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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

ARMANDO DIAZ-GARCIA, as an individual,
and on behalf of all other similarly situated
employees,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation and DOES 1-50, inclusive,

Defendant.

Case No.: 30-2021-01193589-CU-OE-CXC
Consolidated with Case No.: 30-2021-
01217438-CU-OE-CXC

[Honorable Lon F. Hurwitz,
Department CX103]

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

JOSE ELIAS BARAJAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

*[Filed with Plaintiffs' Notice of Motion and
Motion for Preliminary Approval,
Declaration of Armond Jackson, Declaration
of Plaintiff Jose Elias Barajas, and
[Proposed] Order]*

PRELIMINARY APPROVAL HEARING

Date: October 6, 2023

Time: 1:30 PM

Dept: CX103

Complaint Filed: April 2, 2021

Trial Date: Not Set

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

2. Plaintiffs Armando Diaz-Garcia and Jose Elias Barajas (“Plaintiffs”) seek preliminary approval of the Joint Stipulation of Class and PAGA Action Settlement (“Settlement”) between Plaintiffs and Defendant Awesome Products, Inc. (“Defendant”) (together with Plaintiffs, the “Parties”). The Settlement, which was reached after extensive discovery and investigation, and an arm’s-length mediation, provides substantial monetary payments to approximately 107 Class Members. The Settlement also meets the requisite criteria for settlement approval under California law. Plaintiffs further seek certification of the putative Class and approval of the Class Notice.

4. Plaintiff Armando Diaz-Garcia worked for Defendant as an hourly employee during the Class Period. Plaintiff Jose Elias Barajas worked for Defendant as a Forklift Operator from July 2020 to September 2020.

1 5. During their entire employment with Defendant, Plaintiffs were classified as non-
2 exempt; were paid on an hourly basis; and typically worked five days per workweek and eight or
3 more hours per workday. Further, Plaintiffs were subjected to the same alleged unlawful labor
4 practices as their coworkers.

5 6. Defendant is a household cleaning product manufacturer located in Buena Park,
6 California. Defendant denies the allegations set out by Plaintiffs and opposes the merits of this
7 Action. First, Defendant asserts it complied with all of its compensation obligations, including
8 compensating Class Members for all off-the-clock work, and therefore, Plaintiffs and other Class
9 Members were paid all wages owed. Second, Defendant asserts it complied with all of its meal
10 period and rest break obligations, and thus, Plaintiffs and other Class Members were provided the
11 opportunity to take all code-compliant meal periods and rest breaks to which they were entitled.

12 7. Third, Defendant asserts it complied with all of its reimbursement obligations, and
13 therefore, Plaintiffs and other Class Members were compensated for any and all business expenses
14 incurred. Fourth, Defendant asserts it did not unlawfully withhold any wages, including vacation
15 wages, and thus, Plaintiffs and other Class Members suffered no actual damage or harm from
16 unlawful collection or receipt of wages. Fifth, Defendant asserts it did not willfully fail to pay any
17 wages, and therefore, Plaintiffs and other Class Members are not owed waiting time penalties for
18 wages untimely paid during employment or at termination. *See Pedroza v. PetSmart, Inc.* (C.D.
19 Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.

20 8. Sixth, Defendant asserts it complied with all wage statement requirements, and thus,
21 Plaintiffs and other Class Members suffered no actual damage or harm from inaccurate wage
22 statements. *See Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB,
23 2013 WL 622032, at *10 (“A plaintiff must adequately plead an injury arising from an employer’s
24 failure to provide full and accurate wage statements, and the omission of the required information
25 alone is not sufficient.”). Seventh, Defendant denies derivative liability on these bases, asserting it
26 did not engage in unfair business practices and does not owe civil penalties under PAGA. Last,
27 Defendant asserts Plaintiffs’ claims are individualized, and thus, improper for class treatment.
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(a) “Individual Class Payments” means the individual payments made to each Settlement Class Member from the Net Settlement Amount. *Settlement*, ¶ 2.23.

(c) “Class Counsel Fees Payment” means the amount allocated to Class Counsel for reimbursement of their reasonable fees incurred to prosecute the Action. *Settlement*, ¶ 2.7. The Class Counsel Fees Payment is not to exceed \$210,000.00, or one third of the Gross Settlement Amount. *Settlement*, ¶ 3.2.2.

- (e) “Class Representative Service Payments” means the payments to the Class Representatives for initiating and providing services in support of the Action and for their general release. *Settlement*, ¶ 2.14. The Class Representative Service Payments are not to exceed \$7,500.00 each. *Settlement*, ¶ 3.2.1.
- (f) “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement. *Settlement*, ¶ 2.3. The Administration Expenses Payment is not to exceed \$10,000.00. A true and correct copy of the Administrator bid is attached to this Declaration as **Exhibit 5**.

13. “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. *Settlement*, ¶ 2.18.

14. “Net Settlement Amount” means the Gross Settlement Amount less the following payments, in the amounts approved by the Court: the PAGA Settlement Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Administration Expenses Payment. The Net Settlement Amount is to be paid to Settlement Class Members as Individual Class Payments. *Settlement*, ¶ 2.27.

15. “Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint, and ascertained in the course of the Action, that arose during the Class Period. *Settlement*, ¶¶ 2.35, 5.2.

16. “Released PAGA Claims” all claims demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act that were alleged, or reasonably could have been alleged, based on the claims asserted in the Operative Complaint or Plaintiffs’ respective Notices of Labor Code Violations and PAGA Penalties and ascertained in the course of the Action arising during or with respect to the PAGA Period. *Settlement*, ¶¶ 2.36, 5.3.

1 17. “Released Parties” means: Defendant and all of their past, present, and future respective
2 subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and
3 former employees, managing agents, servants, consultants, agents, directors, officers, members,
4 independent contractors, representatives, insurers, reinsurers, attorneys; and any staffing agency,
5 professional employer organization, or temporary employment agency utilized by Defendant
6 during the Class Period, including Southbay Safety, Next Level Staffing, Core Staffing Solutions,
7 Precise Personnel, Randstad, the Baron HR, Fairway Staffing, Selective Personnel, and Dynamic
8 Staffing, and any of their past, present, and future respective subsidiaries, dba’s, affiliates, parents,
9 predecessors, successors, investors, and their current and former employees, managing agents,
10 servants, consultants, agents, directors, officers, members, independent contractors,
11 representatives, insurers, reinsurers, attorney. *Settlement*, ¶ 2.37.

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

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

21 19. The Settlement is based on the following facts, as provided and/or substantiated by
22 Defendant and the time and corresponding payroll records of the Class: (1) there are
23 approximately 9,478 workweeks; (2) there are approximately 107 Class Members; (3) there are
24 approximately 82 Aggrieved Employees who fall within the 1-year statute of limitations period
25 for Labor Code sections 2698, *et. seq.* penalties; and (4) the Class Members have a weighted
26 average regular rate of \$17.07 per hour.

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Claim	Relevant Time Period	Rate	Number of Violations	Amount
Unpaid Wages Violations - Rounding	9,478 Workweeks	\$17.07 Average Regular Rate / \$25.61 Average Overtime Rate	441.8 Net Unpaid Hours due to Rounding	\$10,937.20
Unpaid Wages Violations – Off-the-Clock	9,478 Workweeks	\$17.07 Average Regular Rate / \$25.61 Average Overtime Rate	13,906.0 Net Unpaid Hours due to Off-the-Clock Work	***\$344,256.94 \$86,064.23
Meal Period Violations	9,478 Workweeks	\$17.07 Average Regular Rate	8,793 Meal Break Violations	***\$150,096.51 \$112,572.38
Rest Break Violations	9,478 Workweeks	\$17.07 Average Regular Rate	5,646 Rest Break Violations	***\$96,377.22 \$72,282.92
Unreimbursed Business Expenses Violations	9,478 Workweeks	\$5.00 / Employee / Month	Estimated 107 Employees / 72 Months	*\$54,500.00 \$9,630.00
Waiting Time Penalties	Based On An Estimated 82 Terminated Class Members Within The 3-Year Statute Of Limitations	Violation Rate Based On Analysis Of Records By Expert	Violation Rate Based On Analysis Of Records By Expert For Each Pay Period for 300 Employees (as estimated at the time of mediation) During The 3-Year Statute Of Limitations	**\$353,934.00 \$176,967.00
Inaccurate Wage Statement Penalties	Based On 82 Class Members Within The 1-Year Statute Of Limitations	\$100 Per Pay Period	\$100 For Each Pay Period for 265 Employees During The 1-Year Statute Of Limitations	**\$200,850.00 100,425.00
PAGA Civil Penalties	Based On 82 Class Members Within The 1-Year Statute Of Limitations	\$100 Per Pay Period	\$100 For Each Pay Period For 265 Employees During The 1-Year Statute Of Limitations	**\$269,100.00 134,550.00 **\$823,884.00 \$411,942.00
Total for All Claims				\$703,428.73
*These figures are discounted based on a 25% probability of prevailing on class certification and the merits. **These figures are discounted based on a 50% probability of prevailing on class certification and the merits. ***These figures are discounted based on a 75% probability of prevailing on class certification and the merits.				

20. The first unpaid wages claim is based on the fact that Defendant did not compensate Class Members for all hours worked. In particular, Defendant did not compensate Class Members for all hours during which Class Members were clocked in, as the time and corresponding payroll records of the putative Class evidence that Defendant sometimes rounded Class Members' clock-in times to the nearest tenth. In reviewing the time and corresponding payroll records of the putative Class, Class Counsel and its data expert determined that Defendant did not compensate Class Members for 441.8 net on-the-clock hours. Class Counsel and its data expert then determined that, in light of the average regular and overtime rates of the Class Members; and their finding that ninety percent of the unpaid on-the-clock time should have been paid at Class Members' overtime rates, Defendant had a potential liability of \$10,937.20 ($[\$25.61 \text{ average overtime rate} * 441.8 \text{ net unpaid on-the-clock hours} * 0.90] + [17.07 \text{ average regular rate} * 441.8 \text{ net unpaid on-the-clock hours} * 0.10]$). Defendant conceded to rounding but contended that rounding was neither applied systematically, among all Class Members, nor during the entire Class Period. Nonetheless, because Class Counsel was able to demonstrate there were 441.8 net unpaid on-the-clock hours on the face of the time and corresponding payroll records of the putative Class, which were produced by Defendant, Class Counsel did not discount the maximum potential liability of this claim. **The realistic damage estimate for the unpaid wages claim is thus \$10,937.20.**

21. The second unpaid wages claim is based on the fact that Defendant did not compensate Class Members for all hours worked. In particular, Defendant did not compensate Class Members for all hours during which Class Members were under the direction and control of Defendant but were not clocked in, as the time and corresponding payroll records of the putative Class evidence that Defendant never paid Class Members for their daily time spent waiting to clock into work and clock out for lunch. In reviewing the time and corresponding payroll records of the putative Class, and assuming roughly twenty off-the-clock minutes per Class Member per shift, Class Counsel and its data expert determined that Defendant did not compensate Class Members for at least 13,906.0 off-the-clock hours. Class Counsel and its data expert then determined that, in light of the average regular and overtime rates of the Class Members; and their finding that ninety percent of the unpaid off-the-clock time should have been paid at Class Members' overtime rates, Defendant

1 had a potential liability of \$344,256.94 ($[\$25.61 \text{ average overtime rate} * 13,906.0 \text{ net unpaid on-}$
2 $\text{the-clock hours} * 0.90] + [17.07 \text{ average regular rate} * 13,906.0 \text{ net unpaid on-the-clock hours} *$
3 $0.10]$). Defendant nonetheless contended that Class Members worked roughly five off-the-clock
4 minutes per Class Member per shift, or at least one fourth of the assumed off-the-clock time, and
5 that due to the individualized nature of this claim, it would be difficult to certify. In light of these
6 defenses, and for purposes of settlement, Class Counsel discounted the maximum potential liability
7 by seventy-five percent ($\$344,256.94 * 0.25$). **The realistic damage estimate for the unpaid**
8 **wages claim is thus \$86,064.23.**

9 22. The meal period claim is based on the fact that Defendant did not provide or maintain
10 sufficient meal period policies or practices, such that Class Members were not always permitted or
11 able to take meal periods and/or were sometimes subjected to late, short and/or interrupted meal
12 periods, without compensation in lieu thereof. The meal period claim is also based on the fact that
13 Defendant did not adequately inform Class Members of their right to take a meal period by the end
14 of the fifth hour of work, or, for shifts greater than ten hours, by the end of the tenth hour of work.
15 In reviewing the time and corresponding payroll records of the putative Class, Class Counsel and
16 its data expert determined that Class Members received short or untimely meal periods and/or
17 missed meal periods 21.1% of the time, or on 8,793 distinct occasions, and that Defendant did not
18 compensate Class Members for meal period premium wages in lieu of these violative meal
19 periods. Further, Class Counsel and its data expert determined that, in light the average regular
20 rate of pay of the putative Class, Defendant had a potential liability of \$150,096.51 ($8,793 \text{ unique}$
21 $\text{violations} * \$17.07 \text{ per hour}$). Defendant nonetheless contended that, at least on fourth of the time,
22 where a violation appears, it was the result of a Class Member voluntarily choosing to forego a
23 meal period, to take it after the end of the fifth hour, or to stop his or her break early to return to
24 work. In light of this defense, and for purposes of settlement, Class Counsel discounted the potential
25 liability by twenty-five percent ($\$150,096.51 * 0.75$). **The realistic damage estimate for the meal**
26 **period claim is thus \$112,572.38.**

27 23. The rest break claim is based on the fact that Defendant did not provide or maintain
28 sufficient rest break policies or practices, such that Class Members were regularly required to

1 work in excess of four consecutive hours a day, or a major fraction thereof, without authorization
2 or permission to take a ten-minute, continuous and uninterrupted rest period, without
3 compensation in lieu thereof. In reviewing the time and corresponding payroll records of the
4 putative Class, Class Counsel and its data expert determined that Class Members received short or
5 untimely rest breaks and/or missed rest breaks 13.7% of the time, or on 5,646 distinct occasions,
6 and that Defendant did not compensate Class Members for rest break premium wages in lieu of
7 these violative. Class Counsel and its data expert then determined that, in light of the average
8 regular rate of pay of the putative Class, Defendant had a potential liability of \$96,377.22 (5,646
9 unique violations * \$17.07 per hour). Defendant nonetheless contended that rest periods do not
10 have to be recorded; Class Members voluntarily chose to forego some rest breaks at least twenty
11 percent of the time; and, significant for purposes of class certification, this claim is individualized
12 in nature and therefore would require declarations indicating that Class Members shared a similar
13 experience as to rest breaks. In light of these defenses, and for purposes of settlement, Class
14 Counsel discounted the potential liability by twenty-five percent ($\$96,377.22 * 0.75$). **The realistic**
15 **damage estimate for the rest break claim is thus \$72,282.92.**

16 24. The unreimbursed business expenses claim is based on the fact that Defendant did not
17 reimburse Class Members for all expenses Class Members incurred in direct discharge of their
18 duties. In particular, Defendant did not reimburse Class Members for costs incurred to supply their
19 own work tools, such as box cutters. Class Members were required to purchase these work tools at
20 least once per month. The precise value of all necessary business expenses Class Members
21 incurred could not be calculated, in light of the fact that Defendant did not document the actual or
22 average amount Class Members spent thereon. Therefore, in preparation for mediation, Class
23 Counsel estimated that Defendant should have reimbursed each Class Member a maximum of five
24 dollars per month. Class Counsel and its data expert then estimated that, in light of the total
25 number of Class Members; and the total number of months during the Class Period, Defendant had
26 a potential liability of \$38,520.00 ($\$5.00 * 107 \text{ Class Members} * 72 \text{ Months in Class Period}$).
27 Defendant nonetheless contended that they provided all necessary tools; that not all Class
28 Members worked the entire Class Period; and that the reimbursement claim would be difficult to

1 certify based on the individualized nature of the alleged expenses. In light of these defenses, and
2 for purposes of settlement, Class Counsel discounted the potential liability by seventy-five percent
3 (\$38,520.00 * 0.25). **The realistic damage estimate for the unreimbursed expenses claim is**
4 **thus \$9,630.00.**

5 25. The derivative penalties, as indicated above, were calculated by taking into account the
6 above claims, defenses, maximum liabilities and reasonable discounts; their respective formulae
7 for calculation and statute of limitations; and the total number of Class Members who fall within
8 their respective statute of limitations. On these bases, the maximum potential liability of
9 Defendant for waiting time statutory penalties is \$353,934.00; inaccurate wage statement statutory
10 penalties is \$200,850.00; and PAGA civil penalties is \$269,100.00. The total maximum potential
11 liability of Defendant for statutory and civil penalties is \$823,884.00. Defendant nonetheless
12 contended that, in light of its defenses, the discretionary nature of statutory and civil penalties, and
13 the potential Due Process concerns that might arise from a putative award, it would be unrealistic
14 to expect the Court to award the full \$823,884.00. For purposes of reaching a reasonable
15 settlement, Class Counsel agreed to discount this amount by fifty percent, in view of the fact that
16 the most significant claims were established on the face of the documents produced by Defense
17 Counsel. (\$823,884.00 * 0.50). **The realistic damage estimate for all derivative penalties is**
18 **thus \$411,942.00.**

19 26. **The discounted claims and penalties aggregate to \$703,428.73, which represents**
20 **the realistic maximum recovery.** The Gross Settlement Amount of \$630,000.00 therefore
21 represents 89.56% of the realistic maximum recovery. In turn, an estimate of the Net Settlement
22 Amount can be calculated to be \$318,550.00 at this time.¹ The Class is comprised of 107 Class
23 Members. In result, each Settlement Class Member is eligible to receive an average net benefit of
24 approximately \$2,977.10.

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26 ¹ The Net Settlement Amount is the Gross Settlement Amount of \$630,000.00, minus
27 \$6,450.00 for the Administrator Expenses Payment, minus \$210,000.00 for the Class Counsel
28 Fees Payment, minus \$20,000.00 for the Class Counsel Litigation Expenses Payment, minus
\$15,000.00 for the Class Representative Service Payments, and minus \$60,000.00 for PAGA
Settlement Payment.

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

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

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

20 29. The Class Counsel Fees Payment is not to exceed one-third of the Gross Settlement
21 Amount, or \$210,000.00. *Settlement*, ¶ 3.2.2. The Class Counsel Fees Payment is based Class
22 Counsel's experience and qualifications, and can be justified under the common fund doctrine:

23 **MY EXPERIENCE AND QUALIFICATIONS**

24 30. I received a Bachelor of Arts in History in 1998 from the University of California, Los
25 Angeles, and a Juris Doctorate from Loyola Marymount Law School in 2006. I became an Active
26 Member of the State Bar of California in June 2007 and have been an Active Member in good
27 standing continuously since. I am a current member of the California Employment Lawyers
28 Association (CELA), and I have been selected to Super Lawyers for 2019 and 2020.

1 31. I co-founded Moon Law Group, PC, formerly Moon & Yang, APC, in March 2010. For
2 the past decade, I have built my practice to have an emphasis on employment and related civil
3 litigation cases. In fact, my practice is focused almost exclusively on advocating for the rights of
4 employees in wage-and-hour litigation through class and representative actions. The firm and its
5 lawyers, including myself, have successfully settled hundreds of wage-and-hour cases; tried both
6 bench and jury trials, representing both plaintiffs and defendants, in employment-related matters;
7 and have been appointed lead or co-lead class counsel in numerous federal and state courts in
8 California.

9 32. In addition to the present case, Moon Law Group, PC is presently class counsel for
10 dozens of other putative wage-and-hour class- and representative-action lawsuits pending in
11 various state and federal jurisdictions throughout California. The following is a list of some of our
12 recent class action settlements that have received preliminary and final approval: *Mark Brulee, et*
13 *al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20,2018) No. CV 17-6433 JVS(JCGx), 2018 WL
14 6616659 (class size approx. 2,650; lead counsel) (In approving my \$650 hourly rate, the Court
15 found: “Class Counsel’s declarations show that the attorneys are experienced and successful
16 litigators.” Other courts have approved the attorneys’ current rates for the Moon Law Group, APC
17 attorneys. *Id.* at *10; *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size
18 approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079
19 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525
20 (class size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior
21 Court 34-2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc.*,
22 LASC BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services,*
23 *Inc.*, LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment*
24 *Processing, Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline*
25 *Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*,
26 LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*,
27 LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman’s Delicatessen &*
28 *Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon*

1 *III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoynne*,
2 *Inc.*, LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc.*, LASC
3 BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC
4 BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*,
5 LASC BC682972 (\$750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics*,
6 *LLC*, LASC BC722764 (class size approx. 155; lead counsel).

7 33. This experience is helpful in assessing the reasonableness of settlements such as the one
8 at issue here. From this experience, our firm, as Class Counsel, concluded that this lawsuit could
9 not have been settled on better terms than provided under the present Settlement.

10 ALLEN FEGHALI'S EXPERIENCE AND QUALIFICATIONS

11 34. Allen Feghali is a partner at Moon Law Group, PC. He received his B.A. in Global and
12 International Studies in 2011 from UC Santa Barbara, and his J.D. from University of La Verne
13 College of Law in 2014. Mr. Feghali became an Active Member of the State Bar of California in
14 December 2014 and has been an Active Member in good standing continuously since then. He is a
15 current member of CELA, and was selected by Super Lawyers as a "Southern California Rising
16 Star" in 2020–2023.

17 35. Mr. Feghali began working at Moon Law Group, PC in May 2015, and his practice
18 focuses on advocating for the rights of employees at the trial-court and appellate level. Prior to
19 approximately June 2018, with the exception of a handful of cases, his practice focused on
20 individual FEHA and wrongful termination claims, as well as individual wage and hour claims. In
21 June 2018, Mr. Feghali became heavily involved in the firm's class action practice.

22 36. During the pendency of this action, Mr. Feghali's hourly billing rate increased from
23 \$500.00 to his current hourly rate of \$600.00. During Mr. Feghali's tenure with Moon Law Group,
24 PC, he has played a critical role in obtaining outstanding results for employees who have been
25 wronged by their employers. Mr. Feghali's litigation experience includes, but is not limited to:

- 26 (a) In March 2021, Mr. Feghali prepared the briefing in the matter of *Rivera, et*
27 *al. v. Clearpath Federal Credit Union* (LASC No. 19STCV33504), which
28

1 resulted in a certification order on all causes of action following contested
2 briefing in a wage and hour class action.

3 (b) Mr. Feghali prepared the briefing in a contested class certification motion in
4 the matter of *Dawson, et al. v. GoHealth, LLC, et al.* (No. CGC-19-577790),
5 which was argued and taken under submission by the Court on February 3,
6 2022.

7 (c) Mr. Feghali prepared the briefing in a contested class certification motion in
8 the matter of *Brown v. NTI-CA, Inc., et al.* (No. 21STCV04397), which is
9 not currently scheduled for hearing.

10 (d) Mr. Feghali was part of a team that prepared the briefing in a contested class
11 certification motion in the matter of *Thong, et al. v. Outlook Resources, Inc.,*
12 *et al.* (No. 19STCV44400), which was granted in part and denied in part in
13 October 2022.

14 (e) Mr. Feghali prepared the briefing which resulted in a remand order in the
15 matter of *Andrade v. Rehrig Pacific Corp.* (C.D. Cal. April 22, 2020, No.
16 CV 20-1448 FMP (RAOx)) 2020 WL 1934954, where Defendant removed a
17 wage and hour class alleging that Plaintiff's claims were pre-empted by the
18 Labor Management Relations Act.

19 (f) Mr. Feghali briefed, argued, and won the matter of *Lee, et al. v. The*
20 *Christian Herald, U.S.A., Inc.* (Cal. Ct. App. Dec. 12, 2017, No. B266853)
21 2017 WL 6333905, at *1. There, the Court of Appeal reversed a dismissal of
22 an individual defendant following the trial court's granting of a demurrer
23 without leave to amend relating to alter ego allegations.

24 (g) Mr. Feghali prepared the briefing which resulted in a remand order in the
25 matter of *Sotelo v. Belfor USA Group, Inc.* (C.D. Cal. Mar., 13, 2018, No.
26 2:17-cv-09056-RSWL-MRWx) 2018 WL 1352910. Defendants there
27 sought to remove the case based on the inclusion of a "sham defendant," but
28 the court agreed with Mr. Feghali's briefing which argued that the individual

defendant, who was alleged to have harassed the plaintiff under FEHA, was a proper defendant.

(h) Mr. Feghali has been the lead counsel, or co-lead counsel, in individual cases that settled for \$850,000.00, \$375,000.00, and \$250,000.00. In addition to the foregoing, Mr. Feghali has resolved or assisted in the resolution of approximately 100 cases which has resulted in millions of dollars of unpaid wages being returned to low-wage employees.

37. Since June 2018, Mr. Feghali's practice has shifted to almost exclusively representing employees in wage and hour class and representative actions. His fee has been approved by Courts throughout the state. He has participated as lead, or co-lead counsel, in the litigation and resolution of over 100 wage and hour class actions, including obtaining preliminary and final approval of settlements. A selection of settled cases wherein Mr. Feghali served as lead or co-lead class counsel includes the following: *Barahona v. Methodist Hosp. of Cal.* (No. 20STCV09876) (\$5,000,000); *Stanley Black & Decker Wage and Hour Cases* (No. JCCP5218) (\$3,500,000); *Vazquez v. St. Mar 2.0 Inc.* (No. 37-2021-00042702-CU-OE-CTL) (\$2,250,000); *Duncan v. Infineon Technologies Americas Corp.* (No. 21STCV16872) (\$2,500,000); *Aquino v. Coast King Packing, LLC* (No. 21CV002448) (\$2,300,000); *Martinez, et al. v. Curative LLC* (No. 21STCV20778) (\$1,500,000); *Calderon v. Installed Building Products* (No. 37-2021-00035844-CU-OE-CTL) (\$1,500,000); *Majdoub v. Argent Hotel Mgmt.* (No. CGC-20-582921) (\$1,800,000); *Fuentes v. Covid Clinic, Inc.* (No. CIVSB2106806) (\$1,526,317.57); *Rahman, et al. v. Gate Gourmet, Inc.* (No. 3:20-cv-03047) (\$3,850,000); *Pagoulatos v. Coast Hills Credit Union* (No. 20CV02801) (\$1,100,000); *Hammers v. Redwood Oil Co., Inc.* (No. SCV-269625) (\$1,180,000); *Cuadras v. R.C. Wendt Painting, Inc.* (No. BC705964) (\$1,400,000); *Zaragoza v. The Roman Catholic Bishop of Fresno* (No. 22CV-00282) (\$1,500,000); *Garcia v. San Jose Water Co.* (22CV396328) (\$1,200,000); *Garcia v. Tri-Valley Plastering, Inc.* (No. 22CECG00591) (\$1,250,000); *Garcia v. Tapia Enter., Inc.* (\$2,137,651 for 507 class members); *Cha v. Center Point, Inc.* (No. CIV2102081) (\$1,000,000); *Sison v. Cha Hollywood Med. Ctr., L.P.* (No. BC644129) (2,137 class members); *Lagos v. ThyssenKrupp Elevator Corp.* (No. BC682972)

1 (\$750,000 for 79 class members); and *Montoya v. Golden 1 Credit Union* (No. 34-2018-00228252)
2 (\$1,250,000).

3 JACQUELYNE VANEMMERIK’S EXPERIENCE AND QUALIFICATIONS

4 38. Jacquelyne VanEmmerik received a Bachelor of Arts in Law, History, and Culture from
5 the University of Southern California, and a Juris Doctorate from the University of California,
6 Davis School of Law. In law school, Ms. VanEmmerik served as a Judicial Extern for the
7 Honorable Todd W. Eddins of the Supreme Court of Hawai’i and Senior Articles Editor of the
8 Environmental Journal of Law and Policy.

9 39. Ms. VanEmmerik became an Active Member of the State Bar of California in
10 November 2021 and has been an Active Member in good standing continuously since. Ms.
11 VanEmmerik is also a member in good standing with the United States District Court for the
12 Central and Northern Districts.

13 40. Ms. VanEmmerik is an associate attorney at Moon Law Group, PC and represents
14 employees in all aspects of employment litigation, including wage-and-hour class and
15 representative actions involving claims related to overtime and minimum wages, meal and rest
16 break violations, improper wage statements, the California Private Attorneys General Act, and
17 unfair business practices.

18 41. During her tenure with Moon Law Group, PC, Ms. VanEmmerik has played a critical
19 role in obtaining outstanding results for employees who have been wronged by their employers.
20 Ms. VanEmmerik’s litigation experience includes, but is not limited to:

- 21 (a) From September 2021 to the present, Ms. VanEmmerik has participated in
22 the litigation and/or resolution of approximately fifty wage-and-hour class
23 and/or representative actions, including through successfully moving the
24 Court for preliminary and final approval of settlements on the first attempt.
- 25 (b) In March 2023, Ms. VanEmmerik briefed a Motion for Class Certification in
26 the matter of *Roland Tolentino v. Gillig, LLC*, Case No. RG20073930,
27 Alameda County Superior Court, thereafter, remanded to Federal Court;

- 1 (c) In May 2023, Ms. VanEmmerik briefed, and prevailed on, an Opposition to
2 Motion for Judgment on the Pleadings in the matter of *Rodrigo Gonzalez*
3 *Guzman v. Wayne Provisions Co., Inc.*, Case No. 21STCV41124, Los
4 Angeles Superior Court, in which Defendant attempted to invalidate
5 Plaintiff's standing to bring a representative claim under the California
6 Private Attorneys General Act of 2004;
- 7 (d) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition
8 to Demurrer in the matter of *Fernando Alquicira, et al. v. Sit N' Sleep, Inc.,*
9 *et al.*, Case No. 21STCV14594, Los Angeles Superior Court, in which
10 Defendant wrongfully sought an order of abatement or stay of proceedings
11 pending final judgment of an unrelated matter; and
- 12 (e) In January 2022, Ms. VanEmmerik briefed, and prevailed on, an Opposition
13 to Motion for Bifurcate and Sequence Discovery in the matter of *David*
14 *Flores Valencia v. Wawona Packing Co., LLC*, Case No. 21CECG01163,
15 Fresno County Superior Court, in which Defendant sought to subject
16 Plaintiffs to a preliminary trial to establish his status as an aggrieved
17 employee before proceeding as a representative in his PAGA action.

18 CONSIDERATIONS UNDER THE COMMON FUND DOCTRINE

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

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

27 44. The risk to my office has been significant, particularly if we would not have been
28 successful in pursuing this class action. In that case, we would have been left with no

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

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

16 46. As of the drafting of this motion, my office has incurred \$9,042.46 in expenses
17 litigating this Action, and we anticipate accruing additional costs up to Final Approval of the
18 Settlement. These expenses were reasonably necessary to the litigation and were actually incurred
19 by my office. They should be reimbursed in full, up to the maximum amount allowed in the
20 Settlement Agreement. In the event costs do not reach or exceed the maximum amount allowed in
21 the Settlement Agreement, the difference will revert to the Class Members.

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

24 47. The Class Counsel Litigation Expenses Payment is not to exceed is \$20,000.00.
25 *Settlement*, ¶ 3.2.2. The Class Counsel Litigation Expenses Payment will reimburse costs
26 reasonably and actually incurred by Class Counsel. Class Counsel has incurred \$14,833.19 in
27 litigation costs at this time. *See Ex. 4, Jackson Decl., Ex. 1.*

THE CLASS REPRESENTATIVE SERVICE PAYMENTS ARE FAIR AND
REASONABLE

48. Plaintiffs, who were former, long-term employees of Defendant, cooperated immensely with my office throughout the course of the litigation. Plaintiffs took many actions to protect the interests of the Class, provided valuable information regarding their hours worked and the duties they performed during those hours, and provided valuable information regarding meal and rest periods taken and missed by Plaintiffs and other Class Members. Moreover, Plaintiffs assisted in preparation for the mediation, provided my office with the names and contact information of potential witnesses in this Action, and provided information and documents relating to their employment with Defendant. In fact, the information and documentation provided by Plaintiffs were instrumental in establishing the wage and hour violations alleged in this Action, and the recovery provided for in the Settlement would have been impossible to obtain without their help.

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

50. This class action would not have been possible without the aid of Plaintiffs, who put their own time and effort into this litigation and placed themselves at risk for the sake of the Class. The requested service payments for Plaintiffs, for their service as class representatives, are a relatively small amount of money considering the time and effort put into the litigation, and in comparison, to enhancements granted in other class actions. The requested Service Payments are therefore reasonable to compensate Plaintiffs for their active participation in this lawsuit.

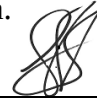
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1 51. Plaintiffs faced many risks for their role as Class Representatives in this matter. In
2 particular, Plaintiffs faced actual risk with their future employment, as putting themselves on
3 public record in an employment lawsuit could very well affect their prospects for future
4 employment.

5 Executed on September 7, 2023 at Los Angeles, California.



6
7 _____
Kane Moon, Esq.

EXHIBIT 1

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JACKSON APC
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Irvine, California 92618
Telephone: (949) 281-6857
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*Attorney for Plaintiff,
Armando Diaz-Garcia*

Attorneys for Plaintiff Jose Elias Barajas and Defendant on following page.

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

ARMANDO DIAZ-GARCIA, as an individual,
and on behalf of all other similarly situated
employees,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation and DOES 1-50, inclusive,

Defendant.

JOSE ELIAS BARAJAS, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

AWESOME PRODUCTS, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2021-01193589-CU-OE-CXC
Consolidated with Case No.: 30-2021-
01217438-CU-OE-CXC

[Honorable Lon F. Hurwitz,
Department CX103]

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT**

Complaint Filed: April 2, 2021
Trial Date: Not Set

JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT

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17 *Attorneys for Defendant,*
18 *Awesome Products, Inc.*

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1. RECITALS.

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1.4 On August 23, 2021, Plaintiff Jose Elias Barajas filed a Class Action Complaint against Defendant, which alleged the same or similar causes of action as alleged in *Armando Diaz-Garcia v. Awesome Products, Inc.*, Case No. 30-2021-01193589-CU-OE-CXC.

1.5 On May 26, 2021, Plaintiff Armando Diaz-Garcia filed a First Amended Class Action and Representative Action Complaint, which alleged an additional cause of action for Civil Penalties under the Private Attorneys General Act [*Labor Code* §§ 2698, *et. seq.*] (“PAGA”); and on December 14, 2021, Plaintiff Jose Elias Barajas filed the same.

1.6 On January 26, 2023, the Parties participated in a private mediation with experienced, professional mediator, Marc Feder, Esq., which resulted in the Parties executing a Memorandum of Understanding containing the main financial terms of the instant Settlement.

1.7 On May 24, 2023, the Parties filed a Joint Stipulation to consolidate *Armando Diaz-Garcia v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC and *Jose Elias Barajas v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01217438-CU-OE-CXC, and to name the former as the lead case. Thereafter the Court granted an order thereon, rendering the Consolidated Second Amended Class and Representative Action Complaint (“Operative Complaint”) attached thereto as operative.

1.8 Now, therefore, the Parties enter into the instant Joint Stipulation and, solely for purposes of settling the Action and addressing any discrepancies identified herein, stipulate and agree that the requisites for establishing class certification with respect to the Class Members (defined below) have been met and are met, including that the putative Class is ascertainable and so numerous as to make it impracticable to join all putative Class Members; there are common questions of law and fact which predominate over any question(s) affecting any individual putative Class Member; Plaintiffs’ claims are typical of the claims of the putative Class; Plaintiffs and Class Counsel will fairly and adequately protect the interests of the putative Class; the prosecution of separate actions by individual members of the putative Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct; and a class action is superior to other available means for the fair and efficient adjudication of the controversy.

1 **2. DEFINITIONS**

2 2.1. “Action” means the consolidated action entitled *Armando Diaz-Garcia, et. al. v.*
3 *Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-
4 CXC.

5 2.2. “Administrator” means the neutral entity the Parties have appointed to administer
6 the Settlement, ILYM Group, Inc.

7 2.3. “Administration Expenses Payment” means the amount the Administrator will be
8 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
9 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
10 with Preliminary Approval of the Settlement.

11 2.4. “Aggrieved Employees” means all non-exempt employees of Defendant who
12 worked in California during the PAGA Period, including any employee employed through any
13 staffing agency, professional employer organization, or temporary employment agency utilized
14 by Defendant during the Class Period, which are identified as Southbay Safety, Next Level
15 Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
16 Selective Personnel, and Dynamic Staffing.

17 2.5. “Class” or “Class Members” means all non-exempt employees of Defendant who
18 worked in California during the Class Period, including any employee employed through any
19 staffing agency, professional employer organization, or temporary employment agency utilized
20 by Defendant during the Class Period, which are identified as Southbay Safety, Next Level
21 Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
22 Selective Personnel, and Dynamic Staffing.

23 2.6. “Class Counsel” means Jackson APC and Moon & Yang, APC.

24 2.7. “Class Counsel Fees Payment” means the amount allocated to Class Counsel for
25 reimbursement of their reasonable fees incurred to prosecute the Action.

26 2.8. “Class Counsel Litigation Expenses Payment” means the amount allocated to
27 Class Counsel for reimbursement of their reasonable expenses incurred to prosecute the Action.

1 2.9. “Class Data” means Class Member identifying information, including the name,
2 last-known mailing address and Social Security number of the Class Member.

3 2.10. “Class Member Address Search” means the Administrator’s investigation and
4 search for current Class Member mailing addresses using all reasonably available sources,
5 methods and means, including, but not limited to, the National Change of Address database,
6 skip traces and direct contact by the Administrator with Class Members.

7 2.11. “Class Notice” means the Court-approved notice of class action settlement and
8 hearing date for final court approval, to be mailed to Class Members in English and Spanish.

9 2.12. “Class Period” means the period from April 2, 2017, through March 31, 2023.

10 2.13. “Class Representatives” means Armando Diaz-Garcia and Jose Elias Barajas, the
11 named Plaintiffs in the Action.

12 2.14. “Class Representative Service Payments” means the payments to the Class
13 Representatives for initiating and providing services in support of the Action and for their
14 general release, as described in Paragraph 5.1 below.

15 2.15. “Court” means the Orange County Superior Court.

16 2.16. “Defendant” means Awesome Products, Inc. and each of its past, present, and
17 future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and
18 their current and former employees, managing agents, servants, consultants, agents, directors,
19 officers, members, independent contractors, representatives, insurers, reinsurers, and attorneys.

20 2.17. “Defense Counsel” means Fisher & Phillips, LLP and the Law Offices of Robert
21 Mackey.

22 2.18. “Effective Date” means the date on which both of the following have occurred:
23 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b)
24 the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if
25 no Settlement Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
26 one or more Settlement Class Members object to the Settlement, the day after the deadline for
27 filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed,
28

1 the day after the appellate court affirms the Judgment and issues a remittitur.

2 2.19. "Final Approval" means the Court Order Granting Final Approval of the
3 Settlement.

4 2.20. "Final Approval Hearing" means the Court Hearing on the Motion for Final
5 Approval of the Settlement.

6 2.21. "Final Judgment" means the Court Judgment made upon granting final approval
7 of the Settlement.

8 2.22. "Gross Settlement Amount" means \$630,000.00, the total amount Defendant
9 agrees to pay under the Settlement, except as provided in Paragraph 8 below, and which will be
10 used to pay the Individual Class Payments, PAGA Settlement Payment, Class Counsel Fees
11 Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments,
12 and Administration Expenses Payment.

13 2.23. "Individual Class Payments" means the individual payments made to each
14 Settlement Class Member from the Net Settlement Amount.

15 2.24. "Individual PAGA Payment(s)" means the allocation of twenty-five percent of the
16 PAGA Settlement Payment, to be paid to the Aggrieved Employees, pursuant to Labor Code
17 section 2699, subdivision (i).

18 2.25. "LWDA" means the California Labor and Workforce Development Agency.

19 2.26. "LWDA PAGA Payment" means the allocation of seventy-five percent of the
20 PAGA Settlement Payment, to be paid to the LWDA, pursuant to Labor Code section 2699,
21 subdivision (i).

22 2.27. "Net Settlement Amount" means the Gross Settlement Amount less the following
23 payments, in the amounts approved by the Court: the PAGA Settlement Payment, Class
24 Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation
25 Expenses Payment, and Administration Expenses Payment. The Net Settlement Amount is to
26 be paid to Settlement Class Members as Individual Class Payments.

27 2.28. "Non-Participating Class Members" means Class Members who submit a valid
28

1 and timely Request for Exclusion from the Settlement.

2 2.29. "PAGA" means the California Labor Code Private Attorneys General Act.

3 2.30. "PAGA Period" means the period from February 23, 2020, through March 31,
4 2023.

5 2.31. "PAGA Pay Period" means the pay periods in which any Aggrieved Employee
6 actually worked one shift during the PAGA Period.

7 2.32. "PAGA Settlement Payment" means \$60,000.000, the total amount of PAGA
8 civil penalties to be paid from the Gross Settlement Amount, and which shall be allocated
9 seventy-five percent to the LWDA (\$45,000.00) ("LWDA PAGA Payment") and twenty-five
10 percent to the Aggrieved Employees (\$15,000.00) ("Individual PAGA Payment"), in settlement
11 of the Released PAGA Claims.

12 2.33. "Plaintiffs" means Armando Garcia-Diaz and Jose Elias Barajas.

13 2.34. "Preliminary Approval" means the Court Order Granting Preliminary Approval
14 of the Settlement and Class Notice.

15 2.35. "Released Class Claims" means the claims being released as described in
16 Paragraph 5.2 below.

17 2.36. "Released PAGA Claims" means the claims being released as described in
18 Paragraph 5.3 below.

19 2.37. "Released Parties" means: Defendant and all of their past, present, and future
20 respective subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their
21 current and former employees, managing agents, servants, consultants, agents, directors,
22 officers, members, independent contractors, representatives, insurers, reinsurers, attorneys; and
23 any staffing agency, professional employer organization, or temporary employment agency
24 utilized by Defendant during the Class Period, including Southbay Safety, Next Level Staffing,
25 Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing,
26 Selective Personnel, and Dynamic Staffing, and any of their past, present, and future respective
27 subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their current and
28

former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, attorneys.

2.38. "Request for Exclusion" means the submission of a written request by a Class Member to be excluded from the Settlement, which is signed by the Class Member.

2.39. "Response Deadline" means sixty (60) calendar days after the Administrator mails the Class Notice to the Class Members and Aggrieved Employees and 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 Objections to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline.

2.40. "Settlement" means the disposition of the Action effected by this Agreement.

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

2.42. "Workweeks" means the weeks in which any Settlement Class Member actually worked one shift during the Class Period.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant agrees to pay the Gross Settlement Amount of \$630,000.00 and to separately pay 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 deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Settlement Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

3.2. Net 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:

1 3.2.1. To Plaintiffs: The Class Representative Service Payments to the Class
2 Representatives of not more than \$7,500.00 each (in addition to any Individual Class Payments
3 and Individual PAGA Payments the Class Representatives are entitled to receive as Settlement
4 Class Members and Aggrieved Employees). Defendant will not oppose a request for payments
5 that do not exceed this amount. As part of their motion for the Class Counsel Fees Payment and
6 Class Counsel Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class
7 Representative Service Payments no later than sixteen (16) court days prior to the Final
8 Approval Hearing. If the Court approves Class Representative Service Payments less than the
9 amount requested, the Administrator will retain the remainder in the Net Settlement Amount.
10 The Administrator will pay the Class Representative Service Payments using IRS Form 1099.
11 Plaintiffs assume full responsibility and liability for employee taxes owed on the Class
12 Representative Service Payments.

1 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
2 \$210,000.00, or one third of the Gross Settlement Amount, and a Class Counsel Litigation
3 Expenses Payment of not more than \$20,000.00. Defendant will not oppose a request for
4 payments that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion
5 for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than
6 sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class
7 Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment less than the
8 amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount.
9 Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising
10 from any claim to any portion of any Class Counsel Fees Payment and/or Class Counsel
11 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and
12 Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel
13 assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and
14 Class Counsel Litigation Expenses Payment and hold Defendant harmless from and indemnify
15 Defendant for any dispute or controversy regarding division or sharing of such payments.

16 3.2.3. To the Administrator: An Administration Expenses Payment not to
17 exceed \$10,000.00, except for a showing of good cause and as approved by the Court. To the
18 extent the Administration Expenses Payment is less or the Court approves payment less than
19 \$10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

20 3.2.4. To Each Settlement Class Member: An Individual Class Payment
21 calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks
22 worked by all Settlement Class Members during the Class Period and (b) multiplying the result
23 by each Settlement Class Member's Workweeks.

24 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
25 Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion").
26 The Wage Portion is subject to tax withholding and will be reported on an IRS W-2 Form. 80%
27 of each Individual Class Payment will be allocated to settlement of claims for interest and
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1 penalties (the “Non-Wage Portion”). The Non-Wage Portion is not subject to wage
2 withholdings and will be reported on IRS 1099 Forms. Settlement Class Members assume full
3 responsibility and liability for any employee taxes owed on their Individual Class Payment.

4 3.2.4.2. Effect of Non-Participating Class Members on Calculation of
5 Individual Class Payments. Non-Participating Class Members will not receive any Individual
6 Class Payments. The Administrator will retain amounts equal to their Individual Class
7 Payments in the Net Settlement Amount for distribution to Settlement Class Members on a pro
8 rata basis.

9 3.2.5. To the LWDA and Aggrieved Employees: A PAGA Settlement Payment
10 in the amount of \$60,000.00 to be paid from the Gross Settlement Amount, with seventy-five
11 percent (\$45,000.00) allocated to the LWDA PAGA Payment and twenty-five percent
12 (\$15,000.00) allocated to the Individual PAGA Payment.

13 3.2.5.1. The Administrator will calculate each Individual PAGA
14 Payment by (a) dividing the amount of the total Individual PAGA Payment (\$15,000.00) by the
15 total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA
16 Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Pay Periods.
17 Aggrieved Employees assume full responsibility and liability for any taxes owed on their
18 Individual PAGA Payment.

19 **4. SETTLEMENT FUNDING AND PAYMENTS.**

20 4.1. Class Data. Not later than fifteen (15) business days after the Court grants
21 Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data
22 to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members’
23 privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data
24 only for purposes of this Settlement and for no other purpose, and restrict access to the Class
25 Data to Administrator employees who need access to the Class Data to effect and perform under
26 this Agreement. Defendant has a continuing duty to immediately (a) notify Class Counsel if it
27 discovers the Class Data omitted a class member and (b) provide corrected/updated Class Data
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1 as soon as reasonably feasible. Without any extension of the deadline by which Defendant must
2 send the Class Data to the Administrator, the Parties and their counsel will expeditiously use
3 best efforts, in good faith, to reconstruct or otherwise resolve any issues related to omitted data.

4 4.2. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross
5 Settlement Amount and the amounts necessary to fully pay their share of payroll taxes, by
6 transmitting the funds to the Administrator no later than twenty-one (21) business days after the
7 Effective Date. If Defendant fails to timely transfer the funds as set forth in this Agreement,
8 Defendant shall have fourteen (14) business days from the last day the payment is due to cure
9 the untimely payment. Defendant shall transmit the funds pursuant to the Settlement
10 Administrator's electronic transfer instructions. Defendant's payment obligations with respect
11 to the Gross Settlement Amount, Defendant's share of payroll taxes, and any cure payment
12 shall be met upon initiating the electronic transfer of funds to the Administrator, pursuant to the
13 Administrator's instructions. In the event of an unsuccessful electronic transfer of funds, the
14 Parties agree to cooperate in good faith to resolve the issues.

15 4.3. Payments from the Gross Settlement Amount. Within fourteen (14) business
16 days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail
17 checks for the Individual Class Payments, Individual PAGA Payments, LWDA PAGA
18 Payment, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel
19 Litigation Expenses Payment, and Class Representative Service Payments. Disbursement of the
20 Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class
21 Representative Service Payments shall not precede disbursement of the Individual Class
22 Payments and Individual PAGA Payments.

23 4.3.1. The Administrator will issue checks for the Individual Class Payments
24 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S.
25 Mail, postage prepaid. The face of each check shall prominently state the date (not less than
26 180 calendar days after the date of mailing) when the check will be voided. The Administrator
27 will cancel all checks not cashed by the void date. The Administrator will send checks for
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1 Individual Settlement Payments to all Settlement Class Members, including those for whom
2 Class Notice was returned undelivered.

3 4.3.2. The Administrator will send checks for Individual PAGA Payments to all
4 Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved
5 Employees, including those for whom a Class Notice was returned undelivered. The
6 Administrator may send Settlement Class Members a single check combining his or her
7 Individual Class Payment and Individual PAGA Payment. Before mailing any checks, the
8 Administrator must update the recipients' mailing addresses using the National Change of
9 Address Database.

10 4.3.3. The Administrator must conduct a Class Member Address Search for all
11 other Class Members whose checks are returned undelivered without USPS forwarding
12 addresses. Within seven (7) calendar days of receiving a returned check the Administrator must
13 re-mail checks to the USPS forwarding address provided or to an address ascertained through
14 the Class Member Address Search. The Administrator need not take further steps to deliver
15 checks to Class Members whose re-mailed checks are returned as undelivered. The
16 Administrator shall promptly send a replacement check to any Class Member whose original
17 check was lost or misplaced, requested by the Class Member prior to the void date.

18 4.3.4. Any Individual Class Payment check or Individual PAGA Payment check
19 that is uncashed and cancelled after the void date shall be canceled and funds associated with
20 such checks shall be considered unpaid, unclaimed or abandoned cash residue pursuant to Code
21 of Civil Procedure section 384 ("Unpaid Residue"). The Unpaid Residue plus accrued interest,
22 if any, as provided in Code of Civil Procedure section 384, shall be transmitted to the mutually
23 agreeable *cy pres*, Legal Aid at Work, in compliance with Code of Civil Procedure sections 384
24 and 384.5, for use in Orange County and in the name of the Settlement Class Member. The
25 Administrator shall prepare a report regarding the distribution plan pursuant to Code of Civil
26 Procedure section 384 and the report shall be presented to the Court by Class Counsel along
27 with a proposed amended judgment that is consistent with the provisions of Code of Civil
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1 Procedure section 384.

2 4.3.5. The payment of Individual Class Payments and Individual PAGA
3 Payments shall not obligate Defendant to confer any additional benefits or make any additional
4 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
5 this Agreement.

6 **5. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire
7 Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the
8 Individual Class Payments, Plaintiffs, Class Members and Class Counsel will release claims
9 against all Released Parties as follows:

10 5.1. Plaintiffs' Release. In addition to the Released Class Claims and Released
11 PAGA Claims described below, Plaintiffs and their respective former and present spouses,
12 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally,
13 release and discharge Released Parties from all claims, demands, rights, liabilities and causes of
14 action of every nature and description whatsoever, whether known or unknown, asserted or that
15 might have been asserted, whether in tort, contract, or for violation of any state or federal
16 statute, rule, law or regulation arising out of, relating to, or in connection with any act or
17 omission of the Released Parties through the date of full execution of this Settlement Agreement
18 in connection with his or her employment or the termination thereof ("Plaintiffs' Release").
19 Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to
20 those rights that as a matter of law cannot be waived, including, but not limited to any claims
21 for vested benefits, unemployment benefits, disability benefits, social security benefits, or
22 workers' compensation benefits that arose at any time. Plaintiffs acknowledge that they may
23 discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know
24 or believe to be true but agree, nonetheless, that Plaintiffs' Release shall be and remain effective
25 in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of
26 them. Irrespective of any terms in this agreement, this agreement does not impact or release any
27 of Plaintiff Garcia Diaz's claims alleged in the case entitled *Garcia-Diaz v. Awesome Products*,
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1 Inc. Case No. 30-2022-01253120-CU-WT-CJC.

2 5.1.1. Plaintiffs' Waiver of Rights Under California Civil Code Section 1542.

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

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

8 5.2. Released Class Claims by Settlement Class Members: All Settlement Class
9 Members, on behalf of themselves and their respective former and present representatives,
10 agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from
11 all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint,
12 and ascertained in the course of the Action, that arose during the Class Period including with
13 respect to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay
14 minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant
15 meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant
16 rest periods; (e) failure to issue accurate, itemized wage statements and maintain payroll
17 records; (f) failure to pay all wages due upon separation of employment; (g) failure to reimburse
18 for necessary business expenses; (h) all claims under California Business & Professions Code §
19 17200 for unfair business practices that could have been premised on the facts, claims, causes of
20 action or legal theories described above; (i) violation of or claims under the following sections
21 of the California Labor Code sections 201, 202, 203, 204, 206, 210, 218.6, 226, 226(c), 226.3,
22 226.7, 227.3, 510, 512, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802;
23 and (j) violation of the California Industrial Wage Orders that could have been premised on the
24 facts, claims, causes of action or legal theories described above, as well as any potential
25 penalties, interest or attorneys' fees associated with all of such causes of action under California
26 law ("Released Class Claims"). Except as set forth in Section 5.3 of this Agreement, Settlement
27 Class Members do not release any other claims, including claims for vested benefits, wrongful
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1 termination, violation of the Fair Employment and Housing Act, unemployment insurance,
2 disability, social security, workers' compensation, or claims based on facts occurring outside the
3 Class Period.

4 5.3. Released PAGA Claims by Aggrieved Employees: All Class Members who are
5 Aggrieved Employees, regardless of whether they are Settlement Class Members or Non-
6 Participating Class Members, are deemed to release, on behalf of themselves and their
7 respective former and present representatives, agents, attorneys, heirs, administrators,
8 successors, and assigns, the Released Parties from all claims demands, rights, liabilities and
9 causes of action under the California Labor Code Private Attorneys General Act that were
10 alleged, or reasonably could have been alleged, based on the claims asserted in the Operative
11 Complaint or Plaintiffs' respective Notices of Labor Code Violations and PAGA Penalties and
12 ascertained in the course of the Action arising during or with respect to the PAGA Period,
13 including, but not limited to, civil penalties pursuant to Labor Code sections 210, 226.3, 558,
14 1197.1, and 2699 in connection with violations of Labor Code sections 201, 202, 203, 204, 226,
15 226.7, 227.3, 246, 432, 510, 512, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198.5, 2802, and
16 2810.5 ("Released PAGA Claims"). The Released PAGA Claims excludes all claims outside of
17 the PAGA Period.

18 5.3.1. The foregoing release shall be binding on Plaintiffs, the Aggrieved
19 Employees, and the State of California, and shall bar by res judicata any claim under the PAGA
20 brought by any person, including the Aggrieved Employees, on behalf of the State of California,
21 as to any claims predicated on the Released PAGA Claims.

22 **6. MOTION FOR PRELIMINARY APPROVAL.** Plaintiffs will prepare and file a
23 motion for preliminary approval ("Motion for Preliminary Approval") that complies with the
24 Court's current checklist for Preliminary Approval.

25 6.1. Responsibilities of Counsel. Class Counsel is responsible for timely finalizing
26 and filing the Motion for Preliminary Approval. The Parties are jointly responsible for
27 appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel
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1 is responsible for delivering the Court's Preliminary Approval to the Administrator to initiate
2 the notice process.

3 6.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
4 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
5 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
6 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
7 Preliminary Approval or conditions Preliminary Approval on any material change to this
8 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
9 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement
10 and otherwise satisfy the Court's concerns.

11 **7. SETTLEMENT ADMINISTRATION.**

12 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc.
13 to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
14 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this
15 Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel
16 represent that they have no interest or relationship, financial or otherwise, with the
17 Administrator other than a professional relationship arising out of prior experiences
18 administering settlements.

19 7.2. Employer Identification Number. The Administrator shall have and use its own
20 Employer Identification Number for purposes of calculating payroll tax withholdings and
21 providing reports to state and federal tax authorities.

22 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund
23 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
24 Regulation section 468B-1.

25 7.4. Notice to Class Members.

26 7.4.1. No later than three (3) business days after receipt of the Class Data, the
27 Administrator shall notify Class Counsel that the list has been received and provide the number
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1 of Class Members and Aggrieved Employees.

2 7.4.2. Using best efforts to perform as soon as possible, and in no event later
3 than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to
4 all Class Members identified in the Class Data, via first-class United States Postal Service
5 (“USPS”) mail, the Class Notice substantially in the form attached to this Agreement as **Exhibit**
6 **A**. The Class Notice shall prominently estimate the dollar amounts of any Individual Class
7 Payment and/or Individual PAGA Payment payable to the Settlement Class Member and/or
8 Aggrieved Employee. Before mailing Class Notices, the Administrator shall update Class Member
9 addresses using the National Change of Address database.

10 7.4.3. Not later than three (3) business days after the Administrator’s receipt of
11 any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class
12 Notice using any forwarding address provided by the USPS. If the USPS does not provide a
13 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-
14 mail the Class Notice to the most current address obtained. The Administrator has no
15 obligation to make further attempts to locate or send Class Notices to Class Members whose
16 Class Notice is returned by the USPS a second time.

17 7.4.4. The deadlines for Class Members’ written objections and Requests for
18 Exclusion will be extended an additional fourteen (14) days beyond the sixty (60) days provided
19 in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will
20 inform the Class Member of the extended deadline with the re-mailed Class Notice.

21 7.4.5. If the Administrator, the Defendant, Defense Counsel or Class Counsel is
22 contacted by or otherwise discovers any persons who believe they should have been included in
23 the Class Data and should have received a Class Notice, the Parties will expeditiously meet and
24 confer in person or by telephone, and in good faith, in an effort to agree on whether to include
25 them as Class Members. If the Parties agree, such persons will be Class Members entitled to the
26 same rights as other Class Members, and the Administrator will send, via email or overnight
27 delivery, a Class Notice requiring them to exercise options under this Agreement no later than 14
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1 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.

2 7.5. Requests for Exclusion (Opt-Outs).

3 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class
4 Settlement must send the Administrator, by fax, email or mail, a signed written Request for
5 Exclusion no later than forty-five (45) calendar days after the Administrator mails the Class
6 Notice (plus an additional fourteen (14) calendar days for Class Members whose Class Notice is
7 re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative
8 that reasonably communicates the Class Member's election to be excluded from the Settlement
9 and includes the Class Member's name, address and email address or telephone number. To be
10 valid, a Request for Exclusion must be timely faxed, emailed or postmarked by the Response
11 Deadline.

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

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

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

3 7.6. Objections to Settlement.

4 7.6.1. Only Settlement Class Members may object to the class action
5 components of the Settlement and/or this Agreement, including contesting the fairness of the
6 Settlement and/or amounts requested for the Class Counsel Fees Payment, Class Counsel
7 Litigation Expenses Payment and/or Class Representative Service Payments. Non-Participating
8 Class Members have no right to object to any of the class action components of the Settlement.

9 7.6.2. Settlement Class Members may send written objections to the
10 Administrator, by fax, email, or mail. In the alternative, Settlement Class Members may appear
11 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final
12 Approval Hearing. A Settlement Class Member who elects to send a written objection to the
13 Administrator must do so not later than sixty (60) calendar days after the Administrator's
14 mailing of the Class Notice (plus an additional fourteen (14) calendar days for Class Members
15 whose Class Notice was re-mailed).

16 7.7. Administrator Duties. The Administrator has a duty to perform or observe all
17 tasks to be performed or observed by the Administrator contained in this Agreement.

18 7.7.1. Website, Email Address and Toll-Free Number. The Administrator will
19 establish and maintain and use an internet website to post information of interest to Class
20 Members including the date, time and location for the Final Approval Hearing and copies of the
21 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
22 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
23 Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final
24 Approval and the Judgment. The Administrator will also maintain and monitor an email address
25 and a toll-free telephone number to receive Class Member calls, faxes and emails.

26 7.7.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
27 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
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1 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
2 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
3 and other identifying information of Class Members who have timely submitted valid Requests
4 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
5 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
6 Exclusion from Settlement submitted (whether valid or invalid).

7 7.7.3. Weekly Reports. The Administrator must, on a weekly basis, provide
8 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
9 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
10 Exclusion (whether valid or invalid) received, objections received, and checks mailed for
11 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly
12 Reports must include the Administrator’s assessment of the validity of Requests for Exclusion
13 and attach copies of all Requests for Exclusion and objections received.

14 7.7.4. Administrator’s Declaration. Not later than fourteen (14) days before the
15 date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the
16 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
17 for filing in Court attesting to its due diligence and compliance with all of its obligations under
18 this Agreement, including, but not limited to, its mailing of the Class Notice, the Class Notices
19 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
20 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
21 number of written objections and attach the Exclusion List. The Administrator will supplement
22 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is
23 responsible for filing the Administrator’s declaration(s) in Court.

24 7.7.5. Final Report by Administrator. Within ten (10) days after the
25 Administrator disburses all funds in the Gross Settlement Amount, the Administrator will
26 provide Class Counsel and Defense Counsel with a final report detailing its disbursements by
27 employee identification number only of all payments made under this Agreement. At least
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1 fifteen (15) days before any deadline set by the Court, the Administrator will prepare, and
2 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court
3 attesting to its disbursement of all payments required under this Agreement. Class Counsel is
4 responsible for filing the Administrator's declaration in Court.

5 **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on its records,
6 Defendant estimates that, as of the date of this Settlement Agreement, there are no more than
7 10,034 total Workweeks worked by all Settlement Class Members during the Class Period. If
8 the number of Workweeks as of March 31, 2023, increases by more than 6% (more than 602),
9 Defendant shall, at its option, either (a) increase the Gross Settlement Amount proportionally by
10 the Workweeks in excess of 10,636 multiplied by the workweek value; or (b) cap the Release
11 Period as of the date that the 6% of Workweeks is exceeded. In the event Defendant chooses
12 option (a) to increase the Gross Settlement Amount, the workweek value shall be calculated by
13 dividing the Gross Settlement Amount by 10,034. The Parties agree that the workweek value
14 amounts to and the settlement amounts to \$62.78 per Workweek ($\$630,000.00 / 10,034$
15 workweeks). Thus, for example, should there be 11,000 Workweeks in the Class Period, then
16 the Gross Settlement Amount shall be increased by \$62,567.82 ($[11,000 \text{ workweeks} - 10,034$
17 workweeks] x \$62.78 per Workweek).

18 **9. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for
19 Exclusion identified in the Exclusion List exceeds 6% of the Class Members representing more
20 than an aggregate total of 6% of the verified Workweeks, Defendant may, but is not obligated
21 to, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the
22 Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will
23 have any further obligation to perform under this Agreement; provided, however, Defendant
24 will remain responsible for paying all Settlement Administration Expenses incurred to that
25 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later
26 than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel;
27 late elections will have no effect.

1 **10. MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the
2 calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of
3 the Settlement that includes a request for approval of the PAGA settlement under Labor Code
4 section 2699, subd. (1), a Proposed Final Approval Order, and a proposed Judgment
5 (collectively “Motion for Final Approval”).

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

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

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

22 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
23 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
24 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties,
25 their respective counsel, and all Settlement Class Members who did not object to the Settlement
26 as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights
27 to post-judgment and appellate proceedings, the right to file motions to vacate judgment,
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1 motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include
2 any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the
3 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such
4 time as the appeal is finally resolved and the Judgment becomes final, except as to matters that
5 do not affect the amount of the Net Settlement Amount.

6 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
7 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
8 material modification of this Agreement (including, but not limited to, the scope of release to be
9 granted by Class Members), this Agreement shall be null and void. The Parties shall
10 nevertheless expeditiously work together in good faith to address the appellate court's concerns
11 and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional
12 Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate,
13 reverse, or modify the Court's award of the Class Representative Service Payments or any
14 payments to Class Counsel shall not constitute a material modification of the Judgment within
15 the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

16 11. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil
17 Procedure section 384, the Parties will work together in good faith to jointly submit a proposed
18 amended judgment.

19 12. ADDITIONAL PROVISIONS.

20 12.1. No Admission of Liability, Class Certification or Representative Manageability
21 for Other Purposes. This Agreement represents a compromise and settlement of highly
22 disputed claims. Nothing in this Agreement is intended or should be construed as an admission
23 by Defendant that any of the allegations in the Operative Complaint have merit or that
24 Defendant has any liability for any claims asserted; nor should it be intended or construed as an
25 admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree
26 that class certification and representative treatment is for purposes of this Settlement only. If,
27 for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, or
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1 if Defendant exercises its option pursuant to paragraph 9 of this Joint Stipulation to nullify the
2 settlement, Defendant reserves the right to contest certification of any class for any reasons and
3 all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for
4 class certification on any grounds available and to contest Defendant's defenses. The
5 Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on,
6 and will not be admissible in connection with, any litigation, except for proceedings to enforce
7 or effectuate the Settlement and this Agreement.

8 12.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel,
9 Defendant and Defense Counsel separately agree that, until the Motion for Preliminary
10 Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or
11 publicize, or cause or permit another person to disclose, disseminate or publicize, any of the
12 terms of the Agreement directly or indirectly, specifically or generally, to any person,
13 corporation, association, government agency, or other entity except: (1) to the Parties' attorneys,
14 accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2)
15 counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing
16 authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or
17 subpoena issued by a state or federal government agency.

18 12.3. Each Party agrees to immediately notify each other of any judicial or agency
19 order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and
20 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
21 communication, before the filing of the Motion for Preliminary Approval, with any third party
22 regarding this Agreement or the matters giving rise to this Agreement except to respond only
23 that "the matter was resolved," or words to that effect. This paragraph does not restrict Class
24 Counsel's communications with Class Members in accordance with Class Counsel's ethical
25 obligations owed to Class Members.

26 12.4. No Solicitation. The Parties separately agree that they and their respective
27 counsel and employees will not solicit any Class Member to opt out of or object to the
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1 Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to
2 restrict Class Counsel's ability to communicate with Class Members in accordance with Class
3 Counsel's ethical obligations owed to Class Members.

4 12.5. Integrated Agreement. Upon execution by all Parties and their counsel, this
5 Agreement together with its attached exhibits shall constitute the entire agreement between the
6 Parties relating to the Settlement, superseding any and all oral representations, warranties,
7 covenants, or inducements made to or by any Party.

8 12.6. Attorney Authorization. Class Counsel and Defense Counsel separately warrant
9 and represent that they are authorized by Plaintiffs and Defendant, respectively, to take all
10 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
11 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
12 terms of this Agreement including any amendments to this Agreement.

13 12.7. Cooperation. The Parties and their counsel will cooperate with each other and
14 use their best efforts, in good faith, to implement the Settlement by, among other things,
15 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
16 points and authorities as requested by the Court. In the event the Parties are unable to agree
17 upon the form or content of any document necessary to implement the Settlement, or on any
18 modification of the Agreement that may become necessary to implement the Settlement, the
19 Parties will seek the assistance of a mediator and/or the Court for resolution.

20 12.8. No Prior Assignments. The Parties separately represent and warrant that they
21 have not directly or indirectly assigned, transferred, encumbered, or purported to assign,
22 transfer, or encumber to any person or entity and portion of any liability, claim, demand, action,
23 cause of action, or right released and discharged by the Party in this Settlement.

24 12.9. No Tax Advice. Neither Plaintiffs, Class Counsel, Defendant nor Defense
25 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
26 Settlement be relied upon as such within the meaning of United States Treasury Department
27 Circular 230 (31 CFR Part 10, as amended) or otherwise.

1 12.10. Modification of Agreement. This Agreement, and all parts of it, may be
2 amended, modified, changed, or waived only by an express written instrument signed by all
3 Parties or their representatives, and approved by the Court.

4 12.11. Agreement Binding on Successors. This Agreement will be binding upon, and
5 inure to the benefit of, the successors of each of the Parties.

6 12.12. Applicable Law. All terms and conditions of this Agreement and its exhibits
7 will be governed by and interpreted according to the internal laws of the state of California,
8 without regard to conflict of law principles.

9 12.13. Cooperation in Drafting. The Parties have cooperated in the drafting and
10 preparation of this Agreement. This Agreement will not be construed against any Party on the
11 basis that the Party was the drafter or participated in the drafting.

12 12.14. Confidentiality. To the extent permitted by law, all agreements made, and
13 orders entered during Action and in this Agreement relating to the confidentiality of information
14 shall survive the execution of this Agreement.

15 12.15. Use and Return of Class Data. Information provided to Class Counsel pursuant
16 to Cal. Evid. Code section 1152, and all copies and summaries of the Class Data provided to
17 Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or
18 in connection with the Settlement, may be used only with respect to this Settlement, and no
19 other purpose, and may not be used in any way that violates any existing contractual agreement,
20 statute, or rule of court. Not later than ninety (90) days after the date when the Court discharges
21 the Administrator's obligation to provide a Declaration confirming the final pay out of all
22 Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data
23 received from Defendant unless, prior to the Court's discharge of the Administrator's
24 obligation, Defendant makes a written request to Class Counsel for the return, rather than the
25 destructions, of Class Data.

26 12.16. Headings. The descriptive heading of any section or paragraph of this
27 Agreement is inserted for convenience of reference only and does not constitute a part of this
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1 Agreement.

2 12.17. Calendar Days. Unless otherwise noted, all reference to “days” in this
3 Agreement shall be to calendar days. In the event any date or deadline set forth in this
4 Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first
5 business day thereafter.

6 12.18. Notice. All notices, demands or other communications between the Parties in
7 connection with this Agreement will be in writing and deemed to have been duly given as of the
8 third business day after mailing by United States mail, or the day sent by email or messenger,
9 addressed as follows:

10 To Plaintiffs:

11 **MOON & YANG, APC**

12 Kane Moon
13 Allen Feghali
14 Jacquelyne VanEmmerik
15 1055 West Seventh Street, Suite 1880
16 Los Angeles, California 90017

JACKSON APC

Armond M. Jackson
Andrea Fernandez-Jackson
Anthony Filer, Jr.
2 Venture Plaza, Suite 240
Irvine, California 92618

15 To Defendant:

16 **FISHER & PHILLIPS, LLP**

17 Christine Baran
18 Andrew C. Crane
19 2050 Main Street, Suite 1000
20 Irvine, California 92614

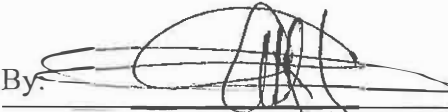
The Law Offices of Robert Mackey

Robert Mackey (SBN 125961)
16320 Murphy Road
Sonora, CA 95370

20 12.19. Execution in Counterparts. This Agreement may be executed in one or more
21 counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this
22 Agreement shall be accepted as an original. All executed counterparts and each of them will be
23 deemed to be one and the same instrument if counsel for the Parties will exchange between
24 themselves signed counterparts. Any executed counterpart will be admissible in evidence to
25 prove the existence and contents of this Agreement.

1 12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement
2 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
3 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to
4 extend the date to bring a case to trial under CCP section 583.310 for the entire period of this
5 settlement process.

6 06/14/2023
Dated: ~~May~~, 2023

By: 
Armando Diaz-Garcia

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9
10 Dated: May , 2023

By: _____
Jose Elias Barajas

11 //

12
13 Dated: May , 2023

By: _____
For Awesome Products, Inc.

14
15
16 JACKSON APC

17
18 Dated: June 14
May , 2023

By: Armond M. Jackson
Armond Jackson, Esq.
Andrea Fernandez-Jackson, Esq.
Anthony Filer, Jr., Esq.
Attorney for Plaintiff, Armando Diaz-Garcia

19
20
21
22 MOON & YANG, APC

23
24 Dated: May , 2023

By: _____
Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff, Jose Elias Barajas

12.20. 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.

Dated:

By:

Armando Diaz-Garcia

//

Dated: 7/6/2023

By:

DocuSigned by:

 Jose Elias Barajas

//

Dated:

By:

For Awesome Products, Inc.

JACKSON APC

Dated:

By:

Armond Jackson, Esq.
 Andrea Fernandez-Jackson, Esq.
 Anthony Filer, Jr., Esq.
Attorney for Plaintiff, Armando Diaz-Garcia

MOON & YANG, APC

Dated: 7/6/2023

By:


 Kane Moon, Esq.
 Allen Feghali, Esq.
 Jacquelyne VanEmmerik, Esq.
Attorneys for Plaintiff, Jose Elias Barajas

1 12.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement
2 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties
3 further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to
4 extend the date to bring a case to trial under CCP section 583.310 for the entire period of this
5 settlement process.

6 Dated:

By:

Armando Diaz-Garcia

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9 Dated:

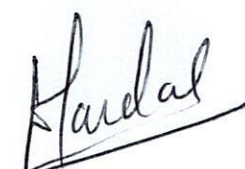
By:

Jose Elias Barajas

11 //

12 Dated:

By:


For Awesome Products, Inc.

JACKSON APC

17 Dated:

By:

Armond Jackson, Esq.
Andrea Fernandez-Jackson, Esq.
Anthony Filer, Jr., Esq.
*Attorney for Plaintiff, Armando Diaz-
Garcia*

MOON & YANG, APC

23 Dated:

By:

Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
*Attorneys for Plaintiff, Jose Elias
Barajas*

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FISHER & PHILLIPS, LLP

By:



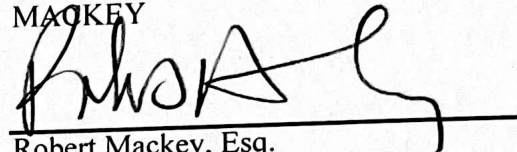
Christine Baran, Esq.
Andrew C. Crane, Esq.
*Attorneys for Defendant, Awesome
Products, Inc.*

Dated:

7/20/2023

THE LAW OFFICES OF ROBERT
MACKEY

By:



Robert Mackey, Esq.
*Attorneys for Defendant, Awesome
Products, Inc.*

Dated:

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EXHIBIT A

NOTICE OF CLASS AND PAGA ACTION SETTLEMENT

Armando Diaz-Garcia, et. al. v. Awesome Products, Inc.
Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC

PLEASE READ THIS NOTICE

The above class and representative action (“Action”) was filed by Plaintiffs Armando Diaz-Garcia and Jose Elias Barajas (“Plaintiffs”) against Defendant Awesome Products, Inc. (“Awesome Products”). In the Action, Plaintiffs allege Awesome Products failed to pay minimum wages for all hours worked; failed to pay overtime compensation; failed to provide compliant meal periods or compensation in lieu thereof; failed to provide compliant rest breaks or compensation in lieu thereof; failed to indemnify necessary business expenses; failed to timely pay all compensation due upon termination or resignation; failed to provide accurate itemized wage statements; engaged in unfair competition in violation of Business and Professions Code sections 17200, *et. seq.*; and owes civil penalties to the Labor and Workforce Development Agency (“LWDA”) and all Aggrieved Employees under the Private Attorneys General Act, California Labor Code sections 2698, *et. seq.* (“PAGA”). Awesome Products denies these allegations and contends that it complied with all applicable law.

A Joint Stipulation of Class and PAGA Action Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) has been reached in the Action and preliminarily approved by the Court. You have been identified by Awesome Products’ records as a Class Member, as defined below. Thus, you are subject to the terms of the Settlement. Please read this notice carefully, as it may affect your legal rights.

“Class” or “Class Member(s)” is defined as: all non-exempt employees of Awesome Products who worked in California from April 2, 2017, through March 31, 2023 (“Class Period”), including any employee employed through any staffing agency, professional employer organization, or temporary employment agency utilized by Defendant during the Class Period, which are identified as Southbay Safety, Next Level Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing, Selective Personnel, and Dynamic Staffing. “Aggrieved Employee(s)” is defined as: all non-exempt employees of Awesome Products who worked in California from February 23, 2020, through March 31, 2023 (“PAGA Period”), including any employee employed through any staffing agency, professional employer organization, or temporary employment agency utilized by Defendant during the Class Period, which are identified as Southbay Safety, Next Level Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing, Selective Personnel, and Dynamic Staffing.

YOUR LEGAL RIGHTS AND OPTIONS WITH RESPECT TO THE SETTLEMENT	
Participate in the Settlement	If you want to be bound by the Settlement, remain in the Class, and receive your Individual Class Payment and, <i>if eligible</i> , Individual PAGA Payment, you do not need to do anything.

Exclude Yourself From the Settlement	If you do not want to be bound by the Settlement or remain in the Class, you should follow the instructions in Section 6, below. If you exclude yourself, you will not receive your Individual Class Payment, and you will not release the Released Claims against the Released Parties (defined in Section 4 below). If this Settlement is approved by the Court and you are an Aggrieved Employee, you <i>will</i> receive your Individual PAGA Payment and release the Released PAGA Claims, even if you exclude yourself from the Settlement.
Object to the Settlement	If you want to object to the Settlement but remain in the Class, you should follow the instructions in Section 7, below. If you object, you will still be bound by the terms of the Settlement, if the Settlement is approved by the Court.

1. WHY DID I GET THIS NOTICE?

You have received this Notice because Awesome Products’ records reflect that you are a Class Member, as defined above. This Notice provides you with information about (1) the monetary terms of the Settlement, (2) your estimated Individual Class Payment, provided you remain a “Settlement Class Member” (*i.e.*, a Class Member who does not request to be excluded from the Settlement), (3) your estimated Individual PAGA Payment, provided you are an “Aggrieved Employee,” (4) the claims that are being released under the Settlement, (5) how to participate in, exclude yourself from, or object to the Settlement, and (6) where to find additional information regarding the Action and Settlement.

2. WHAT IS THIS CASE ABOUT?

Plaintiff Armando Diaz-Garcia filed a Class Action Complaint on April 2, 2021, which commenced the lawsuit entitled *Armando Diaz-Garcia v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC. Plaintiff Jose Elias Barajas filed a separate Class Action Complaint on August 23, 2021, which commenced the separate lawsuit entitled *Jose Elias Barajas v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01217438-CU-OE-CXC. The Orange County Superior Court consolidated the lawsuits on or around May 24, 2023, and Plaintiffs filed a Consolidated Second Amended Class and Representative Action Complaint (“Operative Complaint”) on or around the same.

The Operative Complaint alleges that Awesome Products: failed to pay Class Members minimum wages for all hours worked; failed to pay Class Members overtime compensation; failed to provide Class Members with compliant meal periods or compensation in lieu thereof; failed to provide Class Members with compliant rest breaks or compensation in lieu thereof; failed to indemnify Class Members for necessary business expenses; failed to timely pay Class Members all compensation due upon termination or resignation; failed to provide Class Members with accurate itemized wage statements; engaged in unfair competition in violation of Business and Professions Code sections 17200, *et seq.*; and owes civil penalties under PAGA.

Awesome Products denies any liability or wrongdoing of any kind. Awesome Products contends, among other things, that it complied at all times with the California Labor Code, Industrial Welfare Commission Wage Orders and Business and Professions Code, that employees were correctly and

timely paid all wages, and that meal periods and rest breaks were provided as required by applicable law.

The Court has not ruled on the merits of the claims alleged in the Operative Complaint. By preliminarily approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case on the merits. Rather, the Court has determined only that there is sufficient evidence to determine, on a preliminary basis, that the proposed Settlement is fair, adequate and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Awesome Products reserves the right, if for any reason the Settlement fails, to contest any factual or legal allegations.

3. THE MONETARY TERMS OF THE SETTLEMENT AND CALCULATION OF YOUR INDIVIDUAL CLASS PAYMENT AND INDIVIDUAL PAGA PAYMENT

Without admitting any wrongdoing, and to avoid the business disruptions caused by litigating these claims, Awesome Products has agreed to pay a Gross Settlement Amount of Six Hundred Thirty Thousand Dollars and Zero Cents (\$630,000.00) to settle the Action.

The following amounts will be paid from the Gross Settlement Amount:

- A Class Counsel Litigation Expenses Payment, which is not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) and is to be paid to Class Counsel for reimbursement of all reasonable litigation costs and expenses (“Class Counsel Litigation Expenses Payment”);
- A Class Counsel Fees Payment, which is not to exceed Two Hundred Ten Thousand Dollars and Zero Cents (\$210,000.00) and is to be paid to Class Counsel for their work in furtherance of the Action (“Class Counsel Fees Payment”);
- An Administration Expenses Payment, which is not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) and is to cover costs incurred by the Administrator in administering the terms of the Settlement (“Administration Expenses Payment”);
- Class Representative Service Payments, which are not to exceed Seventy Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) each and are for Plaintiffs’ services as Class Representatives and their general releases (“Class Representative Service Payments”); and
- A PAGA Settlement Payment, which is Sixty Thousand Dollars and Zero Cents (\$60,000.00) and will be allocated to the payment of civil penalties under PAGA (“PAGA Settlement Payment”).

The amount remaining from the Gross Settlement Amount after the above amounts are deducted is called the Net Settlement Amount. The Net Settlement Amount will be allocated to all Settlement Class Members (*i.e.*, Class Members who do not request to be excluded from the Settlement) on a *pro rata* basis. Each such payment is called an Individual Class Payment and will be calculated as follows:

1. The Administrator will determine the number of weeks in which any Settlement Class Member actually worked one shift during the Class Period (“Workweeks”);

2. The Administrator will determine the value of a single Workweek by dividing the Net Settlement Amount by the total number of Workweeks worked by all Settlement Class Members; and
3. Each Settlement Class Member shall receive an Individual Class Payment equal to his or her Workweeks multiplied by the value of a single Workweek.

You have been credited with [REDACTED] Workweeks. Based on these Workweeks, your Individual Class Payment, prior to any applicable withholdings, is estimated to be \$ [REDACTED].

PAGA Settlement Payment: A total of Sixty Thousand Dollars and Zero Cents (\$60,000.00) of the Gross Settlement Amount has been allocated to the PAGA Settlement Payment. Seventy-five percent (75%) of this amount (\$45,000.00) (“LWDA PAGA Payment”) will be paid to the California LWDA, and twenty-five percent (25%) of this amount (\$15,000.00) (“Individual PAGA Payment”) will be paid on a *pro rata* basis to all Aggrieved Employees. Each such payment is called an Individual PAGA Payment and will be calculated as follows:

1. The Administrator will determine the number of pay periods in which any Aggrieved Employee actually worked one shift during the PAGA Period (“PAGA Pay Periods”);
2. The Administrator will determine the value of a single PAGA Pay Period by dividing the Individual PAGA Payment by the total number of PAGA Pay Periods worked by all Aggrieved Employees; and
3. Each Aggrieved Employee shall receive an Individual PAGA Payment equal to his or her PAGA Pay Periods multiplied by the value of a single PAGA Pay Period.

You have been credited with [REDACTED] PAGA Pay Periods. Based on these PAGA Pay Periods, your Individual PAGA Payment is estimated to be \$ [REDACTED].

If you dispute the above information, you may submit a written dispute to the Administrator. Your Dispute must (1) contain your name, address, and telephone number and the case name and number of the Action (i.e., *Armando Diaz-Garcia, et. al. v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC; (2) be signed by you; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Administrator at the address or fax number listed below; (4) clearly state the basis on which you dispute your Individual Class or PAGA Payment; and (5) attach any documentary evidence you have in support of that basis.

[Administrator]
[contact info including e-mail address]

Twenty percent (20%) of each Individual Class Payment will be allocated to wages and subject to all applicable employee state and federal tax withholdings; forty percent (40%) of each Individual Class Payment will be considered penalties; and forty percent (40%) of each Individual Class Payment shall be allocated to interest and any other non-wage related amount. The amount allocated as wages will be reported on an IRS form W-2 and the remaining amount allocated as

penalties, liquidated damages, interest and other non-wage payments will be reported on an IRS form 1099. One hundred percent (100%) of each Individual PAGA Payment will be allocated as penalties and reported on an IRS form 1099.

In addition to the Gross Settlement Amount, Awesome Products will pay all employer payroll taxes and contributions in connection with the portion of the Settlement allocated towards wages. Class Members are responsible for paying taxes on any amounts received. This Notice is not tax advice and you should consult your tax advisor.

Checks will be valid and negotiable for 180 days. After that, checks will become void and a stop payment will be placed on the uncashed checks. Settlement checks that are not cashed within 180 days of mailing, or are returned to the Administrator, will be cancelled, and the Administrator shall send the funds associated with uncashed checks to the mutually agreeable *cy pres*, Legal Aid at Work, for use in Orange County and in the name of the Settlement Class Member. Settlement Class Members who do not timely cash their checks should contact the Administrator to determine how they can obtain their payment. **Settlement Class Members will be bound by the Settlement even if they do not cash their settlement checks.**

4. WHAT AM I RELEASING AS A CLASS MEMBER UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), all Class Members who do not opt out of the Settlement (*i.e.*, all Settlement Class Members) do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged any and all Released Class Claims against any and all Released Parties.

“Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, in the Operative Complaint, and ascertained in the course of the Action, that arose during the Class Period, including, but not limited to, the following claims: (a) failure to pay all minimum wages owed; (b) failure to pay all overtime compensation; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to issue accurate, itemized wage statements; (f) failure to pay all wages due upon separation of employment; (g) failure to reimburse for necessary business expenses; (h) all claims under California Business and Professions Code sections 17200, *et seq.* for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above; (i) violation of or claims under the following sections of the California Labor Code sections 201, 202, 203, 204, 206, 210, 218.6, 226, 226(c), 226.3, 226.7, 227.3, 510, 512, 558.1, 1174, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802; and (j) violation of the California Industrial Wage Orders that could have been premised on the facts, claims, causes of action or legal theories described above, as well as any potential penalties, interest or attorneys’ fees associated with all of such causes of action under California law.

“Released Parties” means Awesome Products and each of its past, present, and future respective subsidiaries, dba’s, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, attorneys; and any staffing agency,

professional employer organization, or temporary employment agency utilized by Awesome Products during the Class Period, including Southbay Safety, Next Level Staffing, Core Staffing Solutions, Precise Personnel, Randstad, the Baron HR, Fairway Staffing, Selective Personnel, and Dynamic Staffing, and any of their past, present, and future respective subsidiaries, dba's, affiliates, parents, predecessors, successors, investors, and their current and former employees, managing agents, servants, consultants, agents, directors, officers, members, independent contractors, representatives, insurers, reinsurers, attorneys.

5. WHAT AM I RELEASING AS AN AGGRIEVED EMPLOYEE UNDER THE SETTLEMENT?

If and when the Court grants final approval of the Settlement, as of the Effective Date (as defined in the Agreement), and after payment of all funds due under the terms of the Settlement, all Aggrieved Employees do and shall be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged any and all of the Released Parties of and from any and all Released PAGA Claims. Released Parties is defined in Section 4 of this Notice, above.

“Released PAGA Claims” means all claims demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act that were alleged, or reasonably could have been alleged, based on the claims asserted in the Operative Complaint or Plaintiffs’ Amended Notices of Labor Code Violations and PAGA Penalties and ascertained in the course of the Action arising during or with respect to the PAGA Period.

AGGRIEVED EMPLOYEES CANNOT OPT-OUT OR EXCLUDE THEMSELVES FROM THE PAGA SETTLEMENT OR THE RELEASE OF RELEASED PAGA CLAIMS.

6. WHAT IF I DON’T WANT TO PARTICIPATE IN THE CLASS SETTLEMENT?

You have the right to request exclusion from the Settlement as a Class Member and with regards to the settlement of Released Class Claims, but you are not able to exclude yourself as an Aggrieved Employee. To exclude yourself as a Settlement Class Member, you should submit a written request for exclusion to the Administrator (“Opt Out Request”) at the address or fax number listed in Section 3 of this Notice, above.

A valid and complete Opt Out Request must (1) contain the name, address and telephone number of the Class Member requesting exclusion and the case name and number of the Action (i.e., *Armando Diaz-Garcia, et. al. v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC); (2) be signed by the Class Member; (3) be postmarked, e-mailed or fax stamped on or before **[Response Deadline]** and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) contain a statement substantially similar to:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT OF CLASS CLAIMS IN THE *ARMANDO DIAZ-GARCIA, ET. AL. v. AWESOME PRODUCTS, INC.*, LAWSUIT. I UNDERSTAND THAT THE PAGA CLAIM WILL STILL BE RELEASED AND SETTLED.”

It is your responsibility to ensure that the Administrator timely receives your request to be excluded from the Settlement. Unless you timely request to be excluded from the Settlement, you will be bound by the judgment upon final approval of the Settlement.

7. WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Settlement Class Member may object to the Settlement or to any settlement term. If you wish to object, you may submit your objection in writing to the Settlement Administrator (“Objection”) at the specified address, e-mail address or fax number listed in Section 3 of this Notice, above. A valid and timely Objection should (1) contain the name, address and telephone number of the Settlement Class Member objecting and the case name and number of the Action (i.e., *Armando Diaz-Garcia, et. al. v. Awesome Products, Inc.*, Orange County Superior Court, Case No. 30-2021-01193589-CU-OE-CXC); (2) be signed by the Settlement Class Member; (3) be postmarked or fax stamped on or before [Response Deadline] and returned to the Settlement Administrator at the specified address or fax number listed in Section 3 of this Notice, above; and (4) give the legal and factual basis for their objection.

Filing an objection will **not** exclude you from the Settlement. If the Court grants final approval of the Settlement, you will still receive an Individual Class Payment and you will be barred from pursuing the Released Class Claims. **Do not file both an Objection and Opt Out Request. You may file one or neither.** If you file neither, then you will be automatically included in the Settlement and do not need to take any further action to receive a payment.

8. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Final Approval Hearing is scheduled to take place on _____, at _____ a.m. in the Superior Court of the State of California, County of Orange, Department CX103, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701.

9. WHO ARE THE ATTORNEYS?

Attorneys for Plaintiffs and the Class:

Armond M. Jackson, Esq.
Andrea Fernandez-Jackson,
Esq.
Anthony Filer, Jr. Esq.
JACKSON APC
2 Venture Plaza, Suite 240
Irvine, California 92618
(949) 777-6218

Kane Moon, Esq.
Allen Feghali, Esq.
Jacquelyne VanEmmerik, Esq.
MOON & YANG, APC
1055 West Seventh Street,
Suite 1880
Los Angeles, California 90017
(213) 232-3128

Attorneys for Defendants:

Christine Baran, Esq.
Andrew C. Crane, Esq.
FISHER & PHILLIPS, LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 798-2165

Robert Mackey (SBN 125961)
The Law Offices of Robert Mackey
16320 Murphy Road
Sonora, CA 95370
Telephone: (412) 370-9110

The Court has decided that the Attorneys for Plaintiffs and the Class are qualified to represent the Settlement Class Members. Other than the Attorneys' Fees and Costs approved by the Court, to be paid out of the Gross Settlement Amount, **you will not be charged for their services.**

10. SHOULD I GET MY OWN LAWYER?

You do not need to get your own lawyer. If you want your own lawyer to speak for you or appear in Court, you have the right to hire one, but you will have to pay for that lawyer yourself.

11. FURTHER INFORMATION

The foregoing is only a summary of the Settlement. For the precise terms and conditions of the Settlement and other important case documents, please see the settlement agreement available at www._____.com, by contacting Class Counsel at the address or telephone number provided in Section 9, above, or by visiting the office of the Clerk of the Superior Court of the State of California, County of Orange, Department CX103, located at 751 West Santa Ana Boulevard, Santa Ana, California 92701, or the Court's website www.scscourt.org.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE
TO INQUIRE ABOUT THIS SETTLEMENT.**

EXHIBIT 2

Jacquelyne Vanemmerik

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Thursday, August 24, 2023 2:50 PM
To: Jacquelyne Vanemmerik
Subject: Thank you for your Proposed Settlement Submission

08/24/2023 02:49:37 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

EXHIBIT 3

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

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

Kane Moon, Esq.
Kane.Moon@moonyanglaw.com

August 22, 2021

VIA ONLINE SUBMISSION

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

VIA CERTIFIED MAIL

Awesome Products, Inc.
6370 Altura Blvd.
Buena Park, CA 90620

Notice of Labor Code Violations and PAGA Penalties

Re: ***Jose Elias Barajas v. Awesome Products, Inc.***

To Whom It May Concern:

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

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

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

Factual Background Regarding Plaintiff's Employment with Defendant

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

Plaintiff worked for Defendant as a forklift driver from approximately July 2020 to September 2020, primarily in Orange County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 4 days per week, and in excess of 10 hours each workday.

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

Failure to Pay for All Hours Worked, Including Overtime

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

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

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

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Defendants regularly use a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Also throughout the statutory period, Plaintiff and the Aggrieved Employees were paid based on an alternative workweek schedule, working 4 days per week and at least 10 hours each workday. However, Defendants did not satisfy the requirements for an alternative workweek schedule at the location in which Plaintiff and the Aggrieved Employees were employed. Therefore, Plaintiff and the Aggrieved Employees were not paid overtime premiums for work performed in excess of 8 hours per workday. Also throughout the statutory period, Plaintiff and the Aggrieved Employees were required to work "off the clock" and uncompensated. For example, Plaintiff and the Aggrieved Employees were required to wait in line in order to clock into work and when returning from meal periods, uncompensated. Also, Plaintiff and the Aggrieved Employees were required to

carry their walkie talkies during their meal periods. Despite having these on-duty meal periods, Defendants did not pay Plaintiff and the Aggrieved Employees for this on-duty time. Also, Plaintiff and the Aggrieved Employees were required to clock out and back in for rest periods, including waiting in line for facial recognition clocking device, uncompensated. Further, those rest periods were unpaid. Further, Plaintiff and the Aggrieved Employees occasionally reported inaccuracies in the hours paid, but they were not compensated. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

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

Failure to Provide Meal Periods

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

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

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

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

Failure to Authorize and Permit Rest Periods

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

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

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

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

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

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

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

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

Failure to Reimburse and Indemnify Expenses

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

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement, which included the purchase of tools such as blades. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their

job duties for Defendant, and Defendant has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

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

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e. was terminated by quitting or discharge, and the employment of others will be. However, during the relevant time period, Defendant failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendant's employ. These unpaid wages include wages for unpaid work time (including minimum and straight time wages), missed meal periods, and missed rest periods.

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for

which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

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

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

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

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

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

Failure to Pay All Earned Wages Twice Per Month

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

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal

periods not provided by Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owes employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

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

Action for Civil Penalties Under PAGA

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

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and
8. Labor Code § 204 by failing to pay all earned wages two times per month.

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

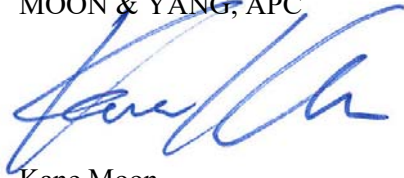
Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

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

LWDA
Notice of Labor Code Violations and PAGA
August 22, 2021
Page 9 of 9

Sincerely,

MOON & YANG, APC

A handwritten signature in blue ink, appearing to read 'Kane Moon', is written over the text 'MOON & YANG, APC'.

Kane Moon
Attorney at Law

EXHIBIT 4

Activities Export

08/24/2023
3:23 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
07/10/2023	\$	Ace ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$44.00	\$44.00	-
06/23/2023	\$	One Legal ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$15.65	\$15.65	-
06/07/2023	\$	One Legal ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$34.90	\$34.90	-
05/24/2023	\$	Barajias v. Awesome Products Inc ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Support Account	1.00	\$47.48	\$47.48	-
05/17/2023	\$	Barajias v. Awesome Products Inc. ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Support Account	1.00	\$15.65	\$15.65	-
03/07/2023	\$	Orange County Superior Court ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$16.40	\$16.40	-
03/06/2023	\$	Ace ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$99.50	\$99.50	-
02/09/2023	\$	Berger Consulting ● Unbilled	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$2,765.00	-	\$2,765.00
02/03/2023	\$	One Legal ● Non-billable	01414-Barajias Barajias v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$15.65	\$15.65	-

\$314.44	\$9,042.46
10.00h	0.00h

Activities Export

08/24/2023
3:23 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
02/03/2023	\$	One Legal ● Non-billable	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$17.71	\$17.71	-
11/04/2022	\$	Orange County Superior Court ● Non-billable	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Andrea Marin	1.00	\$7.50	\$7.50	-
11/02/2022	\$	Court fee ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$7.50	-	\$7.50
08/03/2022	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$15.29	-	\$15.29
06/13/2022	\$	Mediation fee (p) ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$3,500.00	-	\$3,500.00
05/13/2022	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$15.19	-	\$15.19
05/13/2022	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$64.86	-	\$64.86
05/09/2022	\$	OC Court ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$7.50	-	\$7.50
05/02/2022	\$	OC Court ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$7.50	-	\$7.50

\$314.44
10.00h

\$9,042.46
0.00h

Activities Export

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
05/02/2022	\$	OC Court ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$7.50	-	\$7.50
05/02/2022	\$	OC Court ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$15.00	-	\$15.00
02/03/2022	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
02/03/2022	\$	Courtcall ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$94.00	-	\$94.00
12/20/2021	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
11/22/2021	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
10/25/2021	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
09/20/2021	\$	One Legal ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$13.43	-	\$13.43
08/31/2021	\$	Ace ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$160.20	-	\$160.20
						\$314.44		\$9,042.46
						10.00h		0.00h

Activities Export

08/24/2023
3:23 PM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
08/23/2021	\$	Complaint fee ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$1,490.77	-	\$1,490.77
08/23/2021	\$	Admin fee ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$750.00	-	\$750.00
08/16/2021	\$	LWDA ● Unbilled	01414-Barajas Barajas v. Awesome Products Inc. (ED)	Seung Yang	1.00	\$75.00	-	\$75.00
							\$314.44 10.00h	\$9,042.46 0.00h

EXHIBIT 5

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Barajas-Armando-Garcia v. Awesome Products, Inc.

Thursday, August 24, 2023

Requesting Law Firm:

Attorney Contact:

E-Mail Address:

ILYM Group Contact:

E-Mail Address:

Contact Number:

Moon Law Group, PC

Jacquelyne VanEmmerik

jvanemmerik@moonlawgroup.com

Lisa Mullins

Lisa@ilymgroup.com

714.878.8836

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS

Estimated Class Size	107
Estimated Percentage of Undeliverable Mail	10%
ILYM Group Static Website	Yes
Certified Spanish Translation	Yes

Activity

Rate Type

Unit Cost

Volume

Amount

CASE STARTUP

Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	1	\$150.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00

*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.

Subtotal \$325.00

PROJECT MANAGEMENT

Project Manager (Case notification and maintenance)	Hourly	\$120.00	2	\$240.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objections via, Mail	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	1	\$70.00
NCOA	Flat Fee	\$75.00	1	\$75.00
Toll-Free Call Center Support	Flat Fee	\$125.00	1	\$125.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
Status Reports	Flat Fee	\$750.00	1	Waived

Subtotal \$2,650.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	107	\$160.50
USPS First Class Postage	Per Piece	\$0.83	107	\$88.81
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$2.00	21	\$42.80
Storage, Photocopies, Deliveries	Flat Fee	\$127.43	1	\$127.43

Subtotal \$419.54

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	1	\$150.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	1	\$125.00
Check Stub & Release - (including W-2 & 1099)	Per Check	\$1.00	107	\$107.00
Check Mailing Postage	Per Piece	\$0.63	107	\$67.41
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$1.50	11	\$16.05
Preparation of Taxes	Hourly	\$125.00	3	\$375.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$2,340.46

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Process Uncashed Funds	Flat Fee	\$250.00	1	\$250.00
Declarations	Hourly	\$125.00	1	\$125.00

Subtotal \$715.00

Total Case Estimate: \$6,450.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not
4 a party to the within action; my business address is 1055 W. Seventh St., Suite 1880, Los Angeles,
California 90017. On **September 7, 2023**, I served the foregoing document described as:

5 **DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION FOR**
6 **PRELIMINARY APPROVAL OF CLASS AND PAGA ACTION SETTLEMENT**

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

8 Christine D. Baran
9 Andrew C. Crane
Samantha E. Cardarelli
10 **FISHER & PHILLIPS LLP**
2050 Main Street, Suite 1000
Irvine, California 92614
11 cbaran@fisherphillips.com
acrane@fisherphillips.com
12 scardarelli@fisherphillips.com

Robert Mackey (SBN 125961)
THE LAW OFFICES OF ROBERT
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Attorneys for Defendant Awesome
Products, Inc.

13 ***Attorneys for Defendant Awesome Products,***
14 ***Inc.***

15 Armond M. Jackson
JACKSON APC
16 2 Venture Plaza, Suite 240
Irvine, California 92618
17 Email: ajackson@jacksonapc.com

18 ***Attorney for Plaintiff, Armando Diaz-Garcia***

19 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
20 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the
21 firm's practice of collection and processing correspondence for mailing. Under that practice it
22 would be deposited with U.S. postal service on that same day with postage thereon fully
prepaid at Los Angeles, California in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

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

25 Executed this, **September 7, 2023** at Los Angeles, California.

26 Janelle Jickain
Type or Print Name

/s/ Janelle Jickain
Signature