

Justin F. Marquez (SBN 262417)

justin@wilshirelawfirm.com

Arrash T. Fattahi (SBN 333676)

afattahi@wilshirelawfirm.com

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor

Los Angeles, California 90010

Telephone: (213) 381-9988

Facsimile: (213) 381-9989

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

GUADALUPE GUARISTA, individually, on behalf of all others similarly situated, and on behalf of the State of California and other aggrieved persons; and TENISHA KATHERINE HOWARD and JENNIFER LOPEZ-TRIGUEROS, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

UROLOGIC INSTITUTE OF THE HIGH DESERT, INC., a corporation, and DOES 1 through 10, inclusive,

Defendants.

Case No.: CIVSB2125029

[Consolidated with Case No. CIVSB213340]

CLASS & REPRESENTATIVE ACTION

[Assigned to: Hon. Jessica Morgan, Dept. S-26]

DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

[Filed concurrently with: Plaintiffs' Notice of Motion and Motion for Preliminary Approval of Class Action Settlement, Memorandum of Points and Authorities; Declaration of Plaintiff Guadalupe Guarista; Declaration of Plaintiff Tenisha Katherine Howard; Declaration of Jennifer Lopez-Trigueros; Declaration of Lisa Mullins; Declaration of Ahllam H. Berri, Esq.; Declaration of Dr. Pedram Ilbeigi; and [Proposed] Order]

PRELIMINARY APPROVAL HEARING

Date: December 19, 2024

Time: 8:30 a.m.

Dept: S-26

Complaint filed: August 27, 2021

Trial date: Not set

I, Justin F. Marquez, declare as follows:

CASE BACKGROUND

3. Plaintiffs allege that Defendant's payroll, timekeeping, and wage and hour policies and practices resulted in Labor Code violations. Plaintiffs allege that Defendant failed to pay for all hours worked. Plaintiffs further allege that Defendant failed to provide employees with legally compliant meal and rest periods and Defendant failed to reimburse business expenses. Based on these allegations, Plaintiffs assert related claims for failure to provide accurate wage statements, failure to pay all final wages at termination, unfair business practices, and civil penalties under PAGA.

4. On August 27, 2021, Plaintiff Guarista filed a putative wage and hour class action complaint against Defendant for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) unfair business practices. Prior to the filing of the class action complaint,

1 on August 26, 2021, Plaintiff Guarista sent a notice to Defendant and the California Labor &
2 Workforce Development Agency (“LWDA”) alleging similar wage and hour violations pursuant
3 to the PAGA. On November 30, 2021, Plaintiff Guarista separately filed a PAGA-only action
4 against Defendant in the San Bernardino County Superior Court (Case No. CIVSB2133340). On
5 July 8, 2022, the Class and PAGA actions were consolidated with the Class Action being
6 designated as the lead case. Plaintiff Guarista’s First Amended Consolidated Class &
7 Representative Complaint, which combined the Class and PAGA Actions into one complaint,
8 added Plaintiffs Tenisha Katherine Howard and Jennifer Lopez-Trigueros as class representatives,
9 and added a cause of action for Defendant’s failure to reimburse for necessary business
10 expenditures, was deemed effective on July 24, 2024.

11 DISCOVERY AND INVESTIGATION

12 5. The Parties exchanged documents and information before mediating this action in
13 July 2022. Defendant produced timekeeping and payroll records for a sample of the class members
14 and demographic data for the class. Defendant also provided documentation regarding its written
15 wage and hour policies throughout the class period. Following the unsuccessful mediation in July
16 2022, the Parties engaged in formal discovery, including written discovery, Plaintiff Guarista’s
17 deposition, and multiple PMK (“Person(s) Most Knowledge”) depositions.

18 6. After reviewing documents regarding Defendant’s wage and hour policies and
19 practices, analyzing Defendant’s timekeeping and payroll records, and engaging in formal
20 discovery to uncover additional facts regarding the matter, Class Counsel was able to evaluate the
21 probability of class certification, success on the merits, and Defendant’s maximum monetary
22 exposure for all claims. Class Counsel also investigated the applicable law regarding the claims
23 and defenses asserted in the litigation.

24 SETTLEMENT NEGOTIATIONS

25 7. On July 27, 2022, the Parties participated in private mediation with experienced
26 class action mediator, Hon. Steve Denton (Ret.). The settlement negotiations were at arm’s length
27 and, although conducted in a professional manner, were adversarial. The Parties went into the
28 mediation willing to explore the potential for a settlement of the dispute, but each side was also

1 prepared to litigate their position through trial and appeal if a settlement had not been reached.
2 The Parties were unable to resolve the matter at the end of the July 2022 mediation and opted to
3 engage in formal discovery

4 8. After engaging in formal discovery and having extensive negotiations and
5 discussions regarding the strengths and weaknesses of Plaintiffs' claims and Defendant's defenses,
6 the Parties ultimately reached a settlement, the material terms of which are encompassed within
7 the Settlement Agreement. Attached as **Exhibit 1** is a true and correct copy of the Class Action
8 and PAGA Settlement Agreement and Class Notice ("Settlement Agreement").

9 9. Class Counsel submitted the proposed Settlement to the LWDA before filing the
10 Motion for Preliminary Approval.

11 10. I requested several bids from experienced class action settlement administrators to
12 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties
13 accepted the bid of ILYM Group, Inc. ("ILYM"). ILYM has multiple years of experience in the
14 field of Class Action Administration, particularly in the wage and hour arena. In its bid, ILYM
15 agreed to cap its costs at \$6,550.00 if there are 175 class members. ILYM's bid also accounts for
16 Notice in English and Spanish. A true and correct copy of the bid is attached to the Declaration of
17 Lisa Mullins in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement
18 as Exhibit C.

19 11. Plaintiffs do not have any interest, financial or otherwise, in the proposed third-
20 party administrator, ILYM.

21 12. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
22 employed at the law firm) has any interest, financial or otherwise, in the proposed third-party
23 administrator, ILYM.

24 13. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in
25 this case.

26 14. Class Counsel is not aware of any other pending matter or action asserting claims
27 that will be extinguished or affected by the Settlement.

28 ///

1 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

2 15. Class Counsel has conducted a thorough investigation into the facts of this case.
3 Based on the foregoing discovery and their own independent investigation and evaluation, the
4 Parties are of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
5 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
6 of significant delay, the defenses that could be asserted by Defendant both to certification and on
7 the merits, trial risk, and appellate risk.

8 16. Based on an analysis of the facts and legal contentions in this case, documents and
9 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
10 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
11 certified. After using the data Defendant provided, including class member timekeeping and
12 payroll records, as well as class member demographics (i.e., the number of class members,
13 workweeks, and average total compensation of the class), with the assistance of a statistics expert,
14 I created a damages model to evaluate the realistic range of potential recovery for the class. The
15 damages model is based on the following benchmarks:

16 Total Class Members: 153
17 Terminated Class Members during 3-year statute: 85
18 Total Workweeks: 10,800
19 PAGA Pay Periods: 1,974
20 PAGA Eligible Employees: 101
21 Avg. Hourly Rate: \$16.78

22 17. Based on Plaintiffs' discovery and investigation, Class Counsel reached the
23 conclusion that Defendant: (1) failed to pay class members for all hours worked, including
24 minimum, straight time, and overtime wages, by requiring its employees to work "off-the-clock"
25 during unpaid meal periods; (2) had a policy and practice of not providing its employees with
26 California compliant meal and rest periods which it did not pay appropriate premiums for; and (3)
27 failed to reimburse its employees for business-related expenses. Defendant denies these claims.

28 18. Plaintiffs allege that Defendant failed to pay for all hours worked, including

1 minimum, straight time, and overtime wages, by requiring class members to work off-the-clock,
2 unpaid. For purposes of calculating Defendant's liability based on a best-case scenario for
3 Plaintiffs and the Class, I estimate that Defendant's maximum potential exposure by assuming that
4 all unpaid work time should have been paid at the overtime rate and I assumed that Defendant is
5 liable for one hour of unpaid worktime per workweek. This results in an estimate of \$271,836.00
6 (10,800 weeks * \$16.78 hourly overtime rate * 1.5 overtime rate * 1 hour of unpaid work per
7 workweek), but I discounted this figure by 80% to account for the difficulty of prevailing on a
8 motion for class certification and a trial on the merits because liability depends on whether
9 Defendant knew or should have known that class members were working off-the-clock, yielding a
10 realistic damage estimate of \$54,367.20.¹

11 19. With respect to the meal period claim, Plaintiffs allege that Defendant required them
12 and similarly situated class members to either work in lieu of taking meal periods or their meal
13 periods were untimely or interrupted. My expert analyzed Defendant's timekeeping records and
14 opined that approximately 60% of all meal breaks had violations of short, missed, interrupted, or
15 no meal periods. Potential liability for the meal period claim is \$488,217.46 (10,800 workweeks
16 * 60% * \$16.78 * 4.49 average shifts per workweek). I discounted this figure by 80% to account
17 for the difficulty of certifying and proving meal period claims, as well as Defendant's contention
18 that the claim lacks merit, yielding a realistic damage estimate of \$97,643.49.

19 20. With respect to the rest period claim, Plaintiffs allege that Defendant required them
20 and similarly situated class members to work in lieu of taking rest periods or their rest periods were
21 interrupted. Assuming a 50% violation rate for the class period based on Plaintiffs' and other class
22 members' experience working for Defendant, Defendant's potential liability for the rest period
23 claim is \$406,847.88 (10,800 workweeks * 50% * \$16.78 * 4.49 average shifts per workweek);
24 however, I discounted this figure by 90% to account for the difficulty of certifying and proving
25 rest period claims, particularly because rest periods do not have to be recorded, and to account for
26

27 ¹ An 80% discount for risk at certification and trial is reasonable because the Judicial Council of California
28 found that only 21.4% of all class actions were certified either as part of a settlement *or* as part of a contested
certification motion. See Findings of the Study of California Class Action Litigation, 2000-2006, available at <http://www.courts.ca.gov/documents/class-action-lit-study.pdf>.

1 the possibility of class members voluntarily choosing to forego a rest period, yielding a realistic
2 damage estimate of \$40,684.79.

3 21. Plaintiffs also allege that Defendant failed to reimburse necessary business
4 expenses. Defendant's employees (including Plaintiffs) were frequently required to use their
5 personal cell phones to communicate with their supervisors and managers about work-related
6 duties and were required to text supervisors their clock in and clock out times on certain days.
7 Plaintiffs further allege that Defendant required its employees, including Plaintiffs, to purchase
8 work attire (e.g., scrubs, nursing shoes, etc.) and use their personal vehicles for work-related
9 reasons, all without reimbursement from Defendant. For purposes of calculating Defendant's
10 liability based on a best-case scenario for Plaintiffs and the Class, I estimated that Defendant was
11 liable to each class member for \$50 per month, or \$12.50 per workweek, in unreimbursed expenses,
12 for a total amount of \$135,000.00 ($\$12.50 * 10,800$); however, I discounted this figure by 80% to
13 account for the difficulty of certifying and proving expense reimbursement claims, particularly in
14 light of written policies and practices providing a mechanism for class members' to seek
15 reimbursement, yielding a realistic damage estimate of \$27,000.00.

16 22. In sum, I estimated that Plaintiffs' maximum recovery for the non-penalty claims is
17 \$1,301,901.34, but, after factoring in the risk and uncertainty of prevailing at certification and trial,
18 I estimate that Plaintiffs' realistic estimated recovery for the non-penalty claims is \$219,695.48.

19 23. With respect to Plaintiffs' derivative claims for statutory and civil penalties,
20 Plaintiffs estimated that Defendant's realistic potential liability is \$137,542.40. While Defendant's
21 maximum potential liability for waiting time penalties is \$342,312.00 based on approximately 85
22 terminated class members during the 3-year statute of limitations period ($85 * \$16.78 * 8 \text{ hours} * 30 \text{ days}$),
23 \$148,000.00 for inaccurate wage statements based on approximately 37 class members
24 who worked within the 1-year statute of limitations period ($37 * \$4,000 \text{ max}$), and \$197,400.00 for
25 PAGA violations based on the Court assessing a \$100 penalty for initial violations for all 1,974
26 pay periods within the 1-year statute of limitations period, I believe that it would be unrealistic to
27 expect the Court to award the full \$687,712.00 in penalties given Defendant's defenses, the
28 contested nature of Plaintiffs' claims, and the discretionary nature of penalties. Considering that

1 the underlying claims are realistically estimated to be \$219,695.48, such a disproportionate award
2 would also raise due process concerns. Weighing these factors and applying a discount of 80% to
3 account for the risk and uncertainty of prevailing at trial, I arrived at \$137,542.40 for statutory and
4 civil penalties.

5 24. Using these estimated figures, Plaintiffs predicted that the realistic maximum
6 recovery for all claims, including penalties, would be \$357,237.88. This means that the
7 \$200,000.00 settlement figure represents approximately 56% of the realistic maximum recovery
8 ($\$200,000.00 / \$357,237.88 = 56\%$). Considering the risk and uncertainty of prevailing at class
9 certification and at trial, this is an excellent result for the Class.² Indeed, because of the proposed
10 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
11 unfavorable judgment.

12 25. While Plaintiffs are confident in the merits of their claims, a legitimate controversy
13 exists as to each cause of action. Plaintiffs also recognize that proving the amount of wages due
14 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

15 26. This Settlement avoids the risks and the accompanying expense of further litigation.
16 Although the Parties had engaged in a significant amount of investigation, formal and informal
17 discovery and class-wide data analysis, the Parties had not yet completed formal written discovery.
18 Preparation for class certification and a trial remained for the Parties as well as the prospect of
19 appeals in the wake of a disputed class certification ruling for Plaintiffs and/or adverse summary
20 judgment ruling. Had the Court certified any claims, Defendant could move to decertify the claims.
21 As a result, the Parties would incur considerably more attorneys' fees and costs through trial.

22 27. The Net Settlement Amount available for Class Member settlement payments is
23 estimated to be \$89,783.33 for a class of 153 persons.³ As a result, each Settlement Class Member

24 ² See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* (E.D. Cal. Aug. 21, 2019) 2019 WL 3943859 at
25 *8 (granting preliminary approval where the proposed allocation to settle class claims was between 9.53 percent of
26 Plaintiffs' maximum recovery); *Bravo v. Gale Triangle, Inc.* (C.D. Cal. Feb 16, 2017) 2017 WL 708766 at * 10
27 (finding that "a settlement for fourteen percent recovery of Plaintiffs' maximum recovery is reasonable"); *In re*
28 *Omnivision Techs., Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1042 (approving settlement amount that "is just over
9% of the maximum potential recovery asserted by either party.").

³ The Net Settlement Amount is: \$200,000.00 minus \$66,666.67 for Class Counsel's attorneys' fees, minus
\$20,000.00 for Class Counsel's litigation expenses, minus \$6,550.00 in administration costs, minus \$10,000.00 for
the PAGA payment, and minus \$7,000.00 for the class representative service awards to Plaintiffs.

1 is eligible to receive an average net benefit of approximately \$586.82.

2 28. The proposed Settlement of \$200,000.00, therefore, represents a substantial
3 recovery when compared to Plaintiffs' reasonably forecasted recovery. When considering the risks
4 of litigation, the uncertainties involved in achieving class certification, the burdens of proof
5 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that the
6 settlement amount of \$200,000.00 is within the "ballpark" of reasonableness, and preliminary
7 settlement approval is appropriate.

8 ENHANCEMENT AWARDS FOR PLAINTIFFS ARE REASONABLE

9 29. Class Counsel represent that Plaintiffs devoted a great deal of time and work
10 assisting counsel in the case, communicated with counsel very frequently for litigation and to
11 prepare for mediation, and were frequently in contact with Class Counsel during the mediation.
12 Plaintiffs' requested enhancement awards are reasonable particularly in light of the substantial
13 benefits Plaintiffs generated for all class members.

14 30. Throughout this litigation, Plaintiffs, who are former employees of Defendant, have
15 cooperated immensely with my office and has taken many actions to protect the interests of the
16 class. Plaintiffs provided valuable information regarding the off-the-clock, meal period, and rest
17 period claims. Plaintiffs also informed my office of developments and information relevant to this
18 action, participated in decisions concerning this action, made themselves available to answer
19 questions during the mediation, and provided my office with the names and contact information of
20 potential witnesses in this action. Before we filed this case, Plaintiffs provided my office with
21 documents regarding the claims alleged in this action. The information and documentation
22 provided by Plaintiffs were instrumental in establishing the wage and hour violations alleged in
23 this action, and the recovery provided for in the Settlement Agreement would have been impossible
24 to obtain without Plaintiffs' participation.

25 31. At the same time, Plaintiffs faced many risks in adding themselves as the class
26 representative in this matter. Plaintiffs faced actual risks with their future employment, as putting
27 themselves on public record in an employment lawsuit could also very well affect their likelihood
28 for future employment. Furthermore, as part of this Settlement, Plaintiffs are executing a general

1 release of all claims against Defendant.

2 32. In turn, class members will now have the opportunity to participate in a settlement,
3 reimbursing them for alleged wage violations they may have never known about on their own or
4 been willing to pursue on their own. If these class members would have each tried to pursue their
5 legal remedies on their own, that would have resulted in each having to expend a significant amount
6 of their own monetary resources and time, which were obviated by Plaintiffs putting themselves
7 on the line on behalf of these other class members.

8 33. In the final analysis, this class action would not have been possible without the aid
9 of Plaintiffs, who put their own time and effort into this litigation, sacrificed the value of their own
10 individual claims, and placed themselves at risk for the sake of the class members. The requested
11 enhancement awards for Plaintiffs for their service as the class representatives and for their general
12 release of all individual claims is a relatively small amount of money when the time and effort put
13 into the litigation are considered and in comparison to enhancements granted in other class actions.
14 The requested incentive awards are therefore reasonable to compensate Plaintiffs for their active
15 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation*, et al.,
16 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were
17 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a
18 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00
19 class representative incentive award for each named plaintiff.

20 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

21 34. The Settlement provides for attorneys' fees payable to Class Counsel in an amount
22 up to one-third of the Settlement Amount, for a maximum fees award of \$66,666.67, plus actual
23 costs and expenses not to exceed \$20,000.00. The proposed award of attorneys' fees to Class
24 Counsel in this case can be justified under either method – lodestar or percentage recovery. Class
25 Counsel, however, intend to base the proposed award of fees, costs and expenses on the percentage
26 method as many of the entries in the time records will have to be redacted to preserve attorney-
27 client and attorney work product privileges.

28 35. I am informed and believe that the fee and costs provision is reasonable. The fee

percentage requested is less than that charged by my office for most employment cases. My office invested significant time and resources into the case, with payment deferred to the end of the case, and then, of course, contingent on the outcome.

36. It is further estimated that my office will need to expend at least another 50 to 100 hours to monitor the process leading up to the final approval and payments made to the class. My office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

37. The risk to my office has been very significant, particularly if we would not be successful in pursuing this class action. In that case, we would have been left with no compensation for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases that have resulted in thousands of attorney hours being expended and ultimately having certification denied or the defendant company going bankrupt. The contingent risk in these types of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

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

MY EXPERIENCE AND QUALIFICATIONS

39. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World Report as one of the nation's Best Law Firms for every year since 2020 and is comprised of over 70 attorneys and over 500 employees. Wilshire Law Firm, PLC is actively and continuously practicing in employment litigation, representing employees in both individual and class actions in both state and federal courts throughout California.

1 40. Wilshire Law Firm, PLC is qualified to handle this litigation because its attorneys
2 are experienced in litigating Labor Code violations in both individual, class action, and
3 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
4 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
5 and data privacy litigation.

6 41. I graduated from the University of California, Los Angeles's College Honors
7 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*
8 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at
9 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
10 2008.

11 42. My practice is focused on advocating for the rights of consumers and employees in
12 class action litigation and appellate litigation. I am currently the primary attorney in charge of
13 litigating several class action cases in state and federal courts across the United States.

14 43. I have received numerous awards for my legal work. From 2017 to 2020, Super
15 Lawyers selected me as a "Southern California Rising Star," and from 2022 to 2024, I was selected
16 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
17 in 2023 and 2024. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under
18 40" attorney. In 2024, I, along with my colleagues at Wilshire Law Firm, received a CLAY
19 (California Lawyer Attorneys of the Year) award for my work on a false advertising case against
20 Apple which ultimately led to a \$25 million settlement. I am also rated 10.0 ("Superb") by
21 Avvo.com.

22 44. I am on the California Employment Lawyers Association ("CELA")'s Wage and
23 Hour Committee and Mentor Committee. I have been selected to speak at multiple CELA
24 conferences throughout my career – in 2019, I spoke on the topic of manageability of class actions
25 at CELA's 2019 Advanced Wage & Hour Seminar, and in 2024, I spoke on the topic of dealings
26 with multiple cases against the same defendant at CELA's 2024 Advanced Wage & Hour Seminar.
27 Since 2013, I have actively mentored young attorneys through CELA's mentorship program.

28 45. I am also a past member of the Consumer Attorneys of California ("CAOC"). In

2020, I was selected for a position on CAOC's Board of Directors. I am also a past member of CAOC's Diversity Committee, and I helped assist the CAOC in defeating bills that harm employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC, in defeating AB 443, which proposed legislation that sought to limit the enforceability of California Labor Code § 226.

46. As the attorney responsible for day-to-day management of this matter at the Wilshire Law Firm, PLC, I have over fourteen years of experience with litigating wage and hour class actions. Over the last fourteen years, I have managed and assisted with the litigation and settlement of several wage and hour class actions. In those class actions, I performed similar tasks as those performed in the course of prosecuting this action. My litigation experience includes:

- a. I served as lead or co-lead in negotiating class action settlements worth over \$10 million in gross recovery to class members for each year since 2020, including over \$37.5 million in 2022 and over \$75 million in 2023.
- b. I led a team of attorneys that successfully obtained class certification of meal period, rest period, and related derivative claims on April 5, 2024 in *Aguilar-Flores, et al., v. Javier's CC LLC, et al.*, Los Angeles County Superior Court, Case No. 19STCV36438 (Hon. Elihu M. Berle).
- c. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a data breach class action holding that consumer plaintiffs adequately alleged injury in fact under the benefit of the bargain theory and monitoring-costs theory.
- d. In 2023, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 15 for the \$3.5 million settlement in Black & Decker Wage and Hour Cases) and three additional cases in the Top 50 Labor & Employment Settlements (number 21, 29, and 39.)
- e. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case in the Top 20 Labor & Employment Settlements (including number 19 for the \$4.1 million settlement in The FPI Management Wage and Hour Cases) and four

1 additional cases in the Top 50 Labor & Employment Settlements (numbers 36, 39,
2 41, and 49).

3 f. In 2021, Top Verdict recognized Wilshire Law Firm and myself for having one case
4 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6
5 million settlement in *Moreno v. Pretium Packaging, L.L.C*) and four additional
6 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).

7 g. To my knowledge, I am the only attorney to appear on each of the following Top
8 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
9 Labor & Employment Settlements, and Top 50 Class Action Settlements.

10 h. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
11 winning class certification on behalf of hundreds of thousands of consumers for
12 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
13 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).

14 i. As lead counsel, I prevailed against Bank of America by: winning class certification
15 on behalf of thousands of employees for California Labor Code violations; defeating
16 appellate review of the court's order certifying the class; defeating summary
17 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
18 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
19 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
20 2018).). The decision certifying the class in *Frausto* is also discussed in Class
21 Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call
22 Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed.
23 3d Art. 8.

24 j. I was the primary author of the class certification and expert briefs in *ABM*
25 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action
26 for over 40,000 class members for off-the-clock, meal period, split shift, and
27 reimbursement claims. *ABM Industries Overtime Cases* is the first published
28 California appellate authority to hold that an employer's "auto-deduct policy for

1 meal breaks in light of the recordkeeping requirements for California employers is
2 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court
3 of Appeal also held that expert analysis of timekeeping records can also support the
4 predominance requirement for class certification. (*Id.* at pp. 310-11.) In 2021, the
5 case settled for \$140 million, making it one of the largest ever wage and hour class
6 action settlements for hourly-paid employees in California.

7 k. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d
8 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims
9 under the PAGA cannot be used to calculate the amount in controversy under the
10 Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises
11 such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class
12 Actions. In October 2016, the U.S. Supreme Court denied review of a case that
13 primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who
14 brought the cert petition, with amicus support from a brief authored by Andrew J.
15 Pincus.⁵ Considering that leading Supreme Court practitioners from the class action
16 defense bar were very motivated in undermining *Yocupicio* case, but failed, this
17 demonstrates the national importance of the *Yocupicio* decision.

18 l. On December 13, 2018, the United States District Court granted final approval of
19 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*
20 *LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in
21 which I served as lead counsel. In doing so, the Court found: “Class Counsel’s
22 declarations show that the attorneys are experienced and successful litigators.” (*Id.*
23 at p. *10.)

24 m. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a
25 reported decision permitting class-wide discovery even though the employer has a
26

27 ⁴ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law
28 regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb.
9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered defendant to pay for the cost of *Belaire-West* notice.

- n. In 2013, I represented a whistleblower that reported that his former employer was defrauding the State of California with the help of bribes to public employees. The case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution of State of California employees by the California Attorney General’s Office.
- o. In 2013, I was part of a team of attorneys that obtained conditional certification for over 2,000,000 class members in a federal labor law case for misclassification of independent contractors that did crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-plaintiff reported decisions:
 - i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting plaintiff’s motion to strike defendant’s affirmative defenses based on *Twombly/Iqbal*).
 - ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
 - iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the magistrate judge’s discovery ruling which held that “evidence of other sources of income is irrelevant to the question of whether a plaintiff is an employee within the meaning of the FLSA”).
 - iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because “an FLSA plaintiff is entitled to discovery from locations where he never worked if he can provide some evidence to indicate company-wide violations”).

///

///

1 p. From 2012 to 2013, I was part of a team of attorneys that obtained class certification
2 for over 60,000 class members for off-the-clock claims, *Linares v. Securitas*
3 *Security Services USA, Inc.*, Los Angeles County Superior Court, Case No.
4 BC416555. We also successfully opposed subsequent appeals to the California
5 Court of Appeal and California Supreme Court.

6 47. My current contingent billing rate of \$1,500.00 per hour is consistent with my actual
7 billing rate for paid legal industry consulting services, my practice area, lead appellate experience
8 in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly
9 rates:

10 a. I have been paid for legal industry consulting services at \$1,500 per hour by
11 Gerson Lehrman Group (GLG), a company that provides financial information and
12 advises investors and consultants with business clients seeking expert advice. GLG
13 is one of the largest companies that provides expert consulting services. GLG's
14 clients include corporations, hedge funds, private equity firms, and consulting firms.
15 I have worked with GLG on numerous occasions at a rate of \$1,500 per hour,
16 including on three recent occasions in October and November of 2023.

17 b. On January 11, 2024, the Hon. Laurel Beeler of the United States District Court,
18 Northern District of California approved my \$1,500 hourly rate when she granted
19 final approval of the class action settlement in *Suarez v. Bank of America, N.A.*
20 (N.D. Cal. Jan. 11, 2024), No. 18-cv-01202-LB, 2024 WL150721, *3 ("As for
21 the lodestar cross-check, the billing rates are normal and customary for
22 timekeepers with similar qualifications and experience in the relevant market.")

23 c. My \$1,500 hourly rate was approved by many California state courts:

24 1. On December 8, 2023, the Hon. Marcella O. McLaughlin of the San
25 Diego County Superior Court approved my \$1,500 hourly rate when
26 she granted final approval of the class action settlement in *Payabyab*
27 *v. Bridge Hospice, LLC*, Case No. 7-2021-00046218-CU-OE-CTL.

28 2. On January 11, 2024, the Hon. Harold Hopp of the Riverside County

1 Superior Court approved my \$1,500 hourly rate when he granted
2 final approval of the class action settlement in *Gutierrez v. Next Level*
3 *Door & Millwork, Inc.*, Case No. CVRI2105455.

4 3. On January 19, 2024, the Hon. Lauri A. Damrell of the Sacramento
5 County Superior Court approved my \$1,500 hourly rate when she
6 granted final approval of the class action settlement in *Sunshine*
7 *Retirement Wage and Hour Cases*, Case No. JCCP 5247.

8 4. On January 26, 2024, the Hon. Loren G. Freestone of the San Diego
9 County Superior Court approved my \$1,500 hourly rate when he
10 granted final approval of the class action settlement in *Lupercio v.*
11 *Western CNC, Inc.*, Case No. 37-2021-00010314-CU-OE-CTL.

12 5. On February 1, 2024, the Hon. Joseph T. Ortiz of the San Bernardino
13 County Court approved by \$1,500 hourly rate when he granted final
14 approval of the class action settlement in *Jackson, et al. v. Apple*
15 *Valley Communications, Inc.*, et al., Case No. CIVSB2124721.

16 6. On February 2, 2024, the Hon. Harold Hopp of the Riverside County
17 Superior Court approved by \$1,500 hourly rate when he granted final
18 approval of the class action settlement in *Barrera v. Paradise*
19 *Chevrolet Cadillac*, Case No. CVSW2107199.

20 7. On May 7, 2024, the Hon. Elaine Lu of the Los Angeles County
21 Superior Court approved my \$1,500 hourly rate when she granted
22 final approval of the class action settlement in *Meza v. Argus*
23 *Management Company, LLC, et al.*, Case No. 21STCV31612.

24 d. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
25 approved my then \$800 hourly rate when he granted final approval of the class
26 action settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-
27 2019-01066522-CU-OE-CXC.

28 ///

1 e. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District
2 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*
3 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-
4 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the
5 Court approved my then \$750 hourly rate after finding it was “reasonable, given the
6 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)

7 48. The reasonableness of my firm’s hourly rates is also supported by several surveys
8 of legal rates, including the following:

9 a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents the
10 real market rates of Los Angeles area attorneys who practice litigation. For that
11 category, the third quartile 2022 rate was \$1,045 per hour for partners and \$855 for
12 associates. Likewise, page 32 of the Report describes the rates charged by 183 Los
13 Angeles partners with “21 or [m]ore [y]ears [of experience]” and “[f]ewer than 21
14 years.” For those categories, the third quartile Los Angeles partner rate in 2022
15 were \$1,133 per hour for 21 or more years and \$1,075 for attorneys with fewer than
16 21 years. A true and correct copy of portions of the 2022 Real Rate Report is
17 attached hereto as **Exhibit 2**.

18 b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of
19 Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9,
20 2022, the author describes how Big Law firms have crossed the \$2,000-per hour
21 rate. The article also notes that law firm rates have been increasing by just under
22 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 3**.

23 49. Arrash T. Fattahi is a fourth-year Managing Associate Attorney at Wilshire Law
24 Firm, PLC. He is admitted to practice law in the State of California and the Central, Southern,
25 Eastern, and Northern Districts of California. Arrash graduated from the University of California,
26 Los Angeles, with a Bachelor of Arts in Political Science, *summa cum laude*. He received his Juris
27 Doctor from The George Washington University Law School. During law school, he was a
28 member of the student editorial board for the *Federal Circuit Bar Journal*. Since January 2021,

1 his practice has mainly been focused on wage and hour class action litigation. His current
2 contingent billing rate for this case is \$650 per hour.

3 50. Erik A. Dos Santos was a Senior Associate Attorney at Wilshire Law Firm. He is
4 admitted to practice in all state courts of California (admitted in 2016) and before all federal district
5 courts in California. He graduated from UCLA School of Law, and attended Arizona State
6 University for his undergraduate studies, where he obtained a Bachelor of Arts in Political Science
7 with a Minor in Global Health. He has over 7 years of litigation experience, which includes the
8 successful handling of numerous employment, wage and hour, and class and representative action
9 matters. Prior to joining Wilshire Law Firm in December 2023, Mr. Dos Santos gained invaluable
10 litigation experience working at other plaintiff firms. Mr. Dos Santos is an active member of
11 CELA and CASD. His current contingent billing rate for this case is \$800.00 per hour, as most
12 recently approved in comparable wage and hour matters and consistent with his level of experience.
13 Erik A. Dos Santos is no longer with Wilshire Law Firm.

14 51. Zachary D. Greenberg was an Associate Attorney at Wilshire Law Firm. He was
15 admitted to the State Bar of California in 2020 and has since been admitted to the United States
16 District Court for the Central District of California and the United States Court of Appeals for the
17 Ninth Circuit. He received a Bachelor of Arts in International Business and a Minor in Economics
18 from Western Washington University. He received his Juris Doctor from Loyola Law School. His
19 practice has been primarily focused on complex class and representative action litigation. His
20 current contingent billing rate for this case is \$450 per hour. Zachary D. Greenberg is no longer
21 with Wilshire Law Firm.

22 52. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated
23 from the University of California, Irvine with a Bachelor of Arts in History and received his Juris
24 Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the
25 State of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm
26 specializing in insurance defense litigation. His focus now is on wage and hour class action
27 litigation. His current contingent billing rate for this case is \$450 per hour.

28 ///

1 I declare under penalty of perjury under the laws of the State of California and the United
2 States that the foregoing is true and correct.

3 Executed on September 5, 2024, at Los Angeles, California.

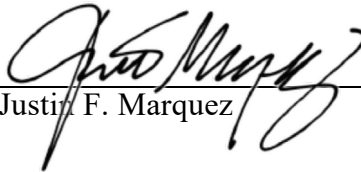
4
5 
6 Justin F. Marquez

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Guadalupe Guarista, Tenisha Katherine Howard, and Jennifer Lopez-Trigueros (“Plaintiffs”) and Defendant Urologic Institute of High Desert, Inc. (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the lawsuit alleging wage and hour violations against Defendant, captioned *Guadalupe Guarista v. Urologic Institute of High Desert, Inc.*, San Bernardino County Superior Court, case no. CIVSB2125029, filed on August 27, 2021 (the “Class Action”), which was consolidated with the action for penalties under the Private Attorney’s General Act (“PAGA”), Labor Code section 2699, *et seq.*, against Defendant, captioned *Guadalupe Guarista v. Urologic Institute of High Desert, Inc.*, San Bernardino County Superior Court, case no. CIVSB2133340, filed on November 30, 2021 (the “PAGA Action”) (the Consolidated Class Action and PAGA Action are referred to collectively as the “Action”).
- 1.2. “Administrator” means ILYM, 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 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 a person employed by Defendant in California and classified as a non-exempt who worked for Defendant during the PAGA Period.
- 1.5. “Class” means a person employed by Defendant in California and classified as non-exempt who worked for Defendant during the Class Period.
- 1.6. “Class Counsel” means Justin F. Marquez, Arrash Fattahi, and Shooka Dadashzadeh of Wilshire Law Firm, PLC.
- 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, actually incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and dates of employment or number of Class Period Workweeks and PAGA Pay Periods.

- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member’s 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 AND PAGA ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.11. “Class Period” means the period from August 27, 2017 to the October 27, 2022, or alternatively, the New Class Period End Date pursuant to Paragraph 9.
- 1.12. “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.13. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.14. “Court” means the Superior Court of California, County of San Bernardino.
- 1.15. “Defendant” means Urologic Institute of High Desert, Inc.
- 1.16. “Defense Counsel” means Jason Ross, Valen Hermiz and Ahllam Berri of Wood, Smith, Henning & Berman LLP.
- 1.17. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no objection is filed to the settlement and no objector appears at the hearing on final approval, the date of the Court’s entry of the order granting final approval; (b) if an objection is filed to the settlement and/or an objector appears at the hearing on final approval, then the earlier of the following: (i) the expiration of all potential appeal periods without a filing of a notice of appeal of the final approval order or judgment; (ii) final affirmance of the final approval order and judgment by an appellate court as a result of any appeal(s), or (ii) final dismissal or denial of all such appeals (including any petition for review, rehearing, certiorari, etc.) such that the final approval order and judgment is no longer subject to further judicial review. The Effective Date cannot occur, and Defendant shall not be obligated to fund this Settlement, until and unless final approval occurs with no objections to the settlement or,

if there are any objections, then after there is no possibility of an appeal or further appeal that could potentially prevent this Settlement Agreement from becoming final and binding.

- 1.18. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.19. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.20. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.21. “Gross Settlement Amount” means \$200,000.00 which is the maximum and total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representatives Service Payment and the Administrator’s Expenses.
- 1.22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.23. “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.
- 1.24. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.26. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.27. “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 Representatives 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.
- 1.28. “Non-Participating Class Member” means any Class Member who timely and properly opts out of the Settlement by sending the Administrator a valid and timely

Request for Exclusion.

- 1.29. “PAGA Workweek” means any Workweek during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.30. “PAGA Period” means the period from August 26, 2020 to October 27, 2022, or alternatively, the New Class Period End Date pursuant to Paragraph 9.
- 1.31. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.32. “PAGA Notice” means Plaintiff Guadalupe Guarista’s August 26, 2021 and July 15, 2024 letters to Defendant and the LWDA providing notice/amended notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.33. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the 75% to LWDA (\$7,500.00) in settlement of PAGA claims.
- 1.34. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.35. “Plaintiffs” means Guadalupe Guarista, Tenisha Katherine Howard, and Jennifer Lopez-Trigueros, the named plaintiffs in the Action.
- 1.36. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.37. “Released Class Claims” means the claims being released as described in Paragraph 6.2 below.
- 1.38. “Released PAGA Claims” means the claims being released as described in Paragraph 6.3 below.
- 1.39. “Released Parties” means: Defendant and each of its present and former parents, subsidiaries, affiliates, predecessors, successors and assigns, and each of their respective past and present members, shareholders, directors, officers, employees, agents, servants, registered representatives, insurers and attorneys
- 1.40. “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.
- 1.41. "Response Deadline" means 60 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. Class Members to whom Notice

Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

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

2. RECITALS.

2.1. On August 27, 2021, Plaintiff Guadalupe Guarista commenced this Action by filing a Complaint alleging causes of action against Defendant for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) unfair business practices. On November 30, 2021, Plaintiff Guadalupe Guarista filed a separate action asserting a single cause of action under PAGA. On July 8, 2022, the Court Ordered the Class Action and PAGA Action consolidated. The Parties agree that Plaintiffs will file a First Amended Consolidated Class and Representative Action Complaint (the “Operative Complaint”) adding Plaintiffs Tenisha Katherine Howard and Jennifer Lopez-Trigueros as class representatives and adding a claim for violation of Labor Code section 2802 for failure to reimburse to necessary business related expenses, solely for the purposes of settlement. Defendant denies the allegations in any pleading and the Operative Complaint, denies any failure to comply with any law and denies any and all liability for the causes of action alleged or which might have been alleged. By agreeing to the filing of the Operative Complaint for settlement purposes, Defendant does not waive any defenses to the Operative Complaint, denies all allegations therein, and hereby preserves any and all defenses, including, but not limited to, the statute of limitations.

2.2. On August 26, 2021, pursuant to Labor Code section 2699.3, subd.(a), Plaintiff Guadalupe Guarista gave written notice to Defendant and the LWDA by sending the PAGA notice.

2.3. On July 27, 2022, the Parties participated in an all-day mediation presided over by Hon. Steve Denton, (Ret.), a well-regarded mediator who has mediated many wage-and-hour class actions and is a former judge with the San Diego County Superior Court.

2.4. Prior to mediation, the Parties engaged in an informal exchange of information. Defendant provided Plaintiffs with documentation regarding its policies relating to timekeeping, overtime, meal periods, rest periods, and wage statements; time and payroll records for a sample of Class Members and PAGA Members; and Class/PAGA demographic data. The Parties also engaged in formal discovery subsequent to mediation, including written discovery, Plaintiff Guadalupe Guarista’s deposition and the depositions of Defendant’s PMK(s). Furthermore, counsel for the Parties conferred

extensively concerning this information, the merits of the Parties' claims and/or defenses, and other issues relevant to reaching a settlement. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.5. The Parties were able to reach a settlement following the July 27, 2022 mediation and subsequent discovery. Plaintiffs and their counsel have conducted sufficient discovery (formal and informal) and analysis to evaluate the strengths and weaknesses of their respective claims and Defendant's defenses, and to recommend this Settlement to the Class Members and the Court.
- 2.6. The Court has not granted class certification, and the Parties have agreed to conditional class certification of the Settlement Class exclusively for the purpose of effectuating this Agreement only
- 2.7. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, in consideration for this Settlement and a release by Plaintiffs, each Participating Class and PAGA Member, as provided herein, Defendant has agreed to pay Two Hundred Thousand Dollars (\$200,000.00). In no event shall the amount paid by Defendant exceed the Gross Settlement Amount, in addition to separate payment of any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the Effective Date. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
 - 3.2.1. To Plaintiffs: Class Representative Service Payments to Plaintiff Guadalupe Guarista in the amount of \$5,000.00, and Class Representative Service Payments to Tenisha Katherine Howard and Jennifer Lopez-Trigueros in the amount of \$1,000.00 (in addition to any Individual Class Payments and any Individual PAGA Payments the Class Representative are entitled to receive as Participating Class Members). Defendant will not oppose Plaintiffs' requests 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 pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.333333%, which is currently estimated to be \$66,666.67 and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for these payments provided that they do not exceed these amounts and the Class Counsel Litigation Expenses do not exceed actual costs/expenses incurred. 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 any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.
- 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$15,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$15,000.00, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4. To Each Participating Class Member: The allocation of payment of claims among the Class Members shall be paid based on the number of estimated Workweeks worked during the Class Period without the need to submit a claim form. An Individual Class Payment will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks worked.
 - 3.2.4.1. Tax Allocation of Individual Class Payments. 50% 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. 50% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be

reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00) allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA Payments. Should the Court not initially approve the PAGA Penalties allocation, Plaintiffs shall allocate more of the Gross Settlement to PAGA Penalties until such time as the Court approves the PAGA Penalties. Any and all funds for PAGA Penalties shall come exclusively from the Gross Settlement. Defendant shall have no obligation whatsoever to contribute any additional funds for this purpose.

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 (\$2,500.00) by the total number of PAGA Period workweeks worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period workweeks worked. 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, Defendant estimates there are approximately 156 Class Members who collectively worked a total of 10,800 Workweeks, and 101 of Aggrieved Employees who worked a total of 3,948 PAGA workweeks.

4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and

perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes, by transmitting the funds to the Administrator no later than 14 days after the Effective Date.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who otherwise qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.2. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement

check to any Class Member whose original check was lost or misplaced, if requested by the Class Member prior to the void date.

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and/or cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a *cy pres* approved by the Court (the “Cy Pres Recipient”). The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiffs, Participating Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiffs’ Release. Plaintiffs, individually, and on behalf of their heirs, executors, administrators, representatives, attorneys, successors and assigns, will be deemed to have knowingly and voluntarily released and forever discharged Released Parties, to the fullest extent permitted by law, from any and all claims of every nature whatsoever, known or unknown, suspected or unsuspected, arising out of or related to Defendant's employment of Plaintiffs, which Plaintiffs have or may have as of the Effective Date. This broader release includes, but is not limited to, all claims arising directly or indirectly from Plaintiffs' employment with Defendant and the termination of that employment, including without limitation claims arising under federal, state or local laws and claims for unpaid wages, penalties, liquidated damages, breach of contract, breach of the implied covenant of good faith and fair dealing, infliction of emotional distress, wrongful or retaliatory discharge, harassment, discrimination, defamation, impairment of economic opportunity, and violations of public policy, the Fair Labor Standards Act, the California Labor Code, the California Fair Employment and Housing Act, the California Business and Professions Code, the California Constitution, the Civil Rights Act of 1866, Title VII of the Civil Rights Act of 1964, and the Americans with Disabilities Act of 1990

5.1.1 Plaintiffs’ Waiver of Rights Under California Civil Code Section 1542.

For purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 Release by Participating Class Members: Plaintiffs and all Participating Class Members release and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Released Parties, to the fullest extent permitted by law, from all claims alleged in any pleading in the Action and the Operative Complaint in the Action and all claims that reasonably could have been alleged based on the facts and/or theories pled in the Operative Complaint including claims for unfair competition predicated on claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay final wages at termination, failure to provide accurate wage statements, failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the Class Period; and labor code violations for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay final wages at termination, failure to provide accurate wage statements, and failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the Class Period. The released claims include, but are not limited to, claims for wages, statutory penalties, civil penalties, damages, liquidated damages, or any other relief brought under state or federal law, the California Labor Code, the Fair Labor Standards Act, California Business and Professions Code sections 17200 *et seq.*, and/or any applicable Industrial Welfare Commission Wage Order; attorneys' fees and costs; and interest that accrued during the Class Period. The release expressly excludes claims for any alleged vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, and workers' compensation.

5.3 Release by Aggrieved Employees: Plaintiffs, all Class Members who are Aggrieved Employees, and the State of California release and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims asserted, or which could have been asserted, in the Action, arising during the PAGA Period for civil penalties under California Labor Code section 2698, *et seq.* as well as any interest, fees, and costs available under PAGA, based on or reasonably arising out of the facts and circumstances contained in any pleading in the Action, the PAGA Notice, and the Operative Complaint, and all claims that could have been alleged based on the factual allegations contained collectively therein, including, but not limited to, claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to pay all earned wages twice per month, failure to maintain accurate records of hours worked, failure to timely pay final wages at termination, failure to provide accurate wage statements, and failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the and for violations of Labor Code sections 201-204, 204.1, 210, 226, 226.3, 226.7, 510, 1173, 1174, 1174(d), 1174.5, 1182, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and the applicable Industrial Welfare Commission Wage Orders in

conformity with Labor Code section 2699.3. Nothing in this paragraph shall be construed to be a release of any individual claims against Defendant by any Aggrieved Employees not a party to this Action.

- 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 Defendant’s Declaration in Support of Preliminary Approval. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

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 Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members and the proposed Cy Pres Recipient; 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, the Administrator, and the proposed Cy Pres Recipient; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Primary responsibility for preparing all materials necessary for court approval of this Settlement shall belong to Plaintiffs.

6.3 Responsibilities of Counsel. Other than as noted herein, 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 to serve as the Administrator and verified that, as a condition of appointment, ILYM 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 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 section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than five (5) 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 substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual

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

7.4.3 Not later than (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

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

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

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline and signed by the relevant Class Member.

7.5.2 As to any dispute over the propriety of any putative Request for Exclusion, the Administrator's determination shall be conclusive for purposes of

executing administration of this Settlement. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be conclusive for purposes of executing administration of this Settlement.

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.4 of this Agreement and are eligible for an Individual PAGA Payment. No Class Member shall have the right to opt out of the PAGA Penalties Settlement.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must ask the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

7.8.1 Toll-Free Number. The Administrator will maintain and monitor an a toll-free telephone number to receive Class Member calls.

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

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

7.8.4 Administrator's Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or

invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

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

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 156 Class Members and 10,800 Total Workweeks during the Class Period and (2) there were 101 Aggrieved Employees who worked 1,974 Pay Periods during the PAGA Period. In the event that the actual number of workweeks worked by all Class Members during the Class Period increases by 10% or more, then Defendant shall increase the Gross Settlement Amount on a proportional basis in excess of ten percent (i.e., if there were an eleven percent (11%) increase in the number of work weeks), then Defendant will increase the Gross Settlement Amount by one percent (1%). Notwithstanding the foregoing, Defendant has the option of electing to have the Class Period and the PAGA Period run through the date it is determined that the total number of Class workweeks has reached 11,880 (the "New Class Period End Date"), in its sole and exclusive discretion.
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, in its sole discretion, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement administration costs incurred by the Administrator to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing date, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in

person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

- 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.
- 10.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.
- 10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the material terms and conditions of this Agreement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 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 section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in any pleading or the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification within 30 days of the Court failing to grant Preliminary Approval, Final Approval, or enter Judgment, on any grounds available and further to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. Plaintiff and Class Counsel separately agree that they will not issue any press releases, initiate any contact with the press, hold any press conference, respond to any press inquiry, or have any communication with the press about the fact, amount or terms of the settlement. Plaintiff and Class Counsel also agree that they will not engage in any advertising or distribute any marketing materials relating to the Settlement of this Action in any manner that identifies the Defendant, including but not limited to any postings on any websites

maintained by Class Counsel or any other websites, internet blogs, chatrooms or social media sites. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 12.3 No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties each and separately represent and warrant that none of them 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, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise. Each party has relied exclusively upon its own, independent legal and tax counsel.

- 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 Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is 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: Justin F. Marquez, Arrash Fattahi, and Shooka Dadashzadeh, Wilshire Law Firm, PLC, 3055 Wilshire Blvd., 12th Floor, Los Angeles, CA 90010

To Defendant: Jason C. Ross and Ahllam Berri, Wood Smith Henning & Berman LLP, 501 West Broadway, Suite 1200, San Diego, CA 92101.

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 that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

12.20 Severability. Should the Court or any tribunal of valid jurisdiction declare invalid or unenforceable any provision or term of this Agreement, that term or provision shall be severed from the Agreement, and the remaining terms and provisions shall remain in full force and effect.

///

///

///

///

///

///

///

///

///

///

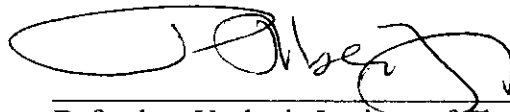
///

///

12.21 No Unalleged Claims. Plaintiffs and Class Counsel represent that they do not have any pending lawsuits, administrative charges or complaints against Defendant or any of the Released Parties, and they do not currently intend or anticipate pursuing any claims against the Released Parties, including, but not limited to, any and all claims relating to or arising from Plaintiffs' or any Class Member's employment, regardless of whether any party or Class Counsel is currently aware of any facts or legal theories upon which any claims or causes of action could be brought against Released Parties, including those facts or legal theories alleged in the Operative Complaint in this Action. The Parties acknowledge, understand, and agree that this representation is essential to the Agreement and that this Agreement would not have been entered into were it not for this representation.

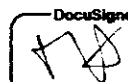
DocuSigned by:

DA16EG2EGG4G428
Plaintiff Guadalupe Guarista

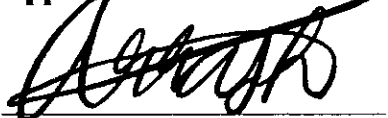

Defendant Urologic Institute of The High
Desert, Inc.

DocuSigned by:

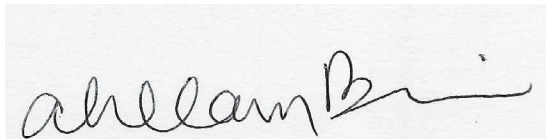
91A89GD4GB4546A
Plaintiff Jennifer Lopez-Trigueros

DocuSigned by:

00E9ED0C2F34478
Plaintiff Tenisha Katherine Howard

Approved as to form:


Justin F. Marquez
Arrash T. Fattahi
Shooka Dadashzadeh

Counsel for Plaintiffs


Jason Ross
Valen Hermiz
Ahllam Berri

Counsel for Defendant

Exhibit A

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

Guadalupe Guarista, et al. v. Urologic Institute of the High Desert, Inc., case no. CIVSB2125029 (the “Class Action”) consolidated with *Guadalupe Guarista v. Urologic Institute of the High Desert, Inc.*, case no. CIVSB2133340 (the “PAGA Action”).

***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 (the “Action”) against Urologic Institute of the High Desert (the “Defendant” is used herein as a placeholder) for alleged wage-and-hour violations. The Action was filed by Guadalupe Guarista (“Plaintiff”), one of Defendant’s former employees. The Action seeks payment for Defendant’s alleged: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) violation of California’s unfair business practices law, for a class of non-exempt hourly employees (“Class Members”) who worked for Defendant during the Class Period (August 27, 2017 to the present); and (2) penalties under the California Private Attorney’s General Act (“PAGA”) for all hourly non-exempt employees who worked for Defendant during the PAGA Period (August 27, 2020 to the present) (“Aggrieved Employees”).

Defendant denies any and all wrongdoing and liability whatsoever. The Court has not made any decision as to the truth of Plaintiff’s allegations.

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

The above estimates are based on Defendant’s records showing that **you worked approximately _____ workweeks** during the Class Period and **you worked approximately _____ workweeks** during the PAGA Period. If you believe these numbers are incorrect, you can submit a challenge by the deadline date. *See* Section 3 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 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 Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

- (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 PAGA Payment. As a Participating Class Member, though, you will give up your right to assert released wage claims and released PAGA penalty claims against Defendant.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by returning the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue otherwise released wage claims against Defendant. However, if you are an Aggrieved Employee, you remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant 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 [date]	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. <i>See</i> Section 6 of this Notice. You cannot opt-out of the PAGA portion of the Settlement.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [date]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. <i>See</i> Section 6 of this Notice.

You Can Participate in the [date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [date]. 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. <i>See</i> Section 7 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. <i>See</i> Section 3 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses, failing to provide meal periods, rest breaks, failing to issue meal and rest period premiums, and to issue 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"). Plaintiffs are represented by attorneys in the Action: Justin F. Marquez, Christina M. Le, Zachary D. Greenberg of Wilshire Law Firm, PLC ("Class Counsel.")

Defendant strongly denies violating any laws or failing to pay any wages, or committing any wrongdoing whatsoever, and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and Defendant hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive, unpredictable, 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 Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a fair compromise of highly disputed claims. By agreeing to settle, Defendant does 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) Defendant has 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 \$200,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel's 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, Defendant will fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date 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 Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$66,666.67 (33.333333% of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$20,000.00 for their actual litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$5,000.00 as a Class Representative Award for Plaintiff Guadalupe Guarista, and \$1,000.00 for Class Representative Awards for Plaintiffs Tenisha Katherine Howard and Jennifer Lopez-Trigueros for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payments.
 - C. Up to \$15,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$10,000.00 for PAGA Penalties, allocated 75% to the California LWDA (\$7,500.00) and 25% (\$2,500.00) in Individual PAGA Payments 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 Gross

Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiffs and Defendant are asking the Court to approve an allocation of 50% of each Individual Class Payment to taxable wages (“Wage Portion”) and 50% to taxes and interest (“Non-Wage Portion”). The Wage Portion is subject to deductions and withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiffs and Defendant 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 irrevocably lost to you because they will be paid to a non-profit organization or foundation (the “Cy Pres”).
6. Requests for Exclusion from the Class Settlement (Opt-Outs). 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 [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s name, present address, telephone number, and a simple statement electing to be excluded from the Settlement, signed by the Class Member. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue any alleged wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged 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 enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Defendant have agreed that, in either case, they will try to conclude the Settlement in good faith, but if they cannot, then the Settlement will be void: Defendant

will not pay any money and Class Members will not release any claims against Defendant.

8. Administrator. The Court has appointed a neutral company, ILYM (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 8 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer payroll taxes, 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 any other lawsuit against Defendant or related entities for wages based on the Class Period facts or PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, release and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, Released Parties, to the fullest extent permitted by law, from all claims alleged in any pleading in the Action and the Operative Complaint in the Action and all claims that reasonably could have been alleged based on the facts and/or theories pled in the Operative Complaint including claims for unfair competition predicated on claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay final wages at termination, failure to provide accurate wage statements, failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the Class Period; and labor code violations for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to timely pay final wages at termination, failure to provide accurate wage statements, and failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the Class Period. The released claims include, but are not limited to, claims for wages, statutory penalties, civil penalties, damages, liquidated damages, or any other relief brought under state or federal law, the California Labor Code, the Fair Labor Standards Act, California Business and Professions Code sections 17200 *et seq*, and/or any applicable Industrial Welfare Commission Wage Order; attorneys’ fees and costs; and interest that accrued during the Class Period. The release expressly excludes claims for any alleged vested benefits, wrongful termination, unemployment insurance, disability benefits, social security, and workers’ compensation.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, 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 Defendant or its 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:

Plaintiffs, all Class Members who are Aggrieved Employees, and the State of California release and forever discharge, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from any and all claims asserted, or which could have been asserted, in the Action, arising during the PAGA Period for civil penalties under California Labor Code section 2698, et seq. as well as any interest, fees, and costs available under PAGA, based on or reasonably arising out of the facts and circumstances contained in any pleading in the Action, the PAGA Notice, and the Operative Complaint, and all claims that could have been alleged based on the factual allegations contained collectively therein, including, but not limited to, claims for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to provide rest periods, failure to pay all earned wages twice per month, failure to maintain accurate records of hours worked, failure to timely pay final wages at termination, failure to provide accurate wage statements, and failure to reimburse business expenses, and regular rate violations with respect to overtime, double time, meal and rest period premiums, and sick pay that accrued during the and for violations of Labor Code sections 201-204, 204.1, 210, 226, 226.3, 226.7, 510, 1173, 1174, 1174(d), 1174.5, 1182, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and the applicable Industrial Welfare Commission Wage Orders in conformity with Labor Code section 2699.3. Nothing in this paragraph shall be construed to be a release of any individual claims against Defendant by any Aggrieved Employees not a party to this Action.

HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

11. 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.
12. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$2,500.00 by the total number of PAGA Period Workweeks

worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Workweeks worked by each individual Aggrieved Employee.

13. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Notice. You have until [date] 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 8 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 Defendant's calculation of Workweeks and/or Pay Periods based on Defendant's 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 Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

4. 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., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. 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 PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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 8 of this Notice has the Administrator's contact information.

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

Submit a written and signed letter with your name, signature, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Guadalupe Guarista v. Urologic Institute of the High Desert, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). 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 [date], or it will be invalid. Section 8 of the Notice has the Administrator's contact information.

6. 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 Defendant are asking the Court to approve. At least 16 days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service 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 8 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/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date].** 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 *Guadalupe Guarista v. Urologic Institute of the High Desert, Inc.*, and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 8 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 7 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

7. CAN I ATTEND THE FINAL APPROVAL HEARING?

Yes, but you don't have to, attend the Final Approval Hearing on [date] at [time] in Department S-26 of the San Bernardino County Superior Court, located at 247 West 3rd Street, San Bernardino, California, 92415. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement 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). Feel free to check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Court's website beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

8. HOW CAN I GET MORE INFORMATION?

This Agreement sets forth everything Defendant 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 court's website . You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <https://www.sb-court.org/> and entering the Case Number for the Action, Case No. CIVSB2125029.

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

Class Counsel:

Justin F. Marquez
justin@wilshirelawfirm.com
Arrash Fattahi
afattahi@wilshirelawfirm.com
Shooka Dadashzadeh
sdadashzadeh@wilshirelawfirm.com
Wilshire Law Firm
3055 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90010
(213) 784-3830

Settlement Administrator:

ILYM
14751 Plaza Drive, Suite J
Tustin, CA 92780
Telephone: (714) 277-4145
Fax: (888) 845-6185

9. 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. If your check is already void, you will have no way to recover the money.

10. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit 2



ELM Solutions

2022 Real Rate Report[®]

The industry's leading
analysis of law firm rates,
trends, and practices

Table of Contents - 2022 Real Rate Report

A Letter to Our Readers • 4

Report Use Considerations • 5

Section I: High-Level Data Cuts • 8

- Partners, Associates, and Paralegals
- Partners, Associates, and Paralegals by Practice Area and Matter Type
- Partners and Associates by City
- Partners and Associates by City and Matter Type
- Partners by City and Years of Experience
- Associates by City and Years of Experience
- Partners and Associates by Firm Size and Matter Type

Section II: Industry Analysis • 63

- Partners, Associates, and Paralegals by Industry Group
- Partners and Associates by Industry Group and Matter Type
- Basic Materials and Utilities
- Consumer Goods
- Consumer Services
- Financials (Excluding Insurance)
- Health Care
- Industrials
- Technology and Telecommunications

Section III: Practice Area Analysis • 84

- Bankruptcy and Collections
- Commercial
- Corporate: Mergers, Acquisitions, and Divestitures
- Corporate: Regulatory and Compliance
- Corporate: Other
- Employment and Labor
- Environmental
- Finance and Securities
- General Liability (Litigation Only)
- Insurance Defense (Litigation Only)
- Intellectual Property: Patents
- Intellectual Property: Trademarks
- Intellectual Property: Other
- Real Estate

Section IV: In-Depth Analysis for Select US Cities • 172

- Boston, MA
- Chicago, IL
- Los Angeles, CA
- New York, NY
- Philadelphia, PA
- San Francisco, CA
- Washington, DC

Section V: International Analysis • 191

Section VI: Matter Staffing Analysis • 221

Appendix: Data Methodology • 226

Report Use Considerations

2022 Real Rate Report

- Examines law firm rates over time
- Identifies rates by location, experience, firm size, areas of expertise, industry, and timekeeper role (i.e., partner, associate, and paralegal)
- Itemizes variables that drive rates up or down

All the analyses included in the report derive from the actual rates charged by law firm professionals as recorded on invoices submitted and approved for payment.

Examining real, approved rate information, along with the ranges of those rates and their changes over time, highlights the role these variables play in driving aggregate legal cost and income. The analyses can energize questions for both corporate clients and law firm principals.

Clients might ask whether they are paying the right amount for different types of legal services, while law firm principals might ask whether they are charging the right amount for legal services and whether to modify their pricing approach.

Some key factors¹ that drive rates²:

Attorney location - Lawyers in urban and major metropolitan areas tend to charge more when compared with lawyers in rural areas or small towns.

Litigation complexity - The cost of representation will be higher if the case is particularly complex or time-consuming; for example, if there are a large number of documents to review, many witnesses to depose, and numerous procedural steps, the case is likely to cost more (regardless of other factors like the lawyer's level of experience).

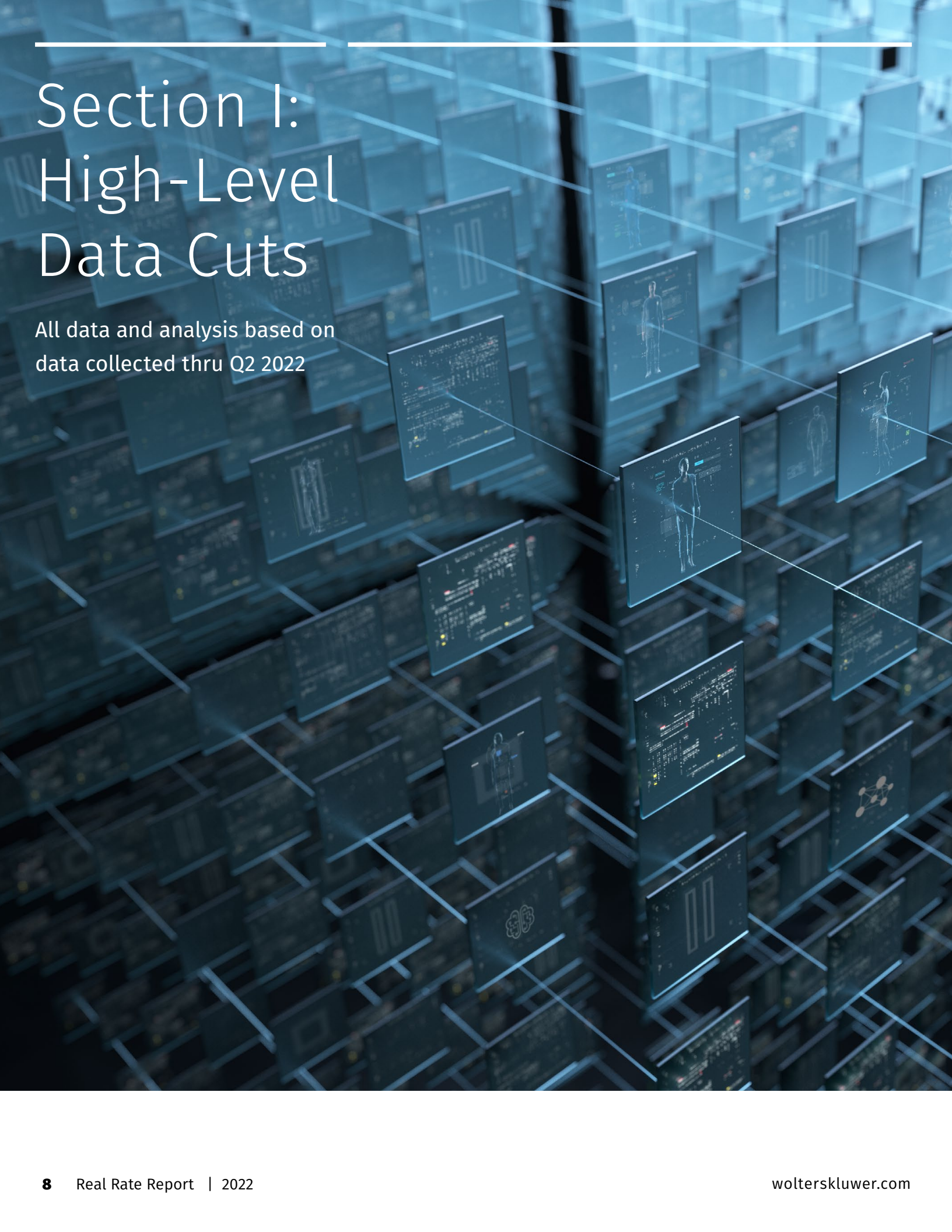
Years of experience and reputation - A more experienced, higher-profile lawyer is often going to charge more, but absorbing this higher cost at the outset may make more sense than hiring a less expensive lawyer who will likely take time and billable hours to come up to speed on unfamiliar legal and procedural issues.

Overhead - The costs associated with the firm's support network (paralegals, clerks, and assistants), document preparation, consultants, research, and other expenses.

Firm size - The rates can increase if the firm is large and has various timekeeper roles at the firm. For example, the cost to work with an associate or partner at a larger firm will be higher compared to a firm that has one to two associates and a paralegal.

¹ David Goguen, J.D., University of San Francisco School of Law (2020) Guide to Legal Services Billing Retrieved from: <https://www.lawyers.com/legal-info/research/guide-to-legal-services-billing-rates.html>

² Source: 2018 RRR. Factor order validated in multiple analyses since 2010



Section I: High-Level Data Cuts

All data and analysis based on
data collected thru Q2 2022

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Jackson MS	Litigation	Associate	56	\$55	\$225	\$250	\$178	\$203	\$175
	Non-Litigation	Partner	24	\$315	\$420	\$485	\$418	\$394	\$375
		Associate	25	\$55	\$126	\$255	\$155	\$125	\$259
Kansas City MO	Litigation	Partner	74	\$413	\$450	\$556	\$472	\$450	\$450
		Associate	50	\$252	\$329	\$385	\$319	\$316	\$305
	Non-Litigation	Partner	101	\$411	\$487	\$615	\$519	\$487	\$464
		Associate	73	\$250	\$320	\$385	\$322	\$312	\$285
Las Vegas NV	Non-Litigation	Partner	20	\$350	\$425	\$525	\$440	\$422	\$432
		Associate	11	\$238	\$267	\$368	\$301	\$297	\$282
Little Rock AR	Non-Litigation	Partner	11	\$215	\$215	\$308	\$264	\$256	\$298
Los Angeles CA	Litigation	Partner	322	\$516	\$725	\$1,045	\$799	\$739	\$702
		Associate	408	\$400	\$615	\$855	\$642	\$606	\$564
	Non-Litigation	Partner	521	\$596	\$868	\$1,201	\$903	\$902	\$858
		Associate	667	\$441	\$603	\$845	\$653	\$712	\$648

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Minneapolis MN	Non-Litigation	Associate	83	\$340	\$421	\$528	\$425	\$408	\$384
Nashville TN	Litigation	Partner	24	\$275	\$320	\$456	\$363	\$378	\$403
	Non-Litigation	Partner	78	\$412	\$484	\$576	\$505	\$481	\$470
		Associate	59	\$270	\$330	\$384	\$340	\$315	\$285
New Orleans LA	Litigation	Partner	47	\$290	\$332	\$412	\$343	\$330	\$340
		Associate	42	\$231	\$243	\$340	\$278	\$290	\$275
	Non-Litigation	Partner	32	\$295	\$347	\$405	\$419	\$380	\$391
		Associate	21	\$244	\$250	\$278	\$273	\$303	\$258
New York NY	Litigation	Partner	614	\$475	\$675	\$1,088	\$808	\$784	\$746
		Associate	631	\$323	\$460	\$729	\$545	\$527	\$509
	Non-Litigation	Partner	1,376	\$765	\$1,235	\$1,638	\$1,189	\$1,139	\$1,090
		Associate	1,809	\$550	\$776	\$1,050	\$796	\$766	\$716
Oklahoma City OK	Non-Litigation	Partner	14	\$235	\$338	\$393	\$337	\$319	\$311
Omaha NE	Litigation	Partner	12	\$293	\$339	\$353	\$329	\$338	\$341

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
Rochester NY	Non-Litigation	Partner	12	\$270	\$360	\$488	\$386	\$341	\$446
		Associate	13	\$220	\$310	\$375	\$314	\$278	\$287
Sacramento CA	Non-Litigation	Partner	11	\$381	\$437	\$682	\$534	\$559	\$516
Salt Lake City UT	Litigation	Partner	14	\$246	\$353	\$468	\$363	\$333	\$379
	Non-Litigation	Partner	42	\$297	\$371	\$447	\$391	\$363	\$353
		Associate	22	\$220	\$240	\$270	\$248	\$247	\$228
San Diego CA	Litigation	Associate	23	\$151	\$225	\$300	\$255	\$258	\$264
	Non-Litigation	Partner	89	\$332	\$540	\$1,066	\$699	\$667	\$649
		Associate	71	\$250	\$325	\$424	\$373	\$378	\$351
San Francisco CA	Litigation	Partner	143	\$423	\$675	\$995	\$742	\$711	\$691
		Associate	98	\$325	\$430	\$731	\$525	\$517	\$470
	Non-Litigation	Partner	221	\$475	\$750	\$950	\$758	\$746	\$741
		Associate	151	\$338	\$486	\$702	\$545	\$563	\$507
San Jose CA	Litigation	Partner	33	\$654	\$921	\$1,133	\$916	\$907	\$864

Section I: High-Level Data Cuts

Cities

By Matter Type

2022 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2022	2021	2020
San Jose CA	Litigation	Associate	22	\$461	\$580	\$745	\$608	\$593	\$498
	Non-Litigation	Partner	50	\$660	\$864	\$1,303	\$969	\$985	\$887
		Associate	46	\$380	\$460	\$775	\$616	\$639	\$567
Seattle WA	Litigation	Partner	76	\$497	\$655	\$760	\$635	\$567	\$510
		Associate	61	\$394	\$468	\$530	\$447	\$453	\$395
	Non-Litigation	Partner	148	\$410	\$526	\$760	\$571	\$547	\$547
		Associate	113	\$310	\$395	\$502	\$422	\$401	\$377
St. Louis MO	Litigation	Partner	46	\$260	\$350	\$435	\$376	\$373	\$388
		Associate	17	\$197	\$225	\$250	\$228	\$237	\$232
	Non-Litigation	Partner	57	\$352	\$419	\$540	\$451	\$446	\$473
Tampa FL	Litigation	Partner	31	\$369	\$508	\$595	\$490	\$467	\$452
		Associate	15	\$269	\$298	\$368	\$316	\$302	\$306
Trenton NJ	Non-Litigation	Partner	21	\$408	\$600	\$700	\$569	\$620	\$581
		Associate	12	\$480	\$495	\$500	\$448	\$376	\$387

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Associate

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	3 to Fewer Than 7 Years	15	\$270	\$325	\$360	\$318	\$295	\$283
	7 or More Years	28	\$292	\$334	\$391	\$333	\$312	\$302
Los Angeles CA	Fewer Than 3 Years	63	\$429	\$595	\$654	\$556	\$524	\$488
	3 to Fewer Than 7 Years	144	\$486	\$688	\$838	\$662	\$626	\$530
	7 or More Years	171	\$351	\$550	\$840	\$600	\$634	\$586
Miami FL	3 to Fewer Than 7 Years	19	\$300	\$360	\$457	\$380	\$331	\$313
	7 or More Years	36	\$295	\$450	\$595	\$460	\$433	\$385
Minneapolis MN	Fewer Than 3 Years	11	\$374	\$405	\$446	\$408		\$230
	3 to Fewer Than 7 Years	27	\$340	\$451	\$510	\$421	\$358	\$356
	7 or More Years	27	\$423	\$468	\$585	\$478	\$438	\$392
Nashville TN	7 or More Years	12	\$219	\$245	\$345	\$282	\$266	\$262
New Orleans LA	3 to Fewer Than 7 Years	12	\$232	\$243	\$265	\$261	\$242	\$245
	7 or More Years	18	\$243	\$312	\$343	\$306	\$318	\$294
New York NY	Fewer Than 3 Years	142	\$443	\$622	\$775	\$629	\$600	\$652

Section I: High-Level Data Cuts

Cities

By Years of Experience

2022 - Real Rates for Partner

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2022	2021	2020
Kansas City MO	Fewer Than 21 Years	46	\$400	\$450	\$537	\$473	\$411	\$397
	21 or More Years	68	\$440	\$553	\$658	\$539	\$497	\$491
Las Vegas NV	Fewer Than 21 Years	12	\$284	\$381	\$495	\$389	\$349	\$343
	21 or More Years	13	\$350	\$425	\$515	\$468	\$456	\$472
Los Angeles CA	Fewer Than 21 Years	183	\$533	\$801	\$1,075	\$804	\$797	\$682
	21 or More Years	333	\$550	\$765	\$1,133	\$863	\$842	\$808
Memphis TN	Fewer Than 21 Years	14	\$288	\$331	\$380	\$345	\$317	\$328
	21 or More Years	15	\$355	\$415	\$425	\$394	\$382	\$375
Miami FL	Fewer Than 21 Years	57	\$370	\$450	\$598	\$490	\$498	\$443
	21 or More Years	104	\$388	\$581	\$749	\$584	\$580	\$536
Milwaukee WI	21 or More Years	16	\$302	\$454	\$613	\$589	\$515	\$530
Minneapolis MN	Fewer Than 21 Years	36	\$470	\$530	\$607	\$532	\$486	\$499
	21 or More Years	84	\$507	\$675	\$796	\$656	\$620	\$589
Nashville TN	Fewer Than 21 Years	28	\$375	\$405	\$535	\$449	\$405	\$397

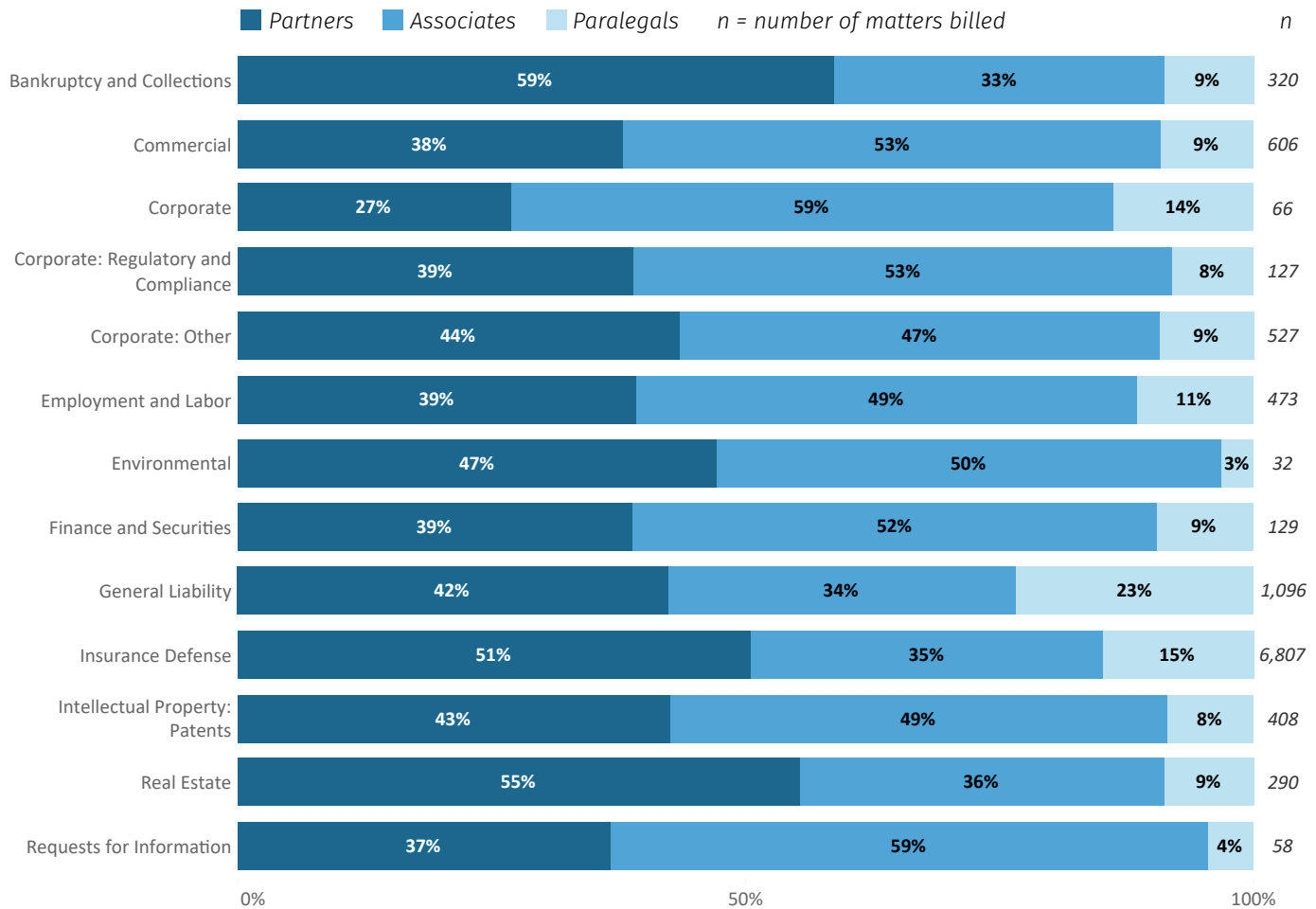
Section VI: Matter Staffing Analysis

All data and analysis based on
data collected thru Q2 2022

Section VI: Matter Staffing Analysis

Long Litigation Matters, More Than 100 Total Hours Billed

2019 to 2022 -- Percentage of Hours Billed per Matter



Section VII: Data Methodology

All data and analysis based on
data collected thru Q2 2022

Appendix: Data Methodology

Invoice Information

Data in Wolters Kluwer ELM Solutions' reference database and the 2022 Real Rate Report were taken from invoice line-item entries contained in invoices received and approved by participating companies.

Invoice data were received in the Legal Electronic Data Exchange Standard (LEDES) format (LEDES.org). The following information was extracted from those invoices and their line items:

- Law firm (which exists as a random number in the ELM Solutions reference database)
- Timekeeper ID (which exists as a random number in the ELM Solutions reference database)
- Matter ID (which exists as a random number in the ELM Solutions reference database)
- Timekeeper's position (role) within the law firm (partner, associate, paralegal, etc.)
- Uniform Task-Based Management System Code Set, Task Codes, and Activity Codes (UTBMS.com)
- Date of service
- Hours billed
- Hourly rate billed
- Fees billed

Non-Invoice Information

To capture practice area details, the matter ID within each invoice was associated with matter profiles containing areas of work in the systems of each company. The areas of work were then systematically categorized into legal practice areas. Normalization of practice areas was done based on company mappings to system-level practice areas available in the ELM Solutions system and by naming convention.

The majority of analyses included in this report have been mapped to one of 11 practice areas, further divided into sub-areas and litigation/non-litigation (for more information on practice areas and sub-areas, please refer to pages 232-234).

To capture location and jurisdiction details, law firms and timekeepers were systematically mapped to the existing profiles within ELM Solutions systems, as well as with publicly available data sources for further validation and normalization. Where city location information is provided, it includes any address within that city's defined Core-Based Statistical Area (CBSA) as defined by the Office of Management and Budget (OMB). The CBSAs are urban centers with populations of 10,000 or more and include all adjacent counties that are economically integrated with that urban center.

Where the analyses focus on partners, associates, and paralegals, the underlying data occasionally included some sub-roles, such as "senior partner" or "junior associate." In such instances, those timekeeper sub-roles were placed within the broader partner, associate, and paralegal segments.

Demographics regarding law firm size, location, and lawyer years of experience were augmented by incorporating publicly available information.

Appendix: Data Methodology

A Note on US Cities

Principal City	CBSA Name
Hartford, CT	Hartford-East Hartford-Middletown, CT
Honolulu, HI	Urban Honolulu HI
Houston, TX	Houston-The Woodlands-Sugar Land, TX
Indianapolis, IN	Indianapolis-Carmel-Anderson, IN
Jackson, MS	Jackson, MS
Jacksonville, FL	Jacksonville, FL
Kansas City, MO	Kansas City, MO-KS
Lafayette, LA	Lafayette, LA
Las Vegas, NV	Las Vegas-Henderson-Paradise, NV
Lexington, KY	Lexington-Fayette, KY
Little Rock, AR	Little Rock-North Little Rock-Conway, AR
Los Angeles, CA	Los Angeles-Long Beach-Anaheim, CA
Louisville, KY	Louisville/Jefferson County, KY-IN
Madison, WI	Madison, WI
Memphis, TN	Memphis-Forrest City, TN-MS-AR
Miami, FL	Miami-Fort Lauderdale-Pompano Beach, FL
Milwaukee, WI	Milwaukee-Waukesha, WI
Minneapolis, MN	Minneapolis-St. Paul-Bloomington, MN-WI
Nashville, TN	Nashville-Davidson-Murfreesboro-Franklin, TN
New Haven, CT	New Haven-Milford, CT
New Orleans, LA	New Orleans-Metairie, LA
New York, NY	New York-Newark-Jersey City, NY-NJ-PA
Oklahoma City, OK	Oklahoma City, OK
Omaha, NE	Omaha-Council Bluffs, NE-IA
Orlando, FL	Orlando-Kissimmee-Sanford, FL
Philadelphia, PA	Philadelphia-Camden-Wilmington, PA-NJ-DE-MD
Phoenix, AZ	Phoenix-Mesa-Chandler, AZ
Pittsburgh, PA	Pittsburgh, PA
Portland, ME	Portland-South Portland, ME
Portland, OR	Portland-Vancouver-Hillsboro, OR-WA
Providence, RI	Providence-Warwick, RI-MA
Raleigh, NC	Raleigh-Cary, NC
Reno, NV	Reno-Carson City-Fernley, NV

Appendix: Data Methodology

Bankruptcy and Collections

Chapter 11
Collections

General/Other
Workouts and Restructuring

Commercial (Commercial Transactions and Agreements)

Contract Breach or Dispute
General, Drafting, and Review
General/Other

Corporate¹

Antitrust and Competition
Corporate Development
General/Other
Governance
Information and Technology
Mergers, Acquisitions, and Divestitures

Partnerships and Joint Ventures
Regulatory and Compliance
Tax
Treasury
White Collar/Fraud/Abuse

Employment and Labor

ADA
Agreements
Compensation and Benefits
Discrimination, Retaliation, and Harassment/EEO
Employee Dishonesty/Misconduct
ERISA

General/Other
Immigration
Union Relations and Negotiations/NLRB
Wages, Tips, and Overtime
Wrongful Termination

Environmental

General/Other
Health and Safety

Superfund
Waste/Remediation

Finance and Securities

Commercial Loans and Financing
Debt/Equity Offerings
Fiduciary Services
General/Other

Investments and Other Financial Instruments
Loans and Financing
SEC Filings and Financial Reporting
Securities and Banking Regulations

General Liability

Asbestos/Mesothelioma
Auto and Transportation
Consumer Related Claims
Crime, Dishonesty and Fraud
General/Other

Personal Injury/Wrongful Death
Premises
Product and Product Liability
Property Damage
Toxic Tort

¹ All references to “Corporate: General/Other” in the Real Rate Report are the aggregation of all Corporate sub-areas excluding the Mergers, Acquisitions, and Divestitures sub-area and the Regulatory and Compliance sub-area.

Exhibit 3

Free Newsletter Sign Up

Business & Practice

Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder’

By Roy Strom

Column

June 9, 2022, 2:30 AM

Welcome back to the Big Law Business column on the changing legal marketplace written by me, Roy Strom. Today, we look at a new threshold for lawyers' billing rates and why it's so difficult to put a price on high-powered attorneys. Sign up to receive this column in your inbox on Thursday mornings. Programming note: Big Law Business will be off next week.

Some of the nation's top law firms are charging more than \$2,000 an hour, setting a new pinnacle after a two-year burst in demand.

Partners at Hogan Lovells and Latham & Watkins have crossed the threshold, according to court documents in bankruptcy cases filed within the past year.

Other firms came close to the mark, billing more than \$1,900, according to the documents. They include Kirkland & Ellis, Simpson Thacher & Bartlett, Boies Schiller Flexner, and Sidley Austin.

Simpson Thacher & Bartlett litigator Bryce Friedman, who helps big-name clients out of jams, especially when they're accused of fraud, charges \$1,965 every 60 minutes, according to a court document.

In need of a former acting US Solicitor General? Hogan Lovells partner Neal Katyal bills time at \$2,465 an hour. Want to hire famous litigator David Boies? That'll cost \$1,950 an hour (at least). Reuters was first to report their fees.

Eye-watering rates are nothing new for Big Law firms, which typically ask clients to pay higher prices at least once a year, regardless of broader market conditions.

"Value is in the eye of the beholder," said John O'Connor, a San Francisco-based expert on legal fees. "The perceived value of a good lawyer can reach into the multi-billions of dollars."

Kirkland & Ellis declined to comment on its billing rates. None of the other firms responded to requests to comment.

Charge It Up

Big Law firms are crossing the \$2,000-an-hour threshold after two years of surging rates driven by an increase in demand for lawyers.

Firm	Highest Billing Rate
Hogan Lovells	\$2,465
Latham & Watkins	\$2,075
Kirkland & Ellis	\$1,995
Simpson Thacher & Bartlett	\$1,965
Boies Schiller Flexner	\$1,950
Sidley Austin	\$1,900

Source: Court documents

Bloomberg Law

Law firms have been more successful raising rates than most other businesses over the past 15 years.

Law firm rates rose by roughly 40 percent from 2007 to 2020, or just short of 3 percent per year, Thomson Reuters Peer Monitor data show. US inflation rose by about 28% during that time.

The 100 largest law firms in the past two years achieved their largest rate increases in more than a decade, Peer Monitor says. The rates surged more than 6% in 2020 and grew another 5.6% through November of last year. Neither level had been breached since 2008.

The price hikes occurred during a once-in-a-decade surge in demand for law services, which propelled profits at firms to new levels. Fourteen law firms reported average profits per equity partner in 2021 over \$5 million, according to data from The American Lawyer. That was up from six the previous year.

The highest-performing firms, where lawyers charge the highest prices, have outperformed their smaller peers. Firms with leading practices in markets such as mergers and acquisitions, capital markets, and real estate were forced to turn away work at some points during the pandemic-fueled surge.

Firms receive relatively tepid pushback from their giant corporate clients, especially when advising on bet-the-company litigation or billion-dollar deals.

The portion of bills law firms collected—a sign of how willingly clients pay full-freight—rose during the previous two years after drifting lower following the Great Financial Crisis. Collection rates last year breached 90% for the first time since 2009, Peer Monitor data show.

Professional rules prohibit lawyers from charging “unconscionable” or “unreasonable” rates. But that doesn’t preclude clients from paying any price they perceive as valuable, said Jacqueline Vinaccia, a San Diego-based lawyer who testifies on lawyer fee disputes.

Lawyers’ fees are usually only contested when they will be paid by a third party.

That happened recently with Hogan Lovells’ Katyal, whose nearly \$2,500 an hour fee was contested in May by a US trustee overseeing a bankruptcy case involving a Johnson & Johnson unit facing claims its talc-based powders caused cancer.

The trustee, who protects the financial interests of bankruptcy estates, argued Katyal’s fee was more than \$1,000 an hour higher than rates charged by lawyers in the same case at Jones Day and Skadden Arps Slate Meagher & Flom.

A hearing on the trustee’s objection is scheduled for next week. Hogan Lovells did not respond to a request for comment on the objection.

Vinaccia said the firm’s options will be to reduce its fee, withdraw from the case, or argue the levy is reasonable, most likely based on Katyal’s extensive experience arguing appeals.

Still, the hourly rate shows just how valuable the most prestigious lawyers’ time can be—even compared to their highly compensated competitors.

“If the argument is that Jones Day and Skadden Arps are less expensive, then you’re already talking about the cream of the crop, the top-of-the-barrel law firms,” Vinaccia said. “I can’t imagine a case in which I might argue those two firms are more reasonable than the rates I’m dealing with.”

Worth Your Time

On Cravath: Cravath Swaine & Moore is heading to Washington, opening its first new office since 1973 by hiring former heads of the U.S. Securities and Exchange Commission and Federal Deposit Insurance Corporation. Meghan Tribe reports the move comes as Big Law firms are looking to add federal government expertise as clients face more regulatory scrutiny.

On Big Law Promotions: It’s rare that associates get promotions to partner in June, but Camille Vasquez is now a Brown Rudnick partner after she shot to fame representing Johnny Depp in his defamation trial against ex-wife Amber Heard.

On Working From Home: I spoke this week with Quinn Emanuel’s John Quinn about why he thinks law firm life is never going back to the office-first culture that was upset by the pandemic. Listen to the podcast [here](#).



That's it for this week! Thanks for reading and please send me your thoughts, critiques, and tips.

To contact the reporter on this story: Roy Strom in Chicago at rstrom@bloomberglaw.com

To contact the editors responsible for this story: Chris Opfer at copfer@bloomberglaw.com; John Hughes at jhughes@bloombergindustry.com

Documents

[Trustee's Objection](#)

Related Articles

[Overworked Big Law Can't Find Enough Lawyers With Demand Surging](#)

Dec. 9, 2021, 3:00 AM

[Never Underestimate Big Law's Ability to Raise Billing Rates](#)

Aug. 12, 2021, 3:00 AM

Law Firms

Simpson Thacher
Hogan Lovells
Jones Day
Skadden
Sidley Austin
Quinn Emanuel
Cravath Swaine & Moore
Latham & Watkins
Kirkland & Ellis
Boies Schiller Flexner

Topics

expert fees
compensation of bankruptcy attorney
acquisitions
U.S. trustees
financial markets
client-paid legal fees
data breaches

Companies

Johnson & Johnson
Thomson Reuters Corp

Guarista v. Urologic Institute of The High Desert, Inc., et al.
CIVSB2125029

PROOF OF SERVICE