicable Industrial Welfare Commission Wage Orders ("Wage Order").

This letter shall serve as notification under Labor Code § 2699.3 (hereinafter "PAGA Notice"). The \$75 filing fee made payable to the California Labor and Workforce Development Agency for the Private Attorneys General Act Notice ("PAGA Notice") and a copy of this PAGA Notice was submitted electronically to the Department of Industrial Relations.

Mr. Garduno and Mr. Padilla wish to bring a representative action on behalf of themselves and the State of California as well as on behalf of the following group of "aggrieved employees":

All current and former non-exempt employees who work or worked for Paramit in California, during the one year immediately preceding the filing of this PAGA Notice and continuing into the present and ongoing ("aggrieved employees")

Paramit is a medical device manufacturing company with a facility in Morgan Hill, California. Paramit manufactures optical instruments, testing solutions, electro-mechanical systems, and other medical items. Mr. Garduno and Mr. Padilla were employed by Paramit as non-exempt employees at their Morgan Hill facility. Mr. Garduno worked from on or about May 2, 2021 until July 20, 2021, and Mr. Padilla worked from on or about October 2020 until April 19, 2021. Mr. Garduno and Mr. Padilla and other aggrieved employees were responsible for all aspects of Paramit's business in California.

At all relevant times, Mr. Garduno and Mr. Padilla and other aggrieved employees were subjected to the same policies, procedures, and practices, working conditions, and corresponding wage and hour violations to which Mr. Garduno and Mr. Padilla were subjected during their employment with Paramit.

First, at all relevant times, Paramit has had a uniform payroll policy of rounding aggrieved employees' time entries to the nearest 15 minutes. Mr. Garduno and Mr. Padilla allege that the rounding policy is not fair or neutral on its face, and that as a result of this practice aggrieved employees are not compensated for all the hours that they work and all of the overtime hours they work in violation of Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable Wage Orders. California courts have held that "rounding time policies can be lawful, "if the rounding policy is fair and neutral on its face and 'it is used in such a manner that it will not result, over a period of time, in failure to compensate the employees properly for all the time they have actually worked." *See's Candy Shops v. Superior Court* (2012) 210 Cal. App. 4th 889, 907; See also 29 C.F.R. § 785.48; see also DLSE Manual, *supra*, §§ 47.1, 47.2.

Notably, Paramit's rounding time policy is not neutral on its face as Mr. Garduno and Mr. Padilla and other aggrieved employees are subject to discipline, including termination for being tardy in reporting to work. Thus, Mr. Garduno and Mr. Padilla and other aggrieved employees were consistently on time or early to work but were not paid for all hours actually worked. Moreover, because Paramit is capable of tracking the time worked by aggrieved employees to the minute, the policy itself exists not for the convenience or benefit of the employees who are reporting their time accurately, but for Acosta's benefit. As a result, over a period, Mr. Garduno and Mr. Padilla and other aggrieved employees were not properly paid for all hours worked, including overtime hours, in violation of Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and applicable Wage Orders.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid....[and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

As set forth above, Paramit failed to compensate Mr. Garduno and Mr. Padilla and other aggrieved employees for all hours worked, including all minimum and overtime wages due to its unlawful rounding of aggrieved employees' time entries. Accordingly, through PAGA, Mr. Garduno and Mr. Padilla and other aggrieved employees are entitled to recover civil penalties.

Furthermore, Mr. Garduno and Mr. Padilla and other aggrieved employees were required to take a COVID-19 temperature screening prior to clocking in at the work facility. Paramit used and continues to use a mandatory policy and procedure that required Mr. Garduno and Mr. Padilla and other aggrieved employees to clock in at the beginning of their work shift and clock out at the end of their work shift. Yet, Paramit failed to compensate aggrieved employees the legal minimum wage for the time it took aggrieved employees to undergo mandatory COVID-19 temperature screenings prior to clocking in. Paramit's policies and procedures resulted in a failure to pay legal minimum wages to Mr. Garduno and Mr. Padilla and other aggrieved employees in violation of Labor Code §§ 1194, 1197, and applicable Wage Orders. Paramit's policies and procedures also resulted in a failure to pay overtime wages to Mr. Garduno and Mr. Padilla and other aggrieved employees in violation of Labor Code §§ 510, 1194, 1197, and applicable Wage Orders.

As a result of Paramit's uniform temperature screening and clock-in procedures/practices, aggrieved employees were not fully compensated for all hours they were undergoing a temperature screening and waiting in line to clock-in and thus, subject to the control of Paramit's. As such, Paramit systematically failed to pay Mr. Garduno and Mr. Padilla and other aggrieved employees for all hours worked and minimum and overtime wages due. Paramit has no valid defense to this claim given the California Supreme Court's recent unanimous decision in *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038, which held that employees "must be paid" during security checks since "it is clear that [employees] are subject to [the employer's] control while awaiting, and during, [the] exit searches."

Moreover, at all relevant times, Mr. Garduno and Mr. Padilla and other aggrieved employees were not properly paid at the correct overtime rate for all hours worked in excess of eight (8) hours per workday and/or forty (40) hours per workweek. While Mr. Garduno and Mr. Padilla and other aggrieved employees regularly worked overtime hours, they were not compensated at one and one-half times their regular rate of pay because Paramit failed to include all forms of compensation, including but not limited to, shift differential pay and non-discretionary bonuses, when calculating the regular rate of pay used in overtime calculations. For instance, although Paramit consistently paid its employees non-discretionary shift differential pay, Paramit omitted these payments when calculating the regular rate of pay used in overtime calculations and when paying overtime to Mr. Garduno and Mr. Padilla and the other aggrieved employees.

Under the California Labor Code (as well as the FLSA), courts have held that regularly paid non-discretionary Shift Premium Pay/Bonuses must be included in determining an employee's "regular rate of pay" for purposes of calculating overtime. (See *Haber v. The Americana Corp.* 378 F. 2d 854, 855-856 (9th Cir. 1967) [holding that regularly paid efficiency bonuses must be included in calculating the "regular rate"]; *Wang v. Chinese Daily News, Inc.* 435

F. Supp. 2d 1042, 1055-1057 (C.D. Cal. 2006) [granting summary judgement to Plaintiff under California and federal law on the grounds, that Defendant improperly calculated overtime by excluding annual bonuses paid to employees from the “regular rate of compensation”].)

Labor Code § 510 requires an employer to compensate an employee who works more than eight (8) hours in one workday, forty (40) hours in a workweek, and for the first eight (8) hours worked on the seventh consecutive day, no less than one and one-half times (1 1/2) the regular rate of pay. In addition, Labor Code § 510 obligates employers to compensate employees at no less than twice the regular rate of pay when an employee works more than twelve (12) hours in a workday or more than eight (8) hours on the seventh consecutive day of work. Pursuant to Section 3 of the applicable Wage Orders, non-exempt employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek.

Labor Code § 1197.1 authorizes employees who are paid less than the minimum fixed by an applicable state or local law, or by an order of the commission a civil penalty, restitution of wages, and liquidated damages as follows: (1) for any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. . . [and] (2) [f]or each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

By their policy of requiring Mr. Garduno and Mr. Padilla and the other aggrieved employees to work in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without compensating them at the rate of one-half (1 1/2) their regular rate of pay, Paramit willfully violated the provisions of Labor Code § 510 and the applicable Wage Orders.

Accordingly, through PAGA and to the extent permitted by law, Mr. Garduno and Mr. Padilla and other aggrieved employees are entitled to recover liquidated damages for violations of Labor Code § 1197.1. Based upon these same factual allegations, Mr. Garduno and Mr. Padilla and the other aggrieved employees are entitled to penalties under Labor Code § 1199.

Furthermore, at all relevant times, Mr. Garduno and Mr. Padilla and other aggrieved employees were not provided with rest periods of at least ten (10) ten minutes for each four (4) hour work period, or major fraction thereof due to Paramit’s invalid rest period policies/practices that required aggrieved employees remain on-premises during rest periods. In practice, aggrieved employees were regularly unable to take legally complaint rest periods as they could not leave their work site to take compliant rest periods. On other occasions, Mr. Garduno and Mr. Padilla and other aggrieved employees are unable to take duty free rest breaks due to the demands of the job and operational requirements. Thus, Paramit prevented Mr. Garduno and Mr. Padilla and other aggrieved employees from taking timely and legally compliant rest periods. This also includes

failing to permit Mr. Garduno and Mr. Padilla and other aggrieved employees from taking a third compliant rest period for shifts in excess of ten (10) hours in a workday.

Under the applicable Wage order, an employer must authorize and permit all employees to take ten (10) minute duty free rest periods relieved of all duties for every major fraction of four hours worked. This includes a third rest period for shifts in excess of 10.0 hours in a workday. See *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 [concluding that “during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time.”]. In *Augustus*, the court expressly rejected the employer’s assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained “that employers [must] relinquish any control over how employees spend their break time and relieve their employees of all duties.” *Id.* at 273.

Mr. Garduno and Mr. Padilla and other aggrieved employees could not take their rest periods “relinquished from all duties” as required by Labor Code § 226.7. Mr. Garduno and Mr. Padilla and other aggrieved employees worked in excess of ten (10) hours in a workday but were not permitted to take an uninterrupted third rest period of ten (10) minutes.

Additionally, Paramit’s also failed to maintain any mechanism for the payment of rest period premium payments at the “regular rate of pay” as required by Labor Code § 226.7.

As a result of Paramit’s unlawful meal period policies and practices, Mr. Garduno and Mr. Padilla seeks to recover on behalf of themselves and all aggrieved employees rest period premiums and penalties. Consequently, Paramit’s has violated Labor Code §§ 226.7, 512 and applicable Wage Orders. Paramit’s would also be liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Moreover, at all relevant times, Mr. Garduno and Mr. Padilla and other aggrieved employees were denied complaint and timely 30-minute off-duty meal periods as mandated by California law. As a result of Paramit’s uniform meal period policies/practices, Mr. Garduno and Mr. Padilla and other aggrieved employees were often unable to take timely and uninterrupted 30-minute first meal periods before the end of the fifth hour of work. Paramit provided Mr. Garduno and Mr. Padilla and other aggrieved employees exactly 30 minutes for meal periods, but the 30-minute period was inclusive of the time it took to walk to the break area and/or leave the premises, and also the time it took to wait in line to clock back in at the end of meal periods. Indeed, Paramit utilized a bell system that notified aggrieved employees to return to their workstations 2-3 minutes prior to the end of the 30-minute meal period.

As a result, aggrieved employees were often required to report back to the work premises before taking the full 30-minutes in order to be clocked in by the end of the 30-minute period. As a result, Mr. Garduno and Mr. Padilla and other aggrieved employees routinely unable to take complaint 30-minute first meal periods before the end of the fifth hour of work. As such, Mr. Garduno and Mr. Padilla and other aggrieved employees were regularly not provided with full 30-minute meal periods as required by California law.

Additionally, at all relevant times, when Mr. Garduno and Mr. Padilla and other aggrieved employees worked in excess of 10.0 hours in a shift, they were not allowed and permitted to take a mandated and timely second meal period before the end of the tenth hour of work in violation of the Labor Code and applicable Wage Orders.

Moreover, Mr. Garduno and Mr. Padilla and other aggrieved employees were not provided meal period premiums at the “regular rate of pay” for their missed or non-complaint meal periods.

Accordingly, due to Paramit’s uniform meal period policies/practices, Mr. Garduno and Mr. Padilla and other aggrieved employees were also regularly denied legally complaint meal periods in violation of Labor Code 226.7, 510, 516, and applicable IWC Wage Orders. As a result of Paramit’s unlawful meal period policies and practices, Mr. Garduno and Mr. Padilla seek to recover on behalf of themselves and all aggrieved employees rest period premiums and penalties. Consequently, Paramit has violated Labor Code §§ 226.7, 512 and applicable Wage Orders. Paramit’s would also be liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Furthermore, Paramit failed to reimburse Mr. Garduno and Mr. Padilla and other aggrieved employees for necessary expenditures incurred as a direct consequence and requirement of performing their job duties, including to the costs associated with using their personal cell phones for work purposes. See *Cochran v. Schwan’s Home Service, Inc.* (2014) 228 Cal. App. 4th 1137 (the Court of Appeal held that an employer that required its customer service managers to use their personal cell phones for business tasks must reimburse the managers for a reasonable percentage of their cell phone bills); see also DLSE Bulletin 84-7.) Consequently, since Paramit failed to comply with Labor Code § 2802 and applicable Wage Orders, Mr. Garduno and Mr. Padilla and other aggrieved employees are entitled to recover penalties under Labor Code §§ 2802 and 2698.

Finally, at all relevant times, Paramit unlawfully deducted amounts from Mr. Garduno and Mr. Padilla and other aggrieved employees’ wages for “Advance Deduction” in violation of Labor Code §§ 221 and 224 and applicable Wage Orders. Notably, as it pertains to Mr. Garduno and Mr. Padilla and other aggrieved employees, Paramit was not “required or empowered by state or federal law” to deduct any amounts for these deductions. Attached hereto as **Exhibit A** is a true and correct copy of Mr. Padillas’s wage statement demonstrating the unlawful deduction for “Advance Deduction.” Consequently, since Paramit failed to comply with Labor Code § 221/224 and applicable Wage Orders, Mr. Garduno and Mr. Padilla and other aggrieved employees are entitled to recover penalties under Labor Code § 2698.

As a result of Paramit’s failure to pay Mr. Garduno and Mr. Padilla and other aggrieved employees for all minimum and overtime wages owed, and failure to pay for meal/rest period premiums at the “regular rate of pay” for missed/non-compliant meal and rest periods, Paramit issued wage statements which failed to accurately identify the gross wages earned, the total hours worked, the net wages earned, and the correct corresponding number of hours worked at each hourly rate, in violation of Labor Code §226(a) (1, 2, 5, and 9).

Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.”

Thus, for the violations of Labor Code section 226 described above, Mr. Garduno and Mr. Padilla and other aggrieved employees may also recover Labor Code § 226.3 penalties for Paramit’s violations of Labor Code § 226(a). As such, the wage statements Paramit’s issued to Mr. Garduno and Mr. Padilla and other aggrieved employees are in violation of Labor Code § 226(a)(9). Thus, Mr. Garduno and Mr. Padilla is an aggrieved employee within the meaning of PAGA and Paramit has violated Labor Code §226(a)(9) with respect to Mr. Garduno and Mr. Padilla and other aggrieved employees. Consequently, because Paramit failed to comply with Labor Code § 226(a) and applicable Wage Orders, Mr. Garduno and Mr. Padilla and other aggrieved employees would be entitled to recover penalties under Labor Code §§ 226(e) and 2698 *et seq.*

Finally, because of, Paramit’s failure to pay all minimum and overtime wages due and meal/rest period premiums at the “regular rate of pay” for non-complaint meal/rest periods, and unlawful deductions from wages as described herein, Paramit also failed and continues to fail to pay other aggrieved employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203 and applicable Wage Orders. Thus, aggrieved employees would be entitled to recover penalties under Labor Code §§ 201-203 and 2698 *et seq.*

Pursuant to Labor Code § 2699.3(a)(2)(A), please advise within sixty-five (65) calendar days of the date of this notice whether your office intends to investigate the violations alleged herein above. We understand that if we do not receive a response from your office within sixty-five (65) calendar days of this PAGA Notice, Mr. Garduno and Mr. Padilla may thereafter pursue their interests and the interests of similarly aggrieved employees with a civil complaint against Paramit for its violations of the California Labor Code and applicable Wage Orders.

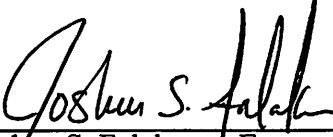
While it is our intent to pursue a PAGA representative and/or Class Action lawsuit against Paramit for unpaid wages and civil penalties under Labor Code § 2699, it is our firm’s policy to attempt to negotiate an early resolution of all matters where possible and beneficial to all aggrieved employees. If Paramit is interested in attempting to resolve this matter, please contact me or have your lawyer contact our office so that we can discuss an informal discovery plan and the possibility of early mediation on or before October 5, 2021.

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California Labor and Workforce Development Agency
August 9, 2021
Page 8

Respectfully submitted,

FALAKASSA LAW, P.C.



Joshua S. Falakassa, Esq.
Greg Lang, Esq.

cc: Paramit Corporation (via U.S. Certified Mail)
R & D Technical Services, Inc. (via U.S. Certified Mail)

**SAMPLE WAGE STATEMENT OF
PLAINTIFF PADILLA HAS BEEN
REDACTED**