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Attorneys for Plaintiff MARA SANTAMARIA,
individually and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MARA SANTAMARIA, and on behalf of
all others similarly situated,

Plaintiff,

v.

BRIGHT HORIZONS CHILDREN'S
CENTER, a Delaware Corporation;
BRIGHT HORIZONS FAMILY
SOLUTIONS INC., a Delaware
Corporation, and DOES 1-10, inclusive,

Defendants.

Case No.: CIVSB2210140

**CLASS ACTION AND PAGA
REPRESENTATIVE ACTION**

Assigned For All Purposes To:
Judge: Joseph T. Ortiz
Dept.: S17

**DECLARATION OF JAMES R. HAWKINS
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT,
APPROVAL OF CLASS NOTICE, AND
CONDITIONAL CERTIFICATION OF
SETTLEMENT CLASS**

Hearing re Final Approval: May 23, 2023
Time: 1:30 p.m.

Action Filed: May 17, 2022

1 I, James R. Hawkins, declare as follows:

2 1. I am an individual over the age of 18. I am a partner at the Law Firm of James
3 Hawkins, APLC. I am one of the attorneys of record for Plaintiff MARA SANTAMARIA
4 (“Plaintiff” or “Class Representative”), who filed this Class Action on behalf of herself and all
5 others similarly situated current and former hourly non-exempt employees of Defendants Bright
6 Horizons Children’s Center, and Bright Horizons Family Solutions, Inc. (“Defendants” or “Bright
7 Horizons”) (with Plaintiff, the “Parties”). I have personal knowledge of the facts set forth below,
8 and if called to testify regarding them, I could and would do so competently.

9 2. I submit this Declaration in support of Plaintiff’s Motion for Final Approval of
10 Class Action and PAGA Settlement, and Motion for Fees and Costs, which are filed concurrently
11 herewith, along with Memorandum of Points and Authorities.

12 3. Attached hereto as **Exhibit 1** is a true and correct copy of the executed and
13 preliminarily-approved Stipulation of Settlement and Release entered by the parties, including
14 exhibits thereto, for which the parties ask the Court to grant final approval (the “Agreement” or
15 “Settlement Agreement”).

16 4. Defendant does not oppose the Motion for Final Approval.

17 **THE COURT GRANTED PRELIMINARY APPROVAL OF THE CLASS ACTION**
18 **SETTLEMENT**

19 5. On December 8, 2023, the Court granted preliminary approval of the Stipulation of
20 Settlement and Release (“Settlement” or “Agreement”) between Plaintiff Mara Santamaria and
21 Defendants Bright Horizons Children’s Center, and Bright Horizons Family Solutions, Inc.
22 (collectively, “Defendants”), approval of the class notice, and conditional certification of the
23 Settlement Class. (See, Exhibit 1.) Attached hereto as **Exhibit 2** is a true and correct copy of
24 the Preliminary Approval Order issued by the Court.¹

25 _____
26 ¹ The Parties note that there was an inadvertent error in the Preliminary Approval Order indicating
27 that the employer’s share of the payroll taxes was included in the Gross Settlement Amount. This
28 is not correct. The employer’s share of payroll taxes shall be paid outside and in addition to the
Gross Settlement Amount in accordance with the Settlement Agreement. The Parties have
addressed and fixed this issue in the Proposed Order Granting Final Approval.

1 6. In connection with the Preliminary Approval Order, the Court conditionally
2 certified the following Settlement Class for settlement purposes only: “all current and former
3 nonexempt, hourly-paid employees of Defendants, or either of them, employed in California at
4 any time from April 2, 2017, through September 1, 2022 [the “Settlement Class Period”]. (See,
5 Ex. 2, Prelim. Approval Order, ¶ 2.).

6 7. The Court appointed Plaintiff Mara Santamaria as the Class Representative and
7 James Hawkins APLC as Class Counsel. (Id. ¶ 5 and 6.)

8 8. The Court found on a preliminary basis that the Settlement Agreement appeared to
9 be fair, adequate, and reasonable, and in the best interests of the parties. (Id. ¶ 7, 10.).

10 9. The Court approved the Notice of Class Action and Private Attorney General Act
11 (“PAGA”) Settlement and distribution of the Notice to the Settlement Class. Additionally, the
12 Court further preliminarily approved the formulas provided in the Settlement Agreement for
13 calculating individual settlement payments to the Class Members using a work week based
14 calculation. (Id. ¶ 9, 11-13.)

15 10. The Court also appointed ILYM Group, Inc. as the settlement administrator. Since
16 then, ILYM Group has worked diligently with Class Counsel and counsel for Defendants to
17 efficiently administer the Settlement. (Id. ¶ 14.).

18 **SUMMARY OF SETTLEMENT TERMS PRELIMINARILY APPROVED**

19 The basic terms of the proposed Settlement Agreement are as follows:

- 20 a. Gross Settlement Amount: In full and complete settlement of the action, Defendants
21 will pay a total of \$2,500,000 as the “Gross Settlement Amount” without refund or
22 revision. The Gross Settlement Amount includes all individual Qualified Class
23 Member payments to Plaintiff and the Settlement Class; all attorney’s fees; all costs
24 and expenses incurred by Plaintiff and Class Counsel in the action; all costs and
25 expenses associated with the settlement administration; the enhancement payment
26 awarded to Plaintiff; and PAGA civil penalties. (Ex. 1, Settlement ¶ 3-5.)
27 b. Net Settlement Amount. The Net Settlement Amount is the amount available for
28

1 distribution to participating Settlement Class members after deduction of any award
2 of attorneys' fees and litigation costs, any award of an enhancement payment to
3 Plaintiff, the portion of the PAGA Penalty Allocation to be paid to the LWDA, and
4 the settlement administration costs. (Ex. 1, Settlement, ¶ f, 9.). The Net Settlement
5 Amount is estimated to be \$1,509,666.67 (Declaration of Madely Nava, submitted
6 herewith, ¶ 14.)

- 7 c. Class Counsel Attorneys' Fees and Costs. Class Counsel will apply for an award of
8 \$833,333.33 for reasonable attorneys' fees and \$19,495.68 for reimbursement of
9 actual litigation costs (preliminarily approved up to \$20,000). (Ex. 1, Settlement,
10 ¶4.)
- 11 d. Plaintiff's Enhancement Payment. Plaintiff will apply for an award of \$10,000 as a
12 service payment for her representation of the Settlement Class and in considerations
13 for the additional general release that she has entered. (Ex. 1, Settlement, ¶2, 4.)
- 14 e. Allocation of PAGA Penalties. \$100,000 of the Gross Settlement Amount will be
15 allocated to the settlement of Plaintiff's PAGA claims (the "PAGA Allocation").
16 75% of the PAGA Penalty Allocation (\$75,000.00) will be paid to the LWDA and
17 25% (\$25,000) will be distributed to the PAGA Employees on a pro rata basis based
18 upon each PAGA Employee's total pay periods worked divided by the total number
19 of pay periods worked by all PAGA Employees during the PAGA Period. All
20 PAGA payment distributions will be treated as non-wages for tax purposes. (Ex. 1,
21 ¶ 5.).
- 22 f. Settlement Administration Costs. The costs of administration were estimated to be
23 \$52,000. (Ex. 1, ¶ 4.).
- 24 g. Each Participating Settlement Class member will receive a pro rata share of the Net
25 Settlement Amount. To calculate each Qualified Class Member's share of the Net
26 Settlement Amount, the Net Settlement Amount shall be multiplied by a fraction,
27 the numerator of which is the number of work weeks the Qualified Class Member
28

1 worked any regular hours as a non-exempt, hourly paid employee in California
2 during the Settlement Class Period, and the denominator of which is the total of all
3 weeks in which the Qualified Class Members worked any regular hours during the
4 Settlement Class Period. (Ex. 1, ¶ 9.B.i.). The resulting number shall be the
5 Qualified Class Member's Payment. 1/3 of each Qualified Class Member's
6 Payment will be paid as W-2 wages 2/3 will be paid as 1099 penalties and interest.
7 (Id., ¶ 9 B.ii.-iii.).

8 **THE SETTLEMENT ADMINISTRATOR HAS CARRIED OUT THE NOTICE**
9 **PROCEDURES**

10 11. The Parties and the Settlement Administrator successfully delivered notice of the
11 Court's Preliminary Approval Order to the Settlement Class. As detailed in the Declaration of
12 Madely Nava of ILYM Group, Inc. In Support of Motion for Final Approval of Class Action
13 Settlement, Notice was mailed to the 6,416 Class Members on the Class List provided by
14 Defendants. 330 Notice Packets were returned by the United States Postal Service. 14 were
15 returned with a forwarding address and were promptly remailed. A skip trace was performed in
16 connection with the other 316 returned Notice Packets. Updated addresses were found for 216 of
17 the Settlement Class Members and Notice Packets were promptly remailed to the updated
18 addresses. 100 Notice Packets were deemed undeliverable.

19 12. The deadline to object or request exclusion from the Settlement was April 3, 2023,
20 except for those Class Members whose Notices were remailed to an updated address, in which case
21 the deadline is extended the later of April 3, 2023, or forty-five (45) calendar days from the re-
22 mailing date. (Id. ¶ 11). Twenty-nine (29) Settlement Class Members requested exclusion and one
23 (1) submitted an objection to the Settlement. (Id., ¶ 11, 12). Based upon these numbers, less than
24 .5% of the Settlement Class Members requested exclusion from the Settlement.

25 13. Thus, 99.55% of the Class will participate in the Settlement and receive the
26 individual share of the Net Settlement Amount. (Nava Decl. ¶13.)

27 14. I have reviewed the Objection attached to the Nava Declaration. Notably, the
28

1 objection did not indicate that the Class Member believed that some aspect of the Settlement was
2 unfair to the Class Members or inadequate. (See, Nava Decl. ¶12, Ex. B.). Rather, the objection
3 states that the Objector had “been employed by Bright Horizons for 27 years and ha[d] never been
4 wronged by them.” (Id.).

5 15. In my opinion, this excellent result confirms that the Class overwhelmingly endorses
6 the Settlement and confirms the Court’s preliminary approval finding that the Settlement is fair,
7 reasonable, and adequate.

8 16. The Court preliminarily approved \$52,000 from the Settlement to cover the costs
9 associated with ILYM Group’s work in administering the Settlement. I respectfully submit that I
10 believe this sum is appropriate.

11 **THE SETTLEMENT IS FAIR, REASONABLE AND ADEQUATE**

12 17. In conjunction with Plaintiff’s Motion for Preliminary Approval, I provided the
13 Court with a detailed description of the claims, defenses and Defendants’ potential exposure on
14 those claims, to allow the Court to evaluate the sufficiency of the Settlement, as required in
15 *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-30 (2008). I attach my declaration
16 submitted in support of Preliminary Approval to assist the Court in review. My preliminary
17 approval declaration without exhibits is attached hereto as **Exhibit 3** and is incorporated herein
18 by this reference.

19 18. Plaintiff and Defendants entered into the proposed Settlement Agreement only
20 after conducting an extensive investigation, exchanging voluminous documents, and participating
21 in a full-day mediation session with Gig Kyriacou, Esq. This exchange and investigation enabled
22 Class Counsel and Defense Counsel to thoroughly evaluate the strengths and weaknesses of the
23 claims and defenses asserted. Thus, the Settlement is the product of an arms-length negotiations
24 assisted by an experienced wage and hour mediator.

25 19. Based on my experience, I believe that the proposed Settlement is fair, reasonable
26 and adequate and represents a great result for the Settlement Class Members. As detailed in my
27 Declaration in Support of Preliminary Approval, although Plaintiff and Class Counsel
28 compromised to achieve the Settlement, the compromise is extremely fair, reasonable and adequate

1 when compared to the realistic value of the class claims and considering the substantial risks
2 involved in pursuing further litigation including the possibility of appeals by either party that would
3 serve to increase the amount of time in which Settlement Class Members could possible see some
4 benefits.

5 20. In litigating and resolving this action, Plaintiff recognized numerous risks inherent
6 in litigating this case including: (1) the risks associated with certifying the action as a class action;
7 (2) the risks associated with maintaining the class action status through trial; (3) the likelihood of
8 class action recovery at trial after analyzing the merits of Defendants' legal defenses; and (4) the
9 current state of the law regarding certification and establishing common questions of fact. At all
10 times, Defendants vigorously deny all claims in this litigation and argue that the claims are not
11 amenable to class certification. They argued that they maintained lawful written policies that were
12 provided to the class members, and trained employees to follow lawful meal and rest break
13 procedures. They argued that they always complied with applicable law and maintained lawful
14 policies and procedures. Defendants also contended that class treatment was not warranted because
15 to the extent Plaintiff could prove that a meal or rest period was missed, late or short, it was a
16 matter of individual preference. As such, in evaluating the proposed resolution we considered the
17 risks of receiving no recovery, balanced by the investigation and analysis performed in valuing the
18 case. We also considered the likelihood of obtaining a similar or greater recovery in the event
19 Plaintiff obtained a judgment in her favor. The fact that, even in Plaintiff proves Defendants'
20 liability for all the claims alleged in the Complaint, Plaintiff would still have to prove the amount
21 of damages owed in this case weighs in favor of approval of the Settlement. Absent a settlement,
22 the Parties will have to engage in costly and complex damages calculations regarding the claims
23 alleged in the lawsuit (e.g., daily "off the clock" wages owed, daily "rounding" wages owed,
24 daily/weekly overtime premiums owed, meal/rest period premiums owed, interest, and PAGA
25 penalties, among others), which are subject to a myriad of differing calculations and formulas.
26 Furthermore, we examined the likelihood of obtaining class certification and maintaining the class
27 action status through trial. In addition, if this case were to continue as a class action through trial,
28 both Parties will necessarily incur substantial litigation expenses, including the expense and time

1 of analyzing voluminous document, and hiring statisticians and additional expert witnesses to
2 testify at trial. In sum, we believe that all of these factors confirm that this settlement is fair,
3 reasonable, and adequate.

4 21. In addition to the substantial risks and uncertainty inherent in continued litigation,
5 Plaintiffs and Defendants faced the *certainty* that further litigation—potentially through trial and
6 appeals—would be expensive and time consuming. Therefore, the proposed Settlement is both
7 fair and reasonable in light of Defendants asserted legal and factual grounds for defending against
8 the putative class claims and the risks of not obtaining and/or maintaining class certification
9 through the trial of the action and after any appeals.

10
11 **THE CLASS REPRESENTATIVE ENHANCEMENT AWARD IS JUSTIFIED**

12 22. Under the terms of the Settlement Agreement, Plaintiff seek an enhancement award
13 in the amount of \$10,000 for her service in filing and prosecuting this class action on behalf of the
14 Settlement Class.

15 23. I strongly support the Enhancement Award to the Plaintiff and Defendants do not
16 oppose the amount requested. Such amount was reached as the product of arm's length negotiations.
17 Plaintiff's assistance to Class Counsel and services to the Settlement Class have been invaluable.
18 (See generally, Declaration of Mara Santamaria in Support of Motion for Final Approval of Class
19 Action Settlement). Thus, I believe that the requested Enhancement Award to Plaintiff as Class
20 Representatives is justified, fair and warranted.

21 24. By coming forward and pursuing this class action lawsuit that, in this information
22 age, can easily be discovered by prospective employers demonstrates that Plaintiff has placed the
23 interest of the Settlement Class above her own. Additionally, Plaintiff made the decision from the
24 very beginning of the litigation to protect the interest of the Settlement Class by not wavering from
25 their decision to prosecute and settle the claims on behalf of putative class members for a settlement
26 that was in the best interests of the Settlement Class. I do not believe that Plaintiff has any interests
27 that are adverse or antagonistic to the Class Members' interests.

28 25. Plaintiff was a crucial participant in the prosecution of this litigation. Plaintiff

1 worked closely with me and my firm in all aspects of the litigation in this case. She provided an
2 extraordinary amount of factual information necessary for the prosecution and settlement of the
3 class claims. This information proved invaluable in our settlement discussions. Plaintiff also spent
4 a significant amount of time searching for and producing documents in the case and assisting in the
5 review and interpreting the voluminous documents produced by Defendants. Plaintiff actively
6 participated in this litigation during all stages.

7 26. As part of the consideration for the Enhancement Award, Plaintiff also agreed to
8 enter into a broader release of claims against Defendants as opposed to the narrowly drafted release
9 for the other Class Members.

10 27. Plaintiff took on significant risks, including the potential that the lawsuit may affect
11 her ability to obtain future employment as well as the risk of paying an award of costs to Defendants
12 if she was not successful in litigating her claims. There was also a significant risk that, if the
13 litigation was not settled, Plaintiff would be unable to certify the action as a class action and
14 maintain class certification through trial and thereby not recover on behalf of any other employees.

15 28. Plaintiff has been an exceptional Class Representative and the Class has benefited
16 immensely from her services. The enhancement payment is reasonable in light of the time and effort
17 Plaintiff has spent on this litigation and the excellent result they obtained on behalf of the Class.
18 Thus, I submit the Enhancement Award to Plaintiff is appropriate and justified as part of the overall
19 Settlement and warrants final approval.

20
21 **THE ATTORNEYS' FEES AND LITIGATION COSTS CLASS COUNSEL SEEK**
22 **ARE REASONABLE, FAIR AND ADEQUATE**

23 29. Class Counsel seeks an award of attorneys' fees of \$833,333.33 (1/3 of the
24 Gross Settlement Amount) and costs of \$19,495.68. The fee is warranted and reasonable
25 because of the substantial work and effort incurred to achieve the Settlement on behalf of the
26 Settlement Class, the litigation risks and complexities of prosecuting these types of cases, the
27 contingency nature of any fee, Class Counsel's skill and experience in handling cases of this
28 type, and fees commonly awarded in analogous wage and hour lawsuits and settlements. Class

1 Counsel's fees and costs request is further warranted by the significant benefits achieved on
2 behalf of the Class Members, including a \$2,500,000 non-reversionary cash settlement. These
3 expenses primarily involve the costs incurred for initial filing fees, mediation fees, and also include
4 the amounts paid for court filing fees and service charges, all of which are costs normally billed to
5 and paid by the client.

6 30. Although case law supports as high as a 50% fee award on common settlement
7 funds of less than \$10 million, Class Counsel requests an attorneys' fees award of \$833,333.33
8 which is one-third of the common fund Settlement.

9 31. Class Counsel's fees request is reasonable considering: (a) the work involved
10 in achieving an excellent result for the Class and bringing the action to an efficient resolution,
11 (b) the associated risks to my firm in taking a matter on a contingency basis, (c) the substantial
12 benefits conferred on the Settlement Class, and (d) the overwhelmingly positive response by
13 Settlement Class Members to the Settlement.

14 32. In my opinion, the requested fee award takes into account the excellent result
15 and the risks undertaken in bringing this case on a contingency basis, advancing all costs and
16 deferring payment for the time that Class Counsel has worked on this case, with no guarantee
17 that any of the fees and costs incurred would ever be recovered.

18 33. Plaintiff signed a retainer agreement providing for an attorneys' fee request up
19 to 40% of any recovery achieved in this case. Plaintiff was not able and is not responsible for
20 paying our fees, and Class Counsel would only collect attorneys' fees if we were successful in
21 prosecuting her claims. In addition, taking on this case meant that my firm had to turn away
22 other fee-generating work because the case required Class Counsel to dedicate sufficient
23 resources to the prosecution of this case.

24 34. In addition, the parties' Settlement Agreement asks the Court to award in
25 attorneys' fees what would be one-third of the Gross Settlement Amount (\$833,333.33), which is
26 respectfully believed to be reasonable. The requested fee and cost award was negotiated during
27 adversarial bargaining by counsel for each of the Parties, after the substantive terms of the
28

1 Settlement had been negotiated. The requested fee and cost award was a product of arms-length
2 negotiations and fairly reflects the marketplace value of the services rendered by Class Counsel in
3 this case. My firm has borne the entire risk and cost of this litigation on a pure contingency basis.
4 The legal issues raised in this case were complex and drew significantly upon the experience of
5 Class Counsel. The proposed attorneys' fees accurately reflect the legal marketplace and are
6 within the range of customarily approved fees by California courts.

7 35. Despite the complexity of the case, Class Counsel has, through our investment of
8 substantial effort and resources, secured an outstanding settlement on behalf of the Class
9 Members. The issues and arguments Class Counsel has encountered and overcome in arriving at
10 the parties' negotiated settlement terms were also many and complex and required skillful
11 advocacy that can arise only out of experience, professional perspective, and success. Plaintiff
12 would have faced substantial legal and factual obstacles in demonstrating that Class certification
13 was appropriate and that she would prevail on the merits in light of Defendant's asserted
14 defenses. Still, Class Counsel has negotiated a substantial settlement on behalf of the Class for
15 such claims. Plaintiff would have also been required to establish a significant amount of witness
16 testimony, and other evidence in order to evaluate and present arguments at both class
17 certification and trial. Defendant has vigorously challenged the claims asserted, contested
18 liability, the amount of claimed damages, the propriety of the Class Certification, and would have
19 continued to do so throughout trial and upon appeal. Accordingly, Class Counsel believe the
20 Settlement to be fair, reasonable, and adequate and that it is in the best interest of the Class
21 Members. The fairness and adequacy of the Settlement is confirmed by all known facts and
22 circumstances, including the risk of significant delay and uncertainty associated with litigation,
23 the various defenses asserted by Defendant, and numerous potential appellate issues.

24 36. Plaintiff and Class Counsel respectfully submit the fees and costs provision of the
25 Settlement is fair and reasonable both when cross-checked under the lodestar and common fund
26 method. The total billable hours that I and my firm have invested and will invest in prosecuting
27 this action and the related San Francisco action, should the settlement be approved by this
28 honorable Court, is substantial. Our fees and costs request is fair and reasonable because we have

expended substantial time and effort in achieving the proposed Settlement, including the following tasks: investigating the factual and legal basis of the action; investigating Plaintiff's background, typicality, and her claims; analyzing documents provided by Plaintiff, including personnel, payroll, and policy documents; investigating Defendant's organization and structure from publicly available information; research regarding the claims raised by Plaintiff; research regarding Defendants' industry and operations; preparing the Complaint in this action and the related San Francisco action; preparing and reviewing informal document and data discovery requests; engaging in meet and confer efforts regarding informal discovery and mediation preparation; preparing motions and attending court hearings and case management conferences; preparing the amended complaint; preparing the LWDA letter; interviews with Plaintiff; identifying and interviewing other witness and potential class members; reviewing and analyzing the documents produced by Defendant, including the class list and payroll information; working with an expert to prepare for mediation; preparing complex damages analysis and extrapolation of damages to the entire Class; preparing for and attending a full day mediation; negotiating and finalizing an MOU; negotiating and finalizing a Settlement Agreement with Defendant's Counsel; soliciting proposals from settlement administrators; and drafting preliminary and final approval motions and supporting papers.

37. James Hawkins APLC has spent over 500 hours of attorney and para-professional time prosecuting this case resulting in a lodestar of in excess of \$359,100.

Name	Year Admitted to Bar	Hours	Rate	Total
James Hawkins	1997	185.6	\$900	\$167,040.00
Samantha Smith	2004	68.7	\$775	\$53,245.50
Christina Lucio	2007	99.5	\$775	\$77,112.50
Mitchell Murray	2012	43.6	\$675	\$29,430.00
Danielle Piskor	2021	24.7	\$450	\$11,115.00
Paul Brown	2021	20.4	\$450	\$9,180.00
Paralegals		59.9	\$200	\$11,980.00
TOTAL		502.4		\$359,100.00

1 38. I am the founding partner at James Hawkins, APLC and have devoted 185.6 hours
2 in prosecuting this case on behalf of Plaintiff and the Class. I graduated from the University of
3 California, Los Angeles in 1993 and received my law degree from Whittier Law School in 1997. I
4 was also a full-time Judicial Extern for United States District Judge Consuelo B. Marshall and the
5 United States Attorney's Office. I have been a member of the State Bar of California since 1997.
6 From 1997 to 2007, I was a named partner at Hawkins & Sofonio, a law firm based out of Irvine,
7 California. At Hawkins & Sofonio, I pioneered the employment department litigating plaintiff
8 related employment issues such as wrongful termination, age discrimination, disability, wage and
9 hour, and sexual harassment claims. Through the success and experience I obtained litigating
10 employment-related matters, I commenced litigating wage and hour class actions in 2002. Since
11 then, I have spent the vast majority of my practice litigating Wage and Hour Class Actions. In
12 2007, I incorporated my wage and hour class action practice as James Hawkins, APLC. Since its
13 inception, this law firm has been exclusively involved in class action and complex litigation. In
14 2009, I opened an additional office in Miami, Florida, prosecuting wage and hour class actions.
15 Since 2002, I have led or co-lead counsel in hundreds of wage and hour class actions. My hourly
16 rate is \$900 per hour. The number of hours I have expended for work performed and the
17 corresponding attorney's fees of \$167,040.00 are reasonable and necessary.

18 39. Christina Lucio is Of Counsel to James Hawkins, APLC and has been the day to
19 day attorney on this case since 2022. She has devoted 99.5 hours in prosecuting the Action. Ms.
20 Lucio graduated from the University of California, Riverside in 2003 and received her law degree
21 from the University of Southern California, Gould School of Law (USC Law School) in 2007.
22 She has been a member of the State Bar of California since 2007 and is a member of the Labor
23 and Employment Law section of the California Bar Association and American Bar Association.
24 She was selected as a "Rising Star" for 2015 by Super Lawyers Magazine. Ms. Lucio focuses
25 primarily on employment law including wrongful termination, discrimination, retaliation, wage
26 and hour violations (individual and class action), and sexual harassment claims. In recent years, a
27 substantial part of her practice has been focused on class actions, including wage and hour
28 litigation. Ms. Lucio's hourly rate is \$775 per hour. The number of hours Ms. Lucio expended

1 for work performed and the corresponding attorney's fees of \$77,112.50 are reasonable and
2 necessary.

3 40. Mitchell Murray is Of Counsel to James Hawkins APLC. He has devoted 43.6
4 hours in prosecuting the Action. Mr. Murray is a 2007 graduate of the University of California,
5 San Diego and 2012 graduate of California Western School of Law. He was admitted to the State
6 Bar of California in 2012. He is a member of the Consumers Attorneys of San Diego. He was
7 selected as a "Rising Star" in 2019 by Super Lawyers Magazine. Mr. Murray's legal experience
8 has focused primarily on employment law. Since 2016, he has focused his practice in the area of
9 wage and hour class action. Mr. Murray's hourly rate is \$675.00 per hour. The number of hours
10 expended by Mr. Murray for work performed and the corresponding attorney's fees of \$29,430.00
11 are reasonable and necessary.

12 41. Samantha Smith was a senior attorney at James Hawkins APLC and is currently a
13 partner at Crosner Legal, P.C. She was the lead day to day attorney involved at the inception of
14 the action and devoted 68.7 hours in prosecuting the Action. Ms. Smith is a 1999 graduate of the
15 University of California, Davis and 2003 graduate of University of California, College of Law,
16 San Francisco. She was admitted to the State Bar of California in 2004. Ms. Smith has a wide-
17 ranging background in complex class action litigation with direct experience litigating
18 employment wage and hour and PAGA class action cases. Ms. Smith's hourly rate is \$775.00 per
19 hour. The number of hours expended by Ms. Smith for work performed and the corresponding
20 attorney's fees of \$53,242.50 are reasonable and necessary.

21 42. Paul Brown is a junior associate attorney and worked in an Of Counsel role. Mr.
22 Brown is a 2014 graduate of New York University and 2021 graduate of the University of San
23 Francisco School of Law. He was admitted to the State Bar of California in 2021. Mr. Brown has
24 dedicated 20.4 hours in prosecuting this action on behalf of Plaintiff and the class. Mr. Brown's
25 hourly rate is \$450.00 per hour. The number of hours expended by Mr. Brown for work
26 performed and the corresponding attorney's fees of \$9,180.00 are reasonable and necessary.

27 43. Danielle Piskor was a junior associate attorney and Of Counsel to our firm at the
28 time of her work. She is currently a deputy public defender for the County of San Diego. Ms.

1 Piskor has dedicated 24.7 hours in prosecuting this action on behalf of Plaintiff and the class. Ms.
2 Piskor is a 2016 graduate of the University of Texas at Austin and 2020 graduate of the California
3 Western School of Law. She was admitted to the State Bar of California in 2021. Ms. Piskor's
4 hourly rate is \$450.00 per hour. The number of hours expended by Ms. Piskor for work
5 performed and the corresponding attorney's fees of \$9,880 are reasonable and necessary.

6 44. Our paralegals have dedicated in excess of 59.9 hours in assisting with the
7 prosecution of this case. Their hourly rate is \$200.00 per hour. The number of hours expended for
8 work performed and the corresponding fees of \$11,980.00 are reasonable and necessary.

9 45. I submit that the requested attorneys' fees of one-third the Gross Settlement
10 Amount that Class Counsel has obtained on behalf of the Class Members is fair and reasonable,
11 as are the hourly rates at which our attorneys bill.

12 46. The total fees incurred by attorneys and paralegals in this case on behalf of
13 Plaintiff and the class amounts to a lodestar of approximately \$359,100.00. This corresponds to a
14 lodestar multiplier of approximately 2.32. We respectfully submit that this small positive
15 multiplier is warranted and should be approved. Plaintiff's counsel has expended significant
16 resources, costs and time in investigating, bringing and litigating this action over the last nearly
17 two years in the courts. The requested fee award is well within the range approved by California
18 Courts and is undoubtedly reasonable.

19 47. The Settlement provides significant monetary benefits to the Class Members. All
20 Class Members will receive a meaningful payment of their damages without the need to submit a
21 claim form and the \$2.5 million settlement will be paid without reversion to Defendants.

22 48. The result of continued litigation in this matter was far from certain. Here, and as
23 extensively detailed in Plaintiff's Motion for Preliminary Approval, many of the defenses asserted
24 by Defendants presented serious threats to the claims of Plaintiff and the other Class Members.
25 There was considerable risk that Plaintiff would not prevail on a motion for class certification
26 and/or Defendants would prevail on their defenses, thus, defeating any and all recovery to the
27 class. Even if Plaintiff successfully obtained class certification of the wage and hour claims,
28 proving class-wide liability was by no means a foregone conclusion. All of these were very

1 substantial risks any of which could have resulted in the Class receiving nothing if the claims
2 were litigated.

3 49. In support of Class Counsel’s hourly rates, attached hereto as **Exhibit 4** is an
4 excerpt of the 2021 Real Rate Report compiled by Wolters Kluwer that surveyed the hourly rates
5 charged in 2021 by hundreds of attorneys in the Los Angeles County area. For example, the real
6 market rates of Los Angeles County area attorneys who practiced “Litigation” are surveyed at
7 page 17 of the report, which describes the 2021 rates charged by 342 Los Angeles County
8 partners and 433 Los Angeles County associates. For that category, the Third Quartile Los
9 Angeles County rates were \$1,042 per hour for partners and \$806 per hour for associates.
10 Similarly, page 26 of the report describes the 2021 rates charged by 70 Los Angeles County
11 associates with “Fewer Than 3 Years” of experience. For this category, the Third Quartile Los
12 Angeles County rate was \$622 per hour for associates. Page 26 of the report also describes the
13 2021 rates charges by 128 Los Angeles County associates with “3 to Fewer Than 7 Years” of
14 experience. For that category, the Third Quartile Los Angeles County rate was \$821 per hour for
15 associates. Likewise, page 32 of the report describes the 2021 rates charged by 173 Los Angeles
16 County partners with “Fewer Than 21 Years” of experience. For this category, the Third Quartile
17 Los Angeles County rate was \$1,065 per hour for partners.

18 50. Finally, our requested hourly rates are in line with the Laffey Matrix, attached
19 hereto as **Exhibit 5**.

20 51. Class Counsel respectfully requests the Court award its fees in accordance with the
21 percentage of the common fund approach, based upon a reasonable contingency fee on the
22 Settlement Amount. (*See Laffitte v. Robert Half International, Inc.* (2016) 1 Cal. 5th 480). The
23 total billable hours Class Counsel has invested and will continue to invest in prosecution of this
24 action, should they be approved by the Court, have been substantial. As detailed above, Class
25 Counsel has spent significant time over nearly two years prosecuting this case. Plaintiff and Class
26 Counsel respectfully submit the fees provision of the Settlement is fair and can be cross-checked
27 for reasonableness under lodestar.

1 52. My firm has been the only counsel to represent Plaintiff and the Class in this
2 matter, and we have borne the entire risk and cost of this litigation on a pure contingency basis.
3 The issues and arguments Class Counsel has encountered and overcome in arriving at the parties'
4 negotiated settlement terms were also many and complex and required skillful advocacy that can
5 arise only out of experience, professional perspective, and success. Such claims are complex,
6 evidence intensive, and nuanced, and can be very challenging to certify. The Settlement was only
7 possible because Class Counsel was able to convince Defendants that Plaintiff could prevail on
8 her motion for class certification and other disputed legal issues regarding liability as well as
9 prove damages at trial.

10 53. To date, Class Counsel has not received any compensation and expended litigation
11 costs on behalf of the Class. Class action contingency cases are inherently risky. Upon retention,
12 counsel makes a commitment to litigate the case through trial. These types of cases can take
13 years, hundreds of hours of work and enormous amount of money. The risks involved coupled
14 with the contingency basis of the case further support Class Counsel's request for attorneys' fees
15 and costs.²

16 54. As detailed above, and in my Preliminary Approval declaration, I, and the other
17 lawyers in my firm, have a great deal of experience in wage and hour class action litigation. I
18 have been certified and approved as class counsel in many other wage/hour class actions, and I
19 am currently litigating numerous others before this Court and others. Although not an all-
20 inclusive list, over the years I have prosecuted the following class action matters as lead and/or
21 co-lead counsel, all of which implicated similar law and facts to those associated with this Action:

- 22 a. ***Mojica v. Compass Group, Inc., et. al.*** USDC Central District, Case No. 8:13-cv-
23 01754. Wage and Hour Class Action case seeking past wages for meal and rest
24 break violations for production workers in the State of California. Plaintiff's
25

26 ² Indeed as an example, James Hawkins APLC litigated a certified class case entitled *Cole, et. al.*
27 *v. CRST*, in the Central District of California Case No. ED-CV 08-1570-VAP, for approximately
28 11 years which ultimately resulted in Judgment in favor of the Defendant and confirmed on
appeal, where hundreds of thousands of dollars in costs including thousands of hours of attorney
time by Plaintiffs were never recovered.

Counsel preliminarily appointed as Class Counsel. Case settled. Final approval granted, and funds fully disbursed.

- b. ***Dao v. 3M Company, et al.*** USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for “off the clock”, overtime and meal and rest break violations for production workers in the State of California. Plaintiff’s Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- c. ***Ortiz v. Kmart***, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff’s counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- d. ***Morgan v. Aramark Campus***, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff’s Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- e. ***West v Iron Mountain Information Management, Inc, et. al.***; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Stipulation for “binding arbitration.” Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff’s counsel lead trial counsel and class counsel.
- f. ***Gonzalez v. Superior Industries International, Inc., et al.***, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff’s counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

- 1 g. ***Acosta v. Fleetwood Travel Trailers of California, Inc., et al.***, Riverside County
2 Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past
3 wages for overtime, meal and rest break violations for production employees in the
4 State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
5 Final Approval granted, no objections and funds fully distributed.
- 6 h. ***Walker v. Sharkeez, et al.***, Orange County Superior Court, Case No. 05CC00293.
7 Wage and Hour Class Action seeking past wages for unlawful deductions, meal
8 and rest break violations for restaurant employees in the State of California.
9 Plaintiff's counsel appointed as lead counsel. Case settled. Final Approval granted
10 and funds fully distributed.
- 11 i. ***Padron v. Universal Protection Service, et al***, Orange County Superior Court,
12 Case No. 05CC00013. Wage and Hour Class Action seeking past wages for
13 overtime, meal and rest break violations for security officers in the State of
14 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
15 Approval granted, no objections and funds fully distributed.
- 16 j. ***Martinez v. Securitas Security Services USA, et al.***, Santa Clara Superior Court,
17 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
18 seeking past wages for meal and rest break violations for security officers
19 employed by defendant in the State of California. Plaintiff's counsel and co-
20 counsel. Case settled, Final Approval granted and funds fully distributed.
- 21 k. ***Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.***, Riverside Superior Court,
22 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for
23 overtime, meal and rest break violations for housekeepers employed by defendant
24 in the State of California. Plaintiff's counsel appointed as lead counsel. Case
25 settled, Final Approval granted, no objections and funds fully distributed.
- 26 l. ***Ruiz, et al. v. Unisource Worldwide, Inc., et al.***, USDC, CENTRAL DISTRICT,
27 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal
28 and rest period violations for non-exempt employees employed by defendant in the

1 state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff
2 has petitioned the Court for Lead Counsel.

- 3 m. **Herrador v. Culligan International Company, et al.**, USDC, CENTRAL
4 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past
5 wages for field and branch employees of defendant in the State of California.
6 Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final
7 Approval.
- 8 n. **Defries v. Domain Restaurants, et al.**, Orange County Superior Court, Case No.
9 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
10 employees of defendant in the State of California. Plaintiff's counsel appointed as
11 lead counsel. Case settled, Final Approval granted, no objections and funds fully
12 distributed.
- 13 o. **Denton v. BLB Enterprises, Inc., et al.**, Orange County Superior Court, Case No.
14 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
15 break violations for security guards employed by defendant in the State of
16 California. Plaintiff's counsel appointed as lead counsel. Case settled, Final
17 Approval granted, no objections and funds fully distributed.
- 18 p. **Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.**, Los Angeles Superior
19 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal
20 and rest break violations for production employees employed by defendant in the
21 State of California. Plaintiff counsel appointed as lead counsel. Case settled,
22 Final Approval granted, no objections and funds fully distributed.
- 23 q. **McMurray v. Dave and Busters, Inc., et al.**, Orange County Superior Court, Case
24 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and
25 rest break violations for restaurant employees employed by defendant in the State
26 of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
27 Approval granted, no objections and funds fully distributed.
- 28

- 1 r. ***Osuna v. DFG Restaurants, Inc., et al.***, Los Angeles Superior Court, Case No.
2 BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
3 classification of managers employed by Defendant, DBA Carl's Jr. in the State of
4 California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final
5 Approval granted, no objections and funds fully distributed.
- 6 s. ***Burns v. Gymboree Operations, Inc., et al.***, San Francisco Superior Court, Case
7 No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal
8 and rest break violations for retail employees employed by defendant in the State
9 of California. Plaintiff's counsel appointed lead counsel. Case settled, Final
10 Approval granted, no objections and funds fully distributed.
- 11 t. ***Willems v. Diedrich Coffee, Inc., et al.***, Orange County Superior Court, Case No.
12 07CC00015. Wage and Hour Class Action seeking past wages of overtime for
13 mis-classification of managers employed by Defendant in the State of California.
14 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted,
15 no objections and funds fully distributed.
- 16 u. ***Davila, et al. v. Beckman Coulter, Inc., et al.***, Orange County Superior Court,
17 Case No. 07CC01347. Wage and Hour Class Action seeking past wages for
18 overtime, meal and rest break violations for production workers employed by
19 defendant in the State of California. Plaintiff's counsel appointed lead counsel.
20 Cased settled, Final Approval granted, no objections and funds fully distributed.
- 21 v. ***Perez v. Naked Juice Company of Glendora, Inc.***, Los Angeles Superior Court,
22 Case No. BC387088. Wage and Hour Class Action seeking past wages for
23 overtime, meal and rest period violations for production employees employed by
24 defendant in the State of California. Plaintiff counsel appointed as lead counsel.
25 Case settled. Final Approval granted, no objections and funds fully distributed.
- 26 w. ***Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and***
27 ***Hour Cases***, Los Angeles Superior Court, Case No. JCCP 4545. Wage and Hour
28 Class Action seeking past wages for overtime, meal and rest period violations for

1 security guards employed by defendant in the State of California. Certification
2 granted. Plaintiff's counsel appointed as co-lead counsel. Writ taken. Court stays
3 action pending Appellate Court ruling. Court lifts stay.

4 x. **Placencia v. Amcor Packaging Distribution, Inc.**, Orange County Superior Court,
5 Case No. 30-2013-00694012-CU-OE-CXC. Wage and Hour Class Action seeking
6 past wages for overtime, meal and rest period violations, and penalties on behalf of
7 non-exempt production, maintenance, shipping, and receiving employees
8 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
9 Case settled. Final Approval granted, no objections and funds fully distributed.

10 y. **Trani v. Lisi Aerospace, et al.**, Los Angeles Superior Court, Case No. BC495527.
11 Wage and Hour Class Action seeking past wages for overtime, meal and rest
12 period violations, and penalties on behalf of non-exempt manufacturing employees
13 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
14 Case settled. Final Approval granted, no objections and funds fully distributed.

15 z. **Galvan v. Goodwin Co.**, Orange County Superior Court, Case No. 30-2013-
16 00637062-CU-OE-CXC, Wage and Hour Class Action seeking past wages for
17 meal period violations, and non-compliant wage statements on behalf of non-
18 exempt production employees employed by Defendant in California. Plaintiff
19 counsel appointed as lead counsel. Case settled. Final Approval granted, no
20 objections and funds fully distributed.

21 aa. **Reyes v. Bristol Fiberlite**, Orange County Superior Court, Case No. 30-2013-
22 00653425-CU-OE-CXC. Wage and Hour Class Action seeking past wages for
23 overtime, meal and rest period violations, inaccurate wage statements, and
24 penalties on behalf of non-exempt employees employed by Defendant in
25 California. Plaintiff counsel appointed as lead counsel. Case settled. Final
26 Approval granted, no objections and distribution of funds pending.

27 bb. **Gutierrez v. HMT Tank**, USDC Central Dist., Case No. CV14-1967-
28 CAS(MANx). Wage and Hour Class Action seeking past wages for meal and rest

1 period violations, failure to indemnify necessary expenses, inaccurate wage
2 statements, and penalties on behalf of non-exempt employees working in positions
3 related to servicing, refabricating, and repairing storage tanks employed by
4 Defendant in California. Plaintiff counsel appointed as lead counsel. Case settled.
5 Final Approval granted, no objections and funds fully distributed.

6 cc. ***Williams v. Il Fornaio America Corp.***, Sacramento County, Case No. 34-2021-
7 0009616. Wage and Hour Class Action seeking past wages for overtime, meal and
8 rest period violations, reimbursements, and penalties on behalf of non-exempt
9 restaurant employees employed by Defendant in California. Plaintiff counsel
10 appointed as lead counsel. Case settled. Final Approval granted, and funds fully
11 distributed.

12 dd. ***Aguilar v. 7-Eleven, Inc.***, Orange County, Case No. 30-2009-002687141-CU-
13 OE-CXC. Wage and Hour Class Action seeking past wages for overtime, meal and
14 rest period violations, and penalties on behalf of non-exempt retail clerks
15 employed by Defendant in California. Plaintiff counsel appointed as lead counsel.
16 Case settled. Final Approval granted, no objections and funds fully distributed.

17 ee. ***Madrigal v. Huntington Beach Market Broiler, Inc.***, Orange County, Case No.
18 30-2012-00611260. Wage and Hour Class Action seeking past wages for
19 overtime, meal and rest period violations, reimbursements, and penalties on behalf
20 of non-exempt employees employed by Defendant in California. Plaintiff counsel
21 appointed as lead counsel. Case settled. Final Approval granted, no objections and
22 funds fully distributed.

23 ff. ***Vang v. Jazz Semiconductor, Inc.***, Orange County, Case No. 30-2011-00460278.
24 Wage and Hour Class Action seeking past wages for overtime, meal and rest
25 period violations, reimbursements, and penalties on behalf of non-exempt
26 production workers employed by Defendant in California. Plaintiff counsel
27 appointed as lead counsel. Case settled. Final Approval granted, no objections and
28 funds fully distributed.

1 55. In sum, my firm has been lead or co-lead counsel in hundreds of cases since its
2 inception. We have recovered hundreds of millions of dollars for employees in the State of
3 California and millions for the State as well through PAGA.

4 56. Our firm has served as class counsel in a number of significant wage and hour
5 settlements. Of particular note, in 2019, our firm was co-lead counsel in securing the largest
6 wage and hour class action settlement in California history at \$130,000,000. During this case,
7 plaintiffs appealed a decertification order. This case involved several appeals. The appellate
8 record amassed an extensive appellate record comprising a 23-volume joint appendix, a three-
9 volume reporters transcript, five briefs, four letter briefs, two motions for judicial notice, a
10 motion to augment the record, and several additional letters informing the appellate court of new
11 legal authority issued after *Dukes*. The matter was argued to and submitted by the Court of
12 Appeal on September 15, 2016, and on November 21, 2016, the decertification order was
13 reversed and the case was remanded for further proceedings. (*Lubin v. The Wackenhut*
14 *Corporation* (“*Lubin*”), 5 Cal. App. 5th 960 (2016)). Wackenhut filed a petition for review of
15 the Court of Appeal decision to the California Supreme Court. The Supreme Court denied
16 Wackenhut’s petition for review of *Lubin*. The Court of Appeal issued remittitur on April 10,
17 2017. Eventually through more litigation, the parties were able to secure the \$130 million
18 settlement that was approved on October 21, 2019 by Judge Highberger in the Los Angeles
19 Superior Court.
20

21 57. Additionally, in early 2020, our firm served as lead counsel in a class action jury
22 trial in the Central District of California involving the class and PAGA representative claims of
23 over 23,000 employees which successfully resolved in the midst of trial for \$8,500,000.

24 58. Our firm has settled many high-stakes class and representative actions. Hawkins’
25 settlements have directly compensated hundreds of thousands of California workers and
26 consumers. Hawkins’ actions have also forced employers to modify their policies for the benefit
27 of employees including changing the compensation structure for certain employees and changing
28 practices to ensure that workers will be able to take timely rest and meal breaks. A leader in

1 prosecuting class and PAGA enforcement actions, Hawkins has secured millions of dollars for
2 workers and in civil penalties for the State of California.

3 59. Based on our experience, demonstrated competence, resources to prosecute the
4 claims at issue and reputation among our colleagues in both the defense and plaintiffs' bar, I
5 respectfully submit our firm's experience in the field of wage and hour cases provides us the
6 ability to prosecute claims swiftly and often times without the need for protracted litigation.
7 Although, as demonstrated in the *Wackenhut* cases, we do not give up fighting for class members
8 when challenged and necessary.

9 60. Indeed, the Settlement that Class Counsel has negotiated in this case on behalf of
10 the Class confronts very difficult and potentially individualized issues which make certification
11 and proof of merits challenging and work/resource intensive. I and our firm's attorneys and
12 paralegals have secured this Settlement through persistent advocacy of the class claims, which
13 has applied legal nuances and negotiation techniques to achieve a very favorable result for the
14 Class Members. Other attorneys without our experience and comprehensive knowledge and
15 perspective in connection with complex employment litigation may not have been able to achieve
16 such superior settlement terms on behalf of the Class in the relatively short time frame in which
17 we negotiated this settlement. I believe the requested amount of up to \$833,333.33 in attorneys'
18 fees under the Settlement is a reasonable allocation given the excellent result we have secured for
19 the Class Members. I, therefore, respectfully request the Court approve the allocated attorneys'
20 fees under the Parties' Settlement. Defendant and its counsel do not oppose the requested fee
21 allocation.

22 61. In serving as Plaintiff's counsel and Class Counsel in this matter, my firm also
23 seeks reimbursement for the out-of-pocket costs of \$19,495.68 in costs in connection with this
24 action and the related action for, among other things, filing and service fees, certified mailings,
25 postage, and related expenditures. We believe these costs were necessary and reasonable in
26 obtaining this excellent result for the Class. Attached as **Exhibit 6** is a true and correct
27 itemization of the costs incurred in connection with the litigation.
28

1 62. In sum, despite the complexity of the case, Class Counsel has, through the
2 investment of substantial effort and the resources of my law firm, been able to secure an
3 outstanding settlement on behalf of the Settlement Class. Plaintiff would have faced substantial
4 legal and factual obstacles in demonstrating that class certification was appropriate. Plaintiff
5 would also have been required to establish a significant amount of witness testimony, pattern and
6 practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in
7 order to present their case both at the class certification stage and trial. Defendants have
8 vigorously contested liability, the amount of claimed damages, and the propriety of class
9 certification, and would have continued to do so through trial. We believe that our prior
10 experiences allowed us to competently evaluate the claims, settlement versus trial on a fully
11 informed basis, and the viability of Defendants' defenses. As such, we respectfully submit the
12 Court should grant final approval of the Settlement, and award the attorneys' fees, costs, and
13 enhancement award as requested.

14
15 I declare under penalty of perjury under the laws of the State of California and the United
16 States of America that the foregoing is true and correct.

17
18 Executed on this 1st day of May 2023 in Irvine, California

19
20 
21 _____
22 James R. Hawkins, Esq.

EXHIBIT 1

STIPULATION OF SETTLEMENT AND RELEASE

This Stipulation of Settlement and Release (“**Settlement Agreement**” or “**Settlement**”) is reached by and between Defendants Bright Horizons Family Solutions Inc. (“**BHFS**”) and Bright Horizons Children’s Centers LLC (“**BHCC**”) (collectively “**Defendants**”) and Plaintiff Mara Santamaria (“**Plaintiff**”) (collectively Plaintiff and together with Defendants, the “**Parties**”) in connection with the case entitled *Mara Santamaria v. Bright Horizons Children’s Center, et al.* San Bernardino County Superior Court, Case No. CIVSB2210140 (“**Santamaria Case**”).

Plaintiff is represented by James R. Hawkins and Christina M. Lucio of James Hawkins APLC (“**Settlement Class Counsel**”). Defendants are represented by Elizabeth Staggs Wilson, Elisa Nadeau, and Matthew Lerner of Littler Mendelson P.C. (“**Defense Counsel**”).

On September 23, 2021, Plaintiff filed a Class Action Complaint in San Francisco Superior Court against BHCC (“**SF Complaint**”). The SF Complaint alleged that BHCC: (1) failed to pay wages; (2) failed to provide meal periods as required; (3) failed to provide rest periods as required; (4) failed to reimburse business expenses; (5) failed to pay timely wages (6) failed to provide accurate itemized wage statements; and (7) violated Business & Professions Code § 17200, *et seq.* On May 17, 2022, Plaintiff filed a Class Action Complaint in San Bernardino Superior Court against BHCC (“**Complaint**”). The Complaint alleged that BHCC: (1) failed to pay wages; (2) failed to provide meal periods as required; (3) failed to provide rest periods as required; (4) failed to reimburse business expenses; (5) failed to pay timely wages (6) failed to provide accurate itemized wage statements; and (7) violated Business & Professions Code § 17200, *et seq.* On August 5, 2022, Plaintiff filed a First Amended Complaint against Defendants in the San Bernardino action for: (1) failure to pay wages, including minimum wages and overtime at the correct rates and for all hours worked; (2) failure to provide meal periods as required, or premiums at the correct rate in lieu; (3) failure to provide rest periods as required, or premiums at the correct rate in lieu; (4) failure to reimburse business expenses; (5) failure to pay timely wages during employment (6) failure to timely pay wages upon separation or termination from employment; (7) failure to provide accurate and itemized wage statements; (8) violation of Business & Professions Code § 17200, *et seq.*; and (9) civil penalties under Private Attorneys General Act , Labor Code section 2698, *et seq* (“**Operative Complaint**”).

On September 22, 2021, Plaintiff submitted a letter to the Labor and Workforce Development Agency (“**LWDA**”) for the purpose of complying with Labor Code § 2699.3’s notice requirement, giving notice of Plaintiff’s allegations based upon the legal claims set forth in the SF Complaint. On August 5, 2022, Plaintiff submitted a second letter to the LWDA for the purpose of complying with Labor Code § 2699.3’s notice requirement, giving amended and supplemental notice of Plaintiff’s allegations based upon the legal claims set forth in the Operative Complaint (“**PAGA Notice**”).

On May 17, 2022, following mediation, the Parties agreed, subject to approval by the Court, to the Settlement of this case, with Plaintiff agreeing to amend the Complaint and PAGA notice to conform to the allegations made and forming the basis of the settlement agreed upon. The Operative Complaint and PAGA Notice conform to the claims made by Plaintiff during the litigation and at mediation and the basis for the agreed settlement. This Settlement Agreement memorializes the Parties’ settlement of the Santamaria Case.

Defendants have denied and continue to deny any liability or wrongdoing of any kind associated with the claims alleged in the Santamaria Case and those released as part of the Settlement Agreement. Defendants further deny that, for any purpose other than settling the Santamaria Case, the Santamaria Case is appropriate for class or representative treatment. Defendants contend that they complied with federal and California law in all respects and do not concede that any joint employment, alter ego, integrated enterprise, or similar relationship exists between or amongst them. Nothing in this Settlement Agreement shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of any Defendants.

Nonetheless, Defendants have taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Santamaria Case. The Defendants have concluded that further proceedings in the Santamaria Case would be protracted and expensive and that it is desirable and beneficial that the Santamaria Case be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement in order to dispose of burdensome and protracted litigation, to permit the operation of Defendants' business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue in the Santamaria Case.

Accordingly, in consideration of the promises and warranties set forth below, and intending to be legally bound and acknowledging the sufficiency of the consideration and undertakings set forth below, Plaintiff, individually and as a representative of the putative class and the State of California, and Defendants agree that the Santamaria Case is finally and fully compromised as to all non-exempt, hourly-paid employees employed by BHCC and/or BHFS and settled on the following terms and conditions:

Definitions

- a) **Defendants:** Refers to Defendants Bright Horizons Family Solutions Inc. and Bright Horizons Children's Centers LLC.
- b) **Effective Date:** of the Settlement shall mean the later of: (i) if no timely objections are filed, or are withdrawn prior to Final Approval, then sixty (60) calendar days after the date the Court enters Judgment; or (ii) if a Settlement Class Member files an objection to the Settlement, the Effective Date shall be the later of the following events: five (5) business days after the period for filing any appeal, writ, or other appellate proceeding opposing Final Approval has elapsed without any appeal, writ, or other appellate proceeding having been filed; or, if any appeal, writ, or other appellate proceeding opposing Final Approval has been filed, five (5) business days after any appeal, writ, or other appellate proceedings opposing the Settlement has finally and conclusively dismissed with no right to pursue further remedies or relief.
- c) **Escalator Provision:** For purposes of mediation, Defendants represented there are approximately 450,000 weeks worked by the Settlement Class Members from April 2, 2017, through May 17, 2022. In the event that the difference between the total work weeks in Defendants' final data through September 1, 2022 and 450,000 is more than 15% of 450,000, at the option of Defendants, the Defendants shall either increase the Gross Settlement Amount pro rata, with a 15% grace margin (e.g., if the numbers increase by 16%, the Gross Settlement Amount shall

increase by 1%), or elect to move the end date for the Settlement Class Period to the latest date before September 1, 2022, with a total number of work weeks that is within the 15% buffer.

d) **Final Approval Order:** means the Court's entry of a final order approving this Stipulation of Settlement, including all settlement considerations as set forth in this Settlement Agreement: (1) releasing the Released Parties from (a) the Released Claims of each of the Qualified Class Members, and (b) the Released Claims of Plaintiff; and (2) entering judgment in accordance with this Settlement Agreement.

e) **Gross Settlement Amount:** Defendants agree to pay Two Million, Five Hundred Thousand Dollars and no cents (\$2,500,000) (the "Gross Settlement Amount") to resolve the claims in the Operative Complaint. With the exception of Defendants' share of employment taxes, which shall be paid separately by Defendants, the Gross Settlement Amount will include all payments to be made to Qualified Settlement Class Members, the Labor and Workforce Development Agency ("LWDA"), the PAGA Employees, attorneys' fees and costs approved by the Court, fees to be paid to a settlement administrator, and the enhancement award to Plaintiff. In no event shall Defendants be liable for the payment of any amounts exceeding the Gross Settlement Amount with the exception of the employer's share of payroll taxes due and payable as a result of this Settlement, which shall be paid separately from the Gross Settlement Amount.

f) **Net Settlement Amount:** The Gross Settlement Amount less the Class Counsels' court-awarded attorneys' fees and costs, any court-approved enhancement award to Plaintiff, PAGA payment to the LWDA, PAGA payments to the PAGA Employees, and Settlement Administrator costs.

g) **Notice Period:** Settlement Class Members will have forty-five (45) days from the mailing or re-mailing of the class settlement notice (the "Notice Period") to mail to the Settlement Administrator their objection to the Settlement or to indicate their decision to opt out of the Class Settlement.

h) **PAGA Employees:** All persons who are Settlement Class Members who were employed at any time during the PAGA Period.

i) **PAGA Period:** The time period from April 2, 2020 through September 1, 2022 or an earlier date based on the Escalator Provision.

j) **Preliminary Approval Date:** means the date the Court enters the preliminary approval order preliminarily approving the settlement set forth in this Settlement Agreement.

k) **Released Parties:** Defendants Bright Horizons Family Solutions Inc., and Bright Horizons Children's Centers LLC, and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of its or their past, present, and future officers, directors, employees, partners, members, shareholders, and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants.

- l) **Qualified Class Member:** Any individual who is a Settlement Class Member who does not opt out within the Notice Period.
- m) **Qualified Class Member Payment:** A Qualified Class Member's share of the Net Settlement Amount.
- n) **Settlement Administrator:** ILYM Group, Inc. shall be the Settlement Administrator and will administer the payments to the Qualified Class Members and PAGA Employees and otherwise carry out the administration of this Agreement pursuant to the Court's order.
- o) **Settlement Class Counsel:** James R. Hawkins and Christina M. Lucio of James Hawkins APLC.
- p) **Settlement Class Members:** All current and former nonexempt, hourly-paid employees employed by Defendants, or either of them, in California at any time during the Settlement Class Period.
- q) **Settlement Class Period:** The time period is April 2, 2017 through September 1, 2022, or an earlier date based upon the Escalator Provision.

Terms

1. Settlement Class

For purposes of this Settlement Agreement only, the Parties stipulate to the certification of one "**Settlement Class**" consisting of: all current and former nonexempt, hourly-paid employees of Defendants, or either of them, employed in California at any time from April 2, 2017, through the end of the Settlement Class Period.

The Parties agree that certification for the purpose of settlement is not an admission that class certification is proper under Section 382 of the California Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

The Parties are not certifying any PAGA claims. In support of this Settlement Agreement, Plaintiff will request that the Court certify, for settlement purposes only, all non-PAGA claims that have been asserted as to the Settlement Class Members, to which Defendants do not oppose or object.

2. Release

Upon the Effective Date and Defendants' depositing of the Gross Settlement Amount, the claims released by the Qualified Class Members and PAGA Employees will include all claims pleaded in the Operative Complaint in the Santamaria Case, all claims under the Fair Labor

Standards Act (“FLSA”) related to the claims in the Santamaria Case, any PAGA letters and amended PAGA letters sent to the LWDA by Plaintiff during or prior to the Santamaria Case, and all claims which could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Santamaria Case, against the Released Parties, for work performed during the Settlement Class Period, including the following:

- a. The claims set forth in the Santamaria Case, specifically, (1) failure to pay and/or accurately calculate minimum, regular, overtime, and double time wages (Violation of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198, 1199); (2) failure to provide meal periods or properly pay premiums in lieu thereof (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order); (3) failure to provide rest periods or properly pay premiums in lieu thereof (Violation of Labor Code § 226.7 and the applicable Wage Order); (4) failure to reimburse and indemnify expenses (Violation of Labor Code §§ 2800, 2802); (5) failure to timely pay wages during and upon termination of employment (Violation of Labor Code §§ 201-204); (6) failure to furnish and/or keep timely and accurate wage statements and employment records (Violation of Labor Code §§ 226, 1174, 1174.5, 1175); (7) violation of California’s Unfair Competition Law (Violation of Business & Professions Code § 17200 et seq.) in connection with claims asserted in the Santamaria Case; and (8) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.) in connection with claims asserted in the Santamaria Case;
- b. Any claims predicated on the same or similar facts and/or claims alleged in the Operative Complaint and/or any PAGA letter or amended PAGA letter sent to the LWDA by Plaintiff during the pendency or prior to the Santamaria Case and incorporated therein, as well as any claims that could have been pled which arise from the facts alleged in the Santamaria Case concerning the Plaintiff or the Settlement Class, including any claims for unpaid wages (including minimum, regular, vacation and overtime wages), untimely wage payments both during and at the end of employment, non-compliant meal periods, non-compliant rest periods, failure or properly pay meal period premiums in lieu of a meal period, failure to properly pay rest period premiums in lieu of a rest period, non-compliant wage statements, failure to reimburse and indemnify business expenses, failure to correctly calculate the regular rate of pay, and claims for interest, penalties (including but not limited to waiting time penalties), or premiums in connection therewith, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders that were alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Santamaria Case;
- c. Any claims for injunctive relief, declaratory relief, restitution, fraudulent business practices, or punitive damages alleged, or which could have been alleged, under the facts, allegations and/or claims pleaded in the Santamaria Case; and
- d. In addition, the cashing of the settlement check by the Settlement Class Member shall be deemed to be an opt-in for purposes of releasing the Released Parties from

any claims predicated under the FLSA that arose in the State of California and could have been alleged under the same or similar facts, allegations and/or claims pleaded in the Santamaria Case. The Settlement Administrator shall include a legend on the settlement check stating, "To the extent required by law, by cashing this check, I am opting into the settlement in Mara Santamaria v. Bright Horizons Children's Centers LLC, et al. San Bernardino County Superior Court, Case No. CIVSB2210140, under FLSA, 29 U.S.C. § 216(b), and releasing the Released Claims described in the Settlement Agreement."

- e. This release also includes such claims whether known or unknown, whether anticipated or unanticipated, including such claims that Settlement Class Members did not know or suspect to exist in their favor that accrued during the Settlement Class Period. This provision is limited to those claims set forth in subparagraphs (a)-(d) hereinabove.
- f. The claims set forth in subparagraphs herein and immediately above shall be collectively referred to as the "**Released Claims.**"

In addition to the Released Claims, in consideration for the enhancement payment being paid to Plaintiff, Plaintiff, upon the Effective Date and Defendants' depositing of the Gross Settlement Amount, hereby fully and finally releases and discharges the Released Parties from all known and unknown claims she has or may have against the Released Parties, of every nature and description whatsoever, up to the date of the Court's final approval of the Settlement Agreement, in addition to the Settlement Class Members' Released Claims described in the preceding paragraph. This general release of claims includes any and all known or unknown contract, tort, statutory, common law, constitutional, discrimination, public policy, retaliation, wrongful discharge and other claims of any type whatsoever, to the fullest extent such claims are releasable by law, arising out of Plaintiff's employment with Defendants, the termination of her employment and her other dealings with the Defendants and the Released Parties (collectively "**Class Representative's Released Claims**"). As to the Class Representative's Released Claims, the Plaintiff, understanding the significance of this waiver, waives all rights and benefits afforded by Section 1542 of the Civil Code of the State of California, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

3. Gross Settlement Amount

The Gross Settlement Amount is to be deposited with the Settlement Administrator in accordance with this Settlement Agreement.

In no event shall Defendants be liable for the payment of any amounts exceeding \$2,500,000 with the exception of the employer's share of payroll taxes due and payable as a result of the Settlement, which shall be paid separately from the Gross Settlement Amount.

Once Defendants deposited the Gross Settlement Amount, they will be deemed to have satisfied all terms and conditions under this Agreement, shall be entitled to all protections afforded to Defendants under this Agreement, and shall have no further obligations under the terms of the Agreement regardless of what occurs with respect to those sums. Additionally, no Released Party shall have any further obligation or liability to the Plaintiff or Qualified Class Members or PAGA Employees under this Agreement.

4. Attorneys' Fees and Expenses, Plaintiff's Enhancement and Settlement Administrator Expenses

Settlement Class Counsel may petition the Court for attorneys' fees not to exceed 1/3 of the Gross Settlement Amount – i.e., \$833,333.33 (Eight Hundred Thirty-Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents) – and reasonable costs not to exceed \$20,000.00 (Twenty Thousand Dollars), subject to approval by the Court. Attorneys' fees paid pursuant to this Settlement Agreement shall be inclusive of all fees in this matter. Defendants agree not to object to Settlement Class Counsel's fees up to \$833,333.33 (Eight Hundred Thirty-Three Thousand, Three Hundred Thirty-Three Dollars and Thirty-Three Cents) of the Gross Settlement Amount.

Settlement Class Counsel shall also be entitled to recover their reasonable costs/expenses as approved by the Court, which shall also be paid from the Gross Settlement Amount. Any reduction by the Court of Settlement Class Counsel's claimed attorneys' fees and/or reasonable costs/expenses shall not be sufficient grounds to void the Settlement Agreement.

Settlement Class Counsel may also petition the Court for an enhancement award for Plaintiff to be paid from the Gross Settlement Amount. Subject to the Court's approval, the amount of the enhancement award will not exceed \$10,000.00 (Ten Thousand Dollars and No Cents) for Plaintiff. Defendants agree not to object to an enhancement award up to the amount in this paragraph to Plaintiff, which is to be deducted from the Gross Settlement Amount.

Settlement Class Counsel may also petition the Court for an administration expenses payment for the Settlement Administrator to reimburse its reasonable fees and expenses. Subject to the Court's approval, the amount of the administration expenses payment will not exceed \$52,000.00 (Fifty-Two Thousand Dollars) to be paid from the Gross Settlement Amount. If the actual administration costs are less than the amount allocated in this Settlement Agreement, or if the Court awards less than the amount requested, the difference in the amount allocated in this Settlement Agreement and the amount awarded by the Court will become part of the Net Settlement Amount for distribution to Qualified Class Members.

5. PAGA Allocation from Gross Settlement Amount

The “**PAGA Allocation**” from the Gross Settlement Amount will be \$100,000 (One Hundred Thousand Dollars and Zero Cents), 75% of which (\$75,000.00 (Seventy Five Thousand Dollars and Zero Cents)) will be distributed to the LWDA as a PAGA payment, with the remaining 25% of which (\$25,000.00 (Twenty Five Thousand Dollars and Zero Cents)) to be distributed to the PAGA Employees on a pro rata basis based upon each PAGA Employee’s total pay periods worked during the PAGA Period divided by the total number of pay periods worked by all PAGA Employees during the PAGA Period. Upon the Effective Date and Defendants’ depositing of the Gross Settlement Amount, all PAGA Employees shall be deemed to have released their claims under PAGA in their entirety and may not opt out of or object to the PAGA release. All PAGA payment distributions to PAGA Employees shall be treated as non-wages for tax purposes.

6. Preliminary Approval

Within thirty (30) days of the execution of this Settlement Agreement and after providing the moving papers and attachments to Defense Counsel with two (2) business days for review and comment, Plaintiff shall apply to the Court for the entry of an Order:

- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
- B. Appointing James Hawkins and Christina Lucio of James Hawkins APLC, as Settlement Class Counsel;
- C. Appointing Plaintiff Mara Santamaria as the Class Representative for the Settlement Class Members;
- D. Approving ILYM Group, Inc. as Settlement Administrator;
- E. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
- F. Approving the form and content of the Class Notice and directing the mailing of same; and
- G. Scheduling a Final Approval hearing.

7. Notice to Settlement Class Members

Notice to the Settlement Class Members will be provided as follows:

- A. Defendants agree to provide the Settlement Administrator, within 45 calendar days of the Preliminary Approval Date the following information: (1) the full name, last known address, and full social security number of all Settlement Class Members; and (2) the information necessary to determine the estimated settlement allocation to each Settlement Class Member, including without limitation, the total number of work weeks in which each Settlement Class Member worked any regular hours in

the Settlement Class Period and the total number of pay periods in which each PAGA Employee worked any regular hours during the PAGA Period. Within 5 calendar days from receipt of this information, the Settlement Administrator shall calculate the total number of work weeks worked by all Settlement Class Members and report that number to Settlement Class Counsel and Defense Counsel for purposes of determining whether the Escalator Provision has been triggered.

- B. Within 14 calendar days from receipt of this information, the Settlement Administrator shall: (i) run the names of all Settlement Class Members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class Members; (ii) update the addresses of any Settlement Class Member for whom an updated address was found through the NCOA search; and (iii) mail the Notice Packet (comprised of the Class Notice, Notice of Settlement Award, and Request for Exclusion Form) to each Settlement Class Member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
- C. Any Notice Packets returned to the Settlement Administrator as undelivered within the Notice Period shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a “skip trace,” to obtain an updated mailing address within five (5) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Settlement Class Member promptly, and in any event within three (3) business days of obtaining the updated address. Settlement Class Members to whom Notice Packets are re-sent after having been returned as undeliverable to the Settlement Administrator shall have 45 days from the date of re-mailing to mail a Request for Exclusion, objection, or dispute. Notice Packets that are re-sent shall inform the recipient of this adjusted deadline. It shall be conclusively presumed that each Settlement Class Member whose Notice Packet is not returned to the Settlement Administrator as undeliverable within 30 calendar days after the mailing date has received the Notice Packet.
- D. Requests for Exclusion. Any Settlement Class Member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion to the Settlement Administrator within the **Notice Period**.
 - i. The Request for Exclusion must be in writing and must: (1) explicitly and unambiguously state the following statement or similar statement: “I wish to exclude myself from the settlement reached in the matters of *Mara Santamaria v. Bright Horizons Children’s Centers LLC, et al.* I understand by excluding myself, I will not receive any money from the settlement reached in this matter.”; (2) contain the name, address, and the last four digits of the Social Security number or employee identification number of the person requesting exclusion; (3) be signed by the Settlement Class Member; and (4) be postmarked within the Notice Period and returned to

the Settlement Administrator at the specified address stated in the Notice Packet. A Request for Exclusion form will be included in the Notice Packet. The Request for Exclusion will not be valid if it is not timely submitted. The Settlement Administrator shall send all Requests for Exclusion to Defense Counsel and Settlement Class Counsel not later than two (2) business days after receipt of said Request for Exclusion. A Settlement Class Member who fails to comply with the opt-out procedure set forth in the Class Settlement Notice within the Notice Period, shall not be excluded and shall instead be bound by all provisions of the Settlement Agreement and all orders issued pursuant thereto. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any potential Settlement Class Member who validly requests to be excluded from the Settlement will not be a Qualified Class Member, will not be entitled to any recovery under this Settlement Agreement (except to the extent the PAGA Settlement is approved and the Settlement Class Member is entitled to receive a share of the PAGA Allocation), and will not be bound by the terms of the Settlement or have any right to object, appeal, or comment thereon.

- ii. At no time will the Parties or their counsel directly or indirectly seek to solicit or otherwise encourage any Settlement Class Member to object to the Settlement or opt out of the Settlement Class or encourage any Settlement Class Member to appeal from the final judgment.

- E. Objections. Any Settlement Class Member who does not submit a valid and timely Request for Exclusion (i.e., a Qualified Class Member) may object to the proposed Settlement Agreement. The Class Notice will provide that Settlement Class Members who wish to object to the Settlement may serve on the Settlement Administrator, not later than 45 calendar days after the date the Settlement Administrator initially mails the Notice Packet to the Class Members (“Objection Deadline”), a written Objection and any supporting papers objecting to the Settlement. The Notice of Objection must be signed by the Settlement Class Member and state: (a) the full name, address, telephone number, and last four digits of the social security number or employee identification number of the Settlement Class Member; (b) the basis for the objection; (c) list identifying witness(es) the Settlement Class Member may call to testify at the Final Approval hearing; (d) provide true and correct copies of any exhibit(s) the Settlement Class Member intends to offer at the Final Approval hearing; and (e) whether the Settlement Class Member is represented by counsel and contact information of the counsel. A Settlement Class Member who does not serve an objection in the manner and by the deadline specified in the Class Notice or does not make an oral objection at the time of the Final Approval Hearing, will be deemed to have waived all right to make any objections to the Settlement, whether by appeal or otherwise. The Settlement Administrator shall send all written objections to Defense Counsel and Settlement Class Counsel not later than two (2) business days after receipt of said

objections. Any Settlement Class Member who submits a Request for Exclusion shall have no right to object to the Settlement.

- F. Notice of Settlement Award/Disputes. Each Notice Packet mailed to Settlement Class Members shall contain a Notice of Settlement Award, which shall disclose the amount of the Settlement Class Member's estimated Individual Settlement Payment, as well as all of the information that was used from Defendants' records in order to calculate the Individual Settlement Payment. Settlement Class Members will have the opportunity, should they disagree with the information stated in their Notice of Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the end of the Notice Period. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. If the Parties cannot come to a consensus, outstanding disputes will be determined by the Settlement Administrator. The personnel records, including payroll records, of Defendants shall be considered by the Settlement Administrator and the Parties as the presumptive best evidence of the wages earned during the class period.
- G. The Settlement Administrator shall give Settlement Class Counsel and Defense Counsel a weekly update on the number of opt-out requests and/or objections it receives that week. Further, within 10 calendar days after the end of the Notice Period, the Settlement Administrator will provide Defense Counsel with a report by name and last four digits of Social Security Number listing the amount of all Individual Settlement Payments to be made to the Class Members. In addition, the Settlement Administrator shall provide Settlement Class Counsel and Defense Counsel with a list by name of all Settlement Class Members who timely opted out or objected. The name of the Settlement Class Members who timely opted out shall be included in the Settlement Administrator's declaration that will be filed with the court at the time of the hearing on the Motion for Final Approval. Within that same time period, the Settlement Administrator will provide to Settlement Class Counsel a report stating the total number of Qualified Class Members and the total number of Settlement Class Members who timely opted out or objected. The Settlement Administrator shall also promptly provide the Parties with information and/or a declaration upon request, including a declaration at or before the Final Approval Hearing confirming that the Notice Packets were mailed to all Settlement Class Members as required by this Agreement, as well as any additional information Settlement Class Counsel and Defense Counsel both deem appropriate to provide to the Court.
- H. A Qualified Class Member must cash his or her Qualified Class Member Payment check within 180 calendar days after it is mailed to him or her. If a check is returned to the Settlement Administrator, the Settlement Administrator will make all reasonable efforts to re-mail it to the Qualified Class Member at his or her correct address. If any Qualified Class Member's check is not cashed within 90 days of its initial issuance to the Qualified Class Member, the Settlement Administrator will send the Qualified Class Member a postcard, dated 90 days from the initial mailing,

informing him or her that, unless the check is cashed within 90 days of the date of this postcard, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 90-day period after this interim notice, the Settlement Administrator will keep an accounting of such funds, including the identification of the Qualified Class Member. The Settlement Administrator will then disburse said funds to Next Door Solutions, San Jose - <https://www.nextdoorsolutions.org/>, as cy pres. In such event, the Qualified Class Member will nevertheless remain bound by the Settlement and the releases contained herein.

8. Final Approval Order and Judgment.

Within thirty (30) days after the end of the Notice Period, and after providing the moving papers and attachments to Defense Counsel with two (2) business days for review and comment, Plaintiff shall apply to the Court for entry of a Final Approval Order and Judgment:

- A. Granting final approval to the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
- B. Approving the PAGA Allocation and the amount and manner of payments to the PAGA Employees and the LWDA for their share of PAGA penalties as set forth in this Agreement;
- C. Approving Plaintiff's and Settlement Class Counsel's application for attorneys' fees and costs, the Class Representative Enhancement Payment, and Settlement Administrator costs;
- D. Requiring the Parties to carry out the provisions of this Agreement;
- E. Fully and finally releasing and discharging the Released Parties as to all Qualified Class Members, forever barring the assertion of the released claims as to all such Qualified Class Members as set forth in this Agreement; and
- F. Entering judgment in accordance with the release in Paragraph 2 of this Settlement Agreement, and pursuant to California Rule of Court 3.769. Pursuant to Rule 3.769(h), the Final Approval Order and Judgment shall also provide for the retention of the Court's jurisdiction over the parties to interpret and enforce the terms of the Judgment.

9. Allocation of the Settlement Amounts and Distribution of Payments

The Gross Settlement Amount shall be deposited with the Settlement Administrator within 15 calendar days after the Effective Date. Within 21 calendar days of Defendants funding the Gross Settlement Amount, the Settlement Administrator shall distribute the payments as set forth herein and ordered by the Court.

- A. The Settlement Administrator shall tender payment as follows:

- i. The attorneys' fees approved by the Court and set forth in the Final Approval Order and Judgment to be tendered to Settlement Class Counsel.
- ii. The costs and expenses approved by the Court and set forth in the Final Approval Order and Judgment to be tendered to Settlement Class Counsel.
- iii. The enhancement award approved by the Court and set forth in the Final Approval Order and Judgment to be tendered to Plaintiff.
- iv. The LWDA's share of the PAGA Allocation to be tendered to the LWDA.
- v. The PAGA Employees' share of the PAGA Allocation to be tendered to the PAGA Employees.
- vi. The Settlement Administrator's costs as approved by the Court to be tendered to the Settlement Administrator.
- vii. The Net Settlement Amount, as further described herein.

B. Payment of the Net Settlement Amount. The Net Settlement Amount will be distributed to all Qualified Class Members who, by definition, have not opted out, as follows:

- i. Qualified Class Members will receive a pro rata share of the Net Settlement Amount. To calculate each Qualified Class Member's share of the Net Settlement Amount, the Net Settlement Amount shall be multiplied by a fraction, the numerator of which is the number of work weeks the Qualified Class Member worked any regular hours as a non-exempt, hourly paid employee in California during the Settlement Class Period, and the denominator of which is the total of all weeks in which the Qualified Class Members worked any regular hours during the Settlement Class Period. The resulting number shall be the Qualified Class Member's Payment.
- ii. Thirty-Three and One-Third percent (33.33%) of the Net Settlement Amount distributed to each Qualified Class Member will be considered wages and will be reported as such to each Qualified Class Member on an IRS Form W-2.
- iii. Sixty-Six and Two-Thirds percent (66.67%) of the Net Settlement Amount distributed to each Qualified Class Member will be considered penalties and interest and will be reported as such to each Qualified Class Member on an IRS Form 1099 misc., if applicable.
- iv. The foregoing tax allocation shall not apply to any enhancement award paid to Plaintiff as Plaintiff will receive an IRS Form 1099 misc. for the total sum of the enhancement payment.

v. The PAGA payment distributed to each PAGA Employee will be treated entirely as civil penalties and will be reported as such to each PAGA Employee on an IRS Form 1099 misc., if applicable.

vi. Qualified Class Members and PAGA Employees shall be responsible for the proper payment of the employee's taxes on all payments and any tax withholding and deductions shall be deducted from any payments hereunder as required by law and paid from the Net Settlement Amount.

There will be no claims process and no reversion. The Settlement Administrator's failure to distribute the Gross Settlement Amount within 21 calendar days shall *not* be grounds for termination of this Agreement.

10. Confidentiality

Plaintiff and Settlement Class Counsel will not make any public disclosure of the Settlement until the filing of the motion for preliminary approval of the Settlement and motion for approval of the PAGA settlement, except that Plaintiff and Settlement Class Counsel may disclose the Settlement to the LWDA prior to the filing of the motion for approval of the PAGA settlement. Plaintiff and Settlement Class Counsel represent that they have not made any such disclosure. Settlement Class Counsel will take all steps necessary to ensure that Plaintiff is aware of, and will encourage her to adhere to, the restriction against any public disclosure of the Settlement until after the motion for preliminary approval of the class settlement and motion for approval of the PAGA settlement are approved by the Court. Thereafter, Plaintiff and Settlement Class Counsel agree not to publicize the terms of this Settlement with the media, including but not limited to, any newspaper, journal, magazine, website and/or online reporter of settlements or on any website.

11. Voiding Agreement

Defendants' Right to Terminate. If five percent (5%) or more Settlement Class Members timely opt out of the class settlement, Defendants shall have the sole and absolute discretion to rescind/void the Settlement Agreement within ten (10) days after receiving from the Settlement Administrator the final list of opt-outs. Defendants agree to meet and confer in good faith with Settlement Class Counsel before rescinding or voiding the Settlement Agreement. In the event that Defendants elect to rescind/void the Settlement Agreement, Defendants shall provide written notice of such rescission to Settlement Class Counsel. Such rescission shall have the same effect as a termination of the Settlement Agreement for failure to satisfy a condition of settlement, and the Settlement Agreement shall become null and void and have no further force or effect. If Defendants elect to terminate the agreement based on this provision, Defendants will be responsible for paying all of the Settlement Administration costs as of the date they terminate the agreement.

Parties' Right to Terminate. Plaintiff or Defendants may terminate this settlement if after submitting the Settlement for approval to the Court, any Court declines to enter the Preliminary Approval order, the final approval order, or judgment in substantially the form submitted by the

Parties, or if the Settlement as agreed does not become final because of appellate court action. The terminating Party shall give to the other party (through its/her counsel) written notice of its/her decision to terminate no later than fourteen (14) calendar days after receiving notice that one of the enumerated events has occurred. Termination shall have the following effects:

- a. The Settlement Agreement shall be terminated and shall have no force or effect, and no Party shall be bound by any of its terms.
- b. In the event the Settlement Agreement is terminated, Defendants shall have no obligation to make any payments to any party, Class Member, PAGA Employee, or attorney, except to the extent that the Settlement Administrator has incurred costs, in which case the Party electing to terminate the Settlement Agreement shall pay all costs incurred by the Settlement Administrator through the date of termination.
- c. The preliminary approval order, final approval order, and judgment, if entered at the time of termination, shall be vacated.
- d. The stipulation of settlement and all negotiations, statements, and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions prior to the settlement.
- e. Except as otherwise discoverable, neither this Settlement Agreement nor any ancillary documents, actions, statements, or filings in furtherance of settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Santamaria Case, or any other action for any purpose whatsoever.

12. Non-Admission of Liability

Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. In entering into this Agreement, Defendants do not admit, and specifically deny, that they have violated any federal, state, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations, or legal requirements; breached any contract, violated, or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to the Plaintiff or any Settlement Class Member or PAGA Employee. Defendants do not concede certification is proper for a litigation class; and the Court has not evaluated manageability of any PAGA claim. Defendants deny all liability for the claims alleged in the Santamaria Case and that any Settlement Class Member or PAGA Employee is owed any damages or penalties or is entitled to any relief arising from the alleged claims. The Parties have entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce

this Settlement Agreement. If Final Approval does not occur, the Parties agree that this Settlement Agreement is void, but remains protected by California Evidence Code section 1152.

13. Warranties and Representations

Each of the Parties to this Agreement and or their agent covenants and warrants that (a) they have full power and authority to enter into and consummate all transactions contemplated by this Agreement and have duly authorized the execution, delivery and performance of this Agreement; (b) the person executing this Agreement has the full right, power and authority to enter into this Agreement on behalf of the party for whom he/she has executed this Agreement, and the full right, power and authority to execute any and all necessary instruments in connection herewith, and to fully bind such party to the terms and obligations of this Agreement; and (c) they acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel. Further, the Plaintiff and Settlement Class Counsel warrant and represent that there are no liens on the Agreement, and that Defendants may distribute funds to the Qualified Class Members, PAGA Employees, Settlement Class Counsel, and the Plaintiff as provided by this Agreement.

14. Waiver and Amendment

The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all counsel, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.

15. Enforcement Action

In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

16. Notices to Counsel

All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Defendants: Elizabeth Staggs Wilson
estaggs-wilson@littler.com
633 West Fifth Street, 63rd Floor
Los Angeles, CA 90071

Elisa R. Nadeau

ENadeau@littler.com
Matthew D. Lerner
MLerner@littler.com
50 W San Fernando St 7th Floor
San Jose, CA 95113

if to Plaintiff: James Hawkins
james@jameshawkinsaplc.com
Christina Lucio
Christina@Jameshawkinsaplc.com
James Hawkins APLC
9880 Research Dr., Suite 200
Irvine, California 92618

17. Binding Agreement

This Agreement shall be binding and shall inure to the benefit of the Parties and their respective successors, assigns, executors, administrators, heirs, and legal representatives.

18. Ongoing Cooperation

The Parties shall support the Settlement, execute all documents, and take such steps as are reasonably necessary to effectuate the Settlement and the terms of this Agreement. The execution of documents must take place prior to the Preliminary Approval Hearing. Further, Settlement Class Counsel agrees to provide preliminary and final approval papers to Defense Counsel for review at least two (2) business days before they are due to be filed.

19. Governing Law

This Agreement shall be interpreted, construed, enforced, and administered in accordance with the laws of the State of California.

20. Severability

The Parties to this Agreement agree, covenant, and represent that each and every provision of this Agreement shall be deemed to be contractual, and that they shall not be treated as mere recitals at any time or for any purpose. Therefore, the Parties further agree, covenant, and represent that each and every provision of this Agreement shall be considered severable, except for the release provisions of Paragraph 2 of this Agreement. If a court of competent jurisdiction finds the release provisions of Paragraph 2 of this Agreement to be unenforceable or invalid as against a Qualified Class Member, then this Agreement shall become voidable by Defendants, at Defendants' election, and the payments made pursuant to this Agreement to that Qualified Class Member shall be returned to Defendants by that Qualified Class Member as to whom the release provisions have been found unenforceable or invalid. If a court of competent jurisdiction finds any provision, other than the release provisions of Paragraph 2, or part thereof to be invalid or

unenforceable for any reason, that provision, or part thereof, shall be severed from the Agreement, and all of the remaining provisions of this Agreement shall remain in full force and effect.

21. Entire Agreement

This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.

22. Counterparts

This Settlement Agreement may be executed by one or more Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

23. Singular and Plural

Words used in this Agreement in the singular, where the context so permits, shall be deemed to include the plural and vice versa. The definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa.

24. Captions

The captions and headings in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe, or describe the scope or intent of the provisions of this Agreement.

25. Mutual Preparation of Agreement

The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement shall not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed to the preparation of this Agreement.

Dated: October , 2022

BRIGHT HORIZONS FAMILY SOLUTIONS INC.

By: 
Name: John G. Casagrande
Title: General Counsel

Dated: October 25, 2022

BRIGHT HORIZONS CHILDREN'S CENTERS
LLC

By: 
Name: John G. Casagrande
Title: General Counsel

Dated: October , 2022

MARA SANTAMARIA
By: 
Mara L Santamaria (Oct 31, 2022 15:49 PDT)
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

Dated: October 31, 2022



James Hawkins
Christina Lucio
Counsel for Plaintiff Mara Santamaria, and the
Settlement Class Members

Dated: October 26, 2022



Elizabeth Staggs Wilson
Elisa R. Nadeau
Matthew D. Lerner
Counsel for Defendants
Bright Horizons Family Solutions Inc. and
Bright Horizons Children's Centers LLC

4868-9874-7180.12 / 101872-1002

EXHIBIT 2

ORIGINAL

1 James R. Hawkins (SBN 192925)
Christina M. Lucio (SBN 253677)
2 Mitchell J. Murray (SBN 285691)
Danielle L. Piskor (SBN 338246)
3 **JAMES HAWKINS APLC**
9880 Research Drive, Suite 200
4 Irvine, California 92618
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5 Facsimile: (949) 387-6676
James@Jameshawkinsaplc.com
6 Christina@Jameshawkinsaplc.com
7 Mitchell@Jameshawkinsaplc.com
Danielle@Jameshawkinsaplc.com

8 Attorneys for Plaintiff MARA SANTAMARIA,
9 individually and on behalf of all others similarly situated

10
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN BERNARDINO**

13 MARA SANTAMARIA, and on
behalf of all others similarly situated,

14 Plaintiffs,

15
16 v.

17 BRIGHT HORIZONS CHILDREN'S
CENTER, a Delaware Corporation;
18 BRIGHT HORIZONS FAMILY
SOLUTIONS INC., a Delaware
19 Corporation, and DOES 1-10,
20 inclusive,

21 Defendants.
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC - 8 2022

BY Jessica Garcez
JESSICA GARCEZ, DEPUTY

Case No.: CIVSB2210140

Assigned For All Purposes To:
Judge: Michael A. Sachs
Dept.: S28

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT,
APPROVAL OF CLASS NOTICE, AND
CONDITIONAL CERTIFICATION OF
SETTLEMENT CLASS**

Hearing re Prelim Approval: December 8, 2022
Time: 8:30 a.m.

Complaint Filed: May 17, 2022

**[PROPOSED] ORDER FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA SETTLEMENT
CASE NO.: CIVSB2210140**

FILED

1 **[PROPOSED] ORDER**

2 This matter came before the Court on the application of Plaintiff Mara Santamaria
3 ("Plaintiff") for Preliminary Approval of the Stipulation of Settlement and Release ("Settlement
4 Agreement" or the "Settlement"), Approval of Class Notice, and Conditional Certification of the
5 Settlement Class (the "Preliminary Approval Motion"). The Court considered the proposed
6 Settlement attached as **Exhibit A** to Plaintiff's Notice of Motion for Preliminary Approval of Class
7 Action and PAGA Settlement, Approval of Class Notice, and Conditional Certification of Settlement
8 Class, the submissions of counsel, and all other papers filed in this action. This Order incorporates,
9 by reference, the definitions in the Settlement Agreement. The matter having been submitted, and
10 good cause appearing therefore, this Court **HEREBY ORDERS THE FOLLOWING:**

11 1. The provisions of the Settlement are hereby preliminarily approved. The Court
12 finds that the Settlement appears to be fair, adequate, and reasonable to Plaintiffs and the Settlement
13 Class, free of collusion and indicia of unfairness, and within the range of possible judicial approval.
14 The Court also finds that the Settlement resulted from arm's length negotiations and is sufficient to
15 warrant the dissemination of Class Notice to Class Members.

16 2. Pursuant to California Code of Civil Procedure section 382 and California Rule of
17 Court 3.769, and for purposes of, and solely in connection with the Settlement, the Court finds that
18 each of the requirements for certification of the class set forth in Plaintiffs' Preliminary Approval
19 Motion are met and hereby conditionally certifies the following class ("Settlement Class"):

20 **All current and former nonexempt, hourly-paid employees**
21 **employed by Defendants, or either of them, in California at any**
22 **time during April 2, 2017, through and including September 1,**
23 **2022. (the "Settlement Class Period.")**

24 3. Certification of the proposed Class for settlement purposes only is appropriate
25 under California Code of Civil Procedure section 382 and California Rule of Court 3.769. The Court
26 has considered the Settlement and the papers in support of the Motion for Preliminary Approval and
27 finds that the proposed Class is proper and should be certified, for settlement purposes only, in the
28 circumstances of this case. Specifically, the Court finds (a) that the Settlement Class is ascertainable;
(b) the Settlement Class is sufficiently numerous such that joinder of all members is impracticable;

1 (c) there are questions of law and fact common to the Settlement Class; (d) the named Plaintiffs'
2 claims are typical of the claims of the Settlement Class; (e) the named Plaintiffs and Settlement Class
3 Counsel have and are able to adequately represent the Settlement Class; and (f) class-wide treatment
4 of this dispute is superior to other available methods for adjudicating the controversy. It is therefore
5 ordered that the Settlement Class is certified for settlement purposes only.

6 4. In the event that the Settlement is canceled, rescinded, terminated, voided, or
7 nullified, however that may occur, or the settlement of the Santamaria Case is barred by operation
8 of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction,
9 Defendants will cease to have any obligation to pay any portion of the Gross Settlement Amount to
10 anyone under the terms of the Settlement Agreement, and all previous disbursements from the Gross
11 Settlement Amount will immediately be paid back to Defendants by the person or entity who
12 received such disbursement, except for costs already incurred by the Settlement Administrator.

13 5. The Court appoints and designates the named Plaintiff, Mara Santamaria, as Class
14 Representative.

15 6. The Court appoints and designates James Hawkins, APLC as Settlement Class
16 Counsel. Settlement Class Counsel is located at the following address:

17 James R. Hawkins, Esq.
18 Christina M. Lucio, Esq.
19 Mitchell J. Murray, Esq.
20 Danielle L. Piskor, Esq.
21 JAMES HAWKINS APLC
22 9880 Research Drive, Suite 200
23 Irvine, CA 92618
24 Telephone: (949) 387-7200
25 Facsimile: (949) 387-6676

26 Settlement Class Counsel is authorized to act on behalf of the Settlement Class with respect
27 to all acts or consents required by, or which may be given, pursuant to the Settlement, and such other
28 acts necessary to finalize the Settlement and its terms. Any Settlement Class Member may enter an
appearance through their own counsel at such Settlement Class Member's own expense. Any
Settlement Class Members who do not enter an appearance or appear on their own behalf will be
represented by Class Counsel.

1 7. The Court hereby approves the terms provided for in the Settlement, finding them to be
2 fair and reasonable and in the best interests of the parties.

3 8. The Court hereby preliminarily approves the Settlement and the Gross Settlement Amount
4 of \$2,500,000, with the Net Settlement Amount to be paid to Settlement Class Members who do not
5 opt out or exclude themselves from the class being calculated by subtracting the following from the
6 Gross Settlement Amount: (1) Court-approved Attorneys' Fees in an amount not to exceed 1/3 of
7 the Gross Settlement Amount(\$833,333.33); (2) Attorneys' reimbursement of reasonable and actual
8 costs not to exceed twenty thousand dollars (\$20,000); (3) Settlement Administration Costs to ILYM
9 Group, Inc. estimated not to exceed fifty-two thousand dollars (\$52,000); (4) the Class
10 Representative Enhancement Payment not to exceed ten thousand dollars (\$10,000); and (5) the
11 portion paid to the Labor and Workforce Development Agency for settlement of the PAGA Claim
12 not to exceed seventy-five thousand dollars (\$75,000). The Net Settlement Amount, which will be
13 paid as individual Settlement Payments to Settlement Class Members who do not opt out or exclude
14 themselves is anticipated to be approximately \$1,509,666.67. There is no reversion to Defendant.

15 9. The Court further preliminarily approves the formulas provided in the Settlement for
16 calculating Individual Settlement Payments in based on their pro-rata share as determined by
17 comparing the weeks worked by the individual Settlement Class Member employed during the Class
18 Period in California, to the total weeks worked by the Settlement Class Members during the Class
19 Period. Additionally, Defendants' employer share of payroll taxes (e.g., FICA, FUTA, SDI taxes)
20 on individual Qualified Class Member Payments paid to the Settlement Class Members is a part of
21 the \$2,500,000 Gross Settlement Amount, and Defendants will not be required to pay more than the
22 Gross Settlement Amount.

23 10. The Court finds on a preliminary basis that the Settlement, including the Class
24 Representative Enhancement Payment, Settlement Class Counsel's fees, Settlement Class Counsel's
25 reasonable costs, the claims administration fees, and the allocation of payments to Settlement Class
26 Members, appears to be within the range of reasonableness of a settlement that could ultimately be
27 given final approval by this Court. It appears to the Court on a preliminary basis that the Settlement
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1 is fair, adequate and reasonable as to all potential Settlement Class Members when balanced against
2 the probable outcome of further litigation relating to liability and damages issues. It also appears
3 that extensive and costly investigation, research, and mediation have been conducted so that counsels
4 for the Parties are able to reasonably evaluate their respective positions. It appears to the Court that
5 settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay
6 and risks that would be presented by the further prosecution of this class action. It also appears that
7 Settlement has been reached as result of intensive, serious and non-collusive, arms-length
8 negotiations.

9 11. The Court hereby approves, as to form and content, the Notice of Class Action
10 Settlement ("Class Notice") to be sent to Settlement Class Members, which is attached hereto as
11 **Exhibit 1**; the Request for Exclusion Form Settlement (Opt-Out Form), which is attached hereto as
12 **Exhibit 2** and Exhibit 2 to the Declaration of James R. Hawkins; and the "Dispute Form," which is
13 attached hereto as **Exhibit 3** and Exhibit 3 to the Declaration of James R. Hawkins. The Court finds
14 that distribution of these documents to the Settlement Class Members substantially in the manner
15 and form set forth in the Settlement and this Order meets the requirements of due process and shall
16 constitute due and sufficient notice to all parties entitled thereto.

17 12. The Court further finds the proposed Class Notice to be the best means practicable
18 of providing notice under the circumstances and when completed shall constitute due and sufficient
19 notice of the Santamaria Case, proposed Settlement, and Final Approval hearing to all persons
20 affected by and/or authorized to participate in the Settlement, in full compliance with due process
21 and the requirements of the California Rules of Court and California Code of Civil Procedure.

22 13. The provisions of the Settlement relating to Class Notice, exclusion from the
23 Settlement, objection to the Settlement, payment of Qualified Class Member Payments in connection
24 with the Settlement, and the Final Approval Hearing are deemed incorporated as if expressly set
25 forth in this Preliminary Approval Order and have the full force and effect of an Order of this Court.
26 Settlement Class Members shall have 45 days to object to the Settlement, request exclusion from the
27 Settlement, or dispute the workweeks allocated and identified in the Settlement Class Member's
28

1 Notice of Estimated Individual Settlement Payment as identified in the Settlement Class Member's
2 Notice Packet.

3 14. The Court appoints and designates ILYM Group, Inc., as the Settlement
4 Administrator. The Court hereby directs the Settlement Administrator to provide the approved Class
5 Notice, including the Request for Exclusion Form and the Dispute Form, to Settlement Class
6 Members and administer the Settlement in accordance with the procedures set forth in the Settlement
7 Agreement attached as Exhibit A to the Declaration of James R. Hawkins.

8 15. Any Settlement Class Member may choose to opt out of and be excluded from the
9 Settlement as provided in the Settlement and Class Notice and by following the instructions for
10 requesting exclusion. Any Settlement Class Member who timely and validly requests exclusion
11 from the Class and this Settlement will not be entitled to any Qualified Class Member Payment, will
12 not be bound by the terms and conditions of the Settlement Agreement, and will not have any right
13 to object, appeal, or comment thereon. Any requests for exclusion must be signed by each such
14 Settlement Class Member opting out and sent to the Settlement Administrator. The completed
15 Request for Exclusion Form must be sent to the Settlement Administrator, ILYM Group, Inc., at the
16 address on the form. Class Members who have not timely requested exclusion shall be bound by all
17 determinations of the Court, the Settlement and the Judgment. Class Members who do not exclude
18 themselves from the Settlement will receive their Individual Settlement Shares as Participating Class
19 Members and will be bound by the Judgment. The Settlement Administrator shall file a declaration
20 concurrently with the filing of any motion for final approval, authenticating a copy of every
21 exclusion form received by the Settlement Administrator.

22 16. Any Settlement Class Member may object to the Settlement or express their views
23 regarding the Settlement and may present evidence and file briefs or other papers that may be proper
24 and relevant to the issues to be heard and determined by the Court as provided in the Class Notice.
25 The Settlement Administrator will provide all objections received to Settlement Class Counsel and
26 Defense Counsel within two business days of receipt. Any Settlement Class Member who does not
27 make their objection in the manner provided for in the Class Notice, including by the Objection
28 Deadline, shall be deemed to have waived such objection and shall be foreclosed from making any

1 objection to the Settlement. The Settlement Administrator shall file a declaration concurrently with
2 the filing of any motion for final approval, authenticating a copy of every objection form received
3 by the Settlement Administrator.

4 17. Defendant must exercise any right to void the Settlement before the Final Approval
5 Hearing in accordance with the terms of the Settlement.

6 18. Upon final approval and completion of administration, all Settlement Class
7 Members who have not submitted requests for exclusion and the Class Representative will be
8 deemed to have forever released and discharged the Released Claims, as well as all other claims
9 identified in section 2 of the Settlement, applicable to them and waived their rights for the applicable
10 Released Claims, as well as all other claims identified in section 2 of the Settlement, as set forth in
11 the preliminarily approved Settlement.

12 19. The Court reserves the right to adjourn or continue the date of the hearing on the
13 Motion for Final Approval and all dates provided for in the Settlement without further notice to the
14 Class and retains jurisdiction to consider further applications concerning the Settlement. However,
15 Settlement Class Counsel will give notice to any objecting party of the continuance of any hearing
16 on the motion on the Motion for Final Approval.

17 20. The Court order the following schedule for further proceedings:

18 a. No later than _____, (45 days post PA) Defendants shall provide the
19 Settlement Administrator with a "Class Database" identifying (1) the full
20 name, last known address, and full social security number of all Settlement
21 Class Members; and (2) the information necessary to determine the
22 estimated settlement allocation to each Settlement Class Member,
23 including without limitation, the total number of work weeks in which each
24 Settlement Class Member worked any regular hours in the Settlement
25 Class Period and the total number of pay periods in which each PAGA
26 Employee worked any regular hours during the PAGA Period.

27 b. No later than _____, (5 days post receipt of info) shall calculate the
28 total number of work weeks worked by all Settlement Class Members and

1 report that number to Settlement Class Counsel and Defense Counsel for
2 purposes of determining whether the Escalator Provision has been
3 triggered.

4 c. No later than _____, (14 days post info receive) from receipt of the
5 information from Defendant, the Settlement Administrator shall: (i) run the
6 names of all Settlement Class Members through the National Change of
7 Address ("NCOA") database to determine any updated addresses for
8 Settlement Class Members; (ii) update the addresses of any Settlement
9 Class Member for whom an updated address was found through the NCOA
10 search; and (iii) mail the Notice Packet (comprised of the Class Notice,
11 Notice of Settlement Award, and Request for Exclusion Form) to each
12 Settlement Class Member at their last known address or at the updated
13 address found through the NCOA search, and retain proof of mailing.

14 d. No later than _____, (45 days post mailing) Settlement Class
15 Members may submit a request for exclusion from the Settlement in
16 accordance with the Settlement.

17 e. No later than [SAME DATE AS (d)], Settlement Class Members may
18 submit a Dispute Form or challenge to the information in the Notice in
19 accordance with the Settlement.

20 f. No later than [SAME DATE AS (d)], Settlement Class Members may
21 submit objections in accordance with the Settlement.

22 g. No later than _____, 2023, [28 days prior to the Final Approval
23 Hearing], the Settlement Administrator shall provide Settlement Class
24 Counsel and Defense Counsel a declaration including a summary of
25 compliance with notice procedures and a list of all Settlement Class
26 Members who sent timely requests to be excluded from the Settlement, and
27 all Class Members who objected to the Settlement. The declaration shall
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authenticate each request for exclusion and objection submitted.

h. A Final Approval Hearing shall be held before this Court on _____, 2023 at _:_0_.m. to determine all necessary matters concerning the Settlement, including, whether this Court should grant final approval, whether there should be any award of attorneys' fees and costs to Settlement Class Counsel and/or Class Representative's Enhancement Award, and the amounts of any such award.

21. Any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing to show cause why the Settlement should not be approved as fair, adequate, and reasonable, or to object to any award of attorneys' fees and costs to Settlement Class Counsel and/or Class Representative's Enhancement Award. An objecting Settlement Class Member is not required to appear, in person or by counsel, at the Final Approval Hearing to have their objection considered by the Court.

22. Nothing in this Preliminary Approval Order is, or may be construed as, an admission or concession on any point of fact or law by or against the Plaintiff or Defendants.

23. Settlement Class Counsel, Defendants, and the Settlement Administrator are directed to carry out their obligations under the Settlement.

IT IS SO ORDERED.

DATED: 12/8/22 By: 
JUDGE OF THE SUPERIOR COURT

JOSEPH T. ORTIZ

EXHIBIT 1

CALIFORNIA SUPERIOR COURT, COUNTY OF SAN BERNARDINO
MARA SANTAMARIA, v. BRIGHT HORIZONS CHILDEN'S CENTER, ET AL.

**NOTICE OF CLASS ACTION AND PRIVATE ATTORNEY
GENERAL ACT ("PAGA") SETTLEMENT**

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don't act.*

TO: All hourly paid non-exempt employees who are or have been employed by Defendants in the State of California during the period of April 2, 2017 through September 1, 2022.

The California Superior Court, County of San Bernardino, has granted preliminary approval to a proposed settlement ("Settlement") of the above-captioned action ("Class Action" or "Santamaria Case"). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action Settlement ("Notice") carefully.

The Court certified the following class for settlement purposes ("Class" or "Class Members"):

All hourly paid or non-exempt employees who are or have been employed by Defendant in the State of California during the period of April 2, 2017 through September 1, 2022.

The Court also approved a settlement of claims under the Private Attorney General Act ("PAGA") for "PAGA Employees" who are:

All hourly paid or non-exempt employees who are or have been employed by Defendants in the State of California during the period of April 2, 2020 through September 1, 2022.

The purpose of this Notice is to provide a brief description of the claims alleged, the key terms of the Settlement, and your rights and options with respect to the Settlement.

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT.
PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

WHAT INFORMATION IS IN THIS NOTICE

1.	Why Have I Received this Notice?.....	2
2.	What is this Case About?.....	2
3.	Am I a Class Member?	3
4.	How Does this Class Action Settlement Work?	3
5.	Who are the Attorneys Representing the Parties?.....	3
6.	What are My Options?.....	4
7.	How do I Opt Out or Exclude Myself from this Settlement?	5
8.	How do I Object to the Settlement?.....	5
9.	How does this Settlement Affect My Rights? What are the Released Claims?.....	5
10.	How Much Can I Expect to Receive From This Settlement?.....	7

11.	How Will the Attorneys for the Class and the Class Representative be Paid?	8
12.	What are the PAGA Released Claims?	8

1. Why Have I Received this Notice?

Bright Horizons Children’s Centers LLC’s (“BHCC”) and Bright Horizons Family Solutions Inc.’s (“BHFS”) (collectively “Defendant(s)” or “Bright Horizons”) records indicate that you may be a Class Member and/or PAGA Employee. The Settlement will resolve all Class Members’ Released Claims, as described below, from April 2, 2017 through September 1, 2022 (the “Release Period”) unless you opt out of the Settlement or successfully object. You are a member of the Class if you were employed as a hourly paid non-exempt employee by Defendant in the State of California during the period of April 2, 2017 through September 1, 2022.

A Preliminary Approval Hearing was held on [the date of Preliminary Approval] in the California Superior Court, County of San Bernardino. The Court conditionally certified the putative Class for settlement purposes only and directed that you receive this Notice. The Court also approved the PAGA settlement (described in Section 12 below).

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

The Court will hold a Final Fairness Hearing concerning the proposed settlement on [the date of final approval hearing], 2023 at [time a.m./p.m.] before Judge Michael A. Sachs, located in Department S28 at the San Bernardino Justice Center located at 247 W 3rd St., San Bernardino, CA 92415.

2. What is this Case About?

The action entitled *Mara Santamaria v. Bright Horizons Children’s Center, et al.*, Case No. CIVSB2210140 was commenced by Plaintiff Mara Santamaria in the San Bernardino County Superior Court as a putative class action. Santamaria also pursued various claims as private attorneys general against Defendants under the California Private Attorney General Act of 2004. In effect, Plaintiff sought to represent California as a private attorney general pursuing PAGA claims by the State against Defendants relating to its wage and hour practices.

Plaintiff Mara Santamaria is referred to as “Plaintiff.” Plaintiff’s action against Defendants seeks damages, restitution, penalties, interests, costs, attorney’s fees, and other relief based on the following alleged causes of action: (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to timely pay wages during employment; (6) failure to timely pay wages due upon separation or termination from employment; (7) knowing and intentional failure to comply with itemized wage statement provisions; (8) failure to indemnify necessary expenditures; (9) violation of the Unfair Competition Law; and (10) enforcement of the Private Attorneys General Act. Defendants have disputed and denied these claims.

The Court has not made any determination as to whether the claims advanced by Plaintiffs have any merit.

In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or the Company. Instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial.

Defendants expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiff, the putative Class, the Settlement Class, or PAGA Employees.

3. *Am I a Class Member?*

You are a member of the putative Class if you were employed as an hourly paid non-exempt employee by one or more Defendants in the State of California during the period of April 2, 2017 through September 1, 2022 .

4. *How Does this Class Action Settlement Work?*

In this Action, Plaintiff sued on behalf of herself and all other similarly-situated employees. For purposes of settlement, Plaintiff and these other current and former employees comprise a "Settlement Class" and are "Settlement Class Members". The settlement of this Action resolves the Released Claims of all Settlement Class Members except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Settlement Class. The Court file has the Settlement documents which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Plaintiff's counsel, whose contact information is below, and they will provide you with a copy via e-mail free of charge.

5. *Who are the Attorneys Representing the Parties?*

Attorneys for Plaintiffs and the Class	Attorneys for Bright Horizons Children's Centers LLC, and Bright Horizons Family Solutions Inc.
James R. Hawkins, Esq. SBN 192925 james@jameshawkinsaplc.com Christina M. Lucio, Esq. SBN 253677 christina@jameshawkinsaplc.com JAMES HAWKINS APLC 9880 Research Drive, Suite 200 Irvine, CA 92618 TEL: (949) 387-7200 FAX: (949) 387-6676 Attorneys for Plaintiff MARA SANTAMARIA	Elizabeth Staggs Wilson (SBN 183160) estaggs-wilson@littler.com LITTLER MENDELSON, P.C. 633 West Fifth Street, 63 rd Floor Los Angeles, CA 90071 Telephone: (213) 443-4272 Facsimile: (310) 553-5583 Elisa R. Nadeau (SBN 199000) ENadeau@littler.com Matthew D. Lerner (SBN 320776) MLerner@littler.com LITTLER MENDELSON, P.C.

	50 W San Fernando St 7th Floor San Jose, CA 95113 Telephone: (408) 961-7119 Facsimile: (408) 851-6831 Attorneys for Defendants BRIGHT HORIZONS CHILDREN'S CENTERS LLC, and BRIGHT HORIZONS FAMILY SOLUTIONS INC.
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The Court has decided that JAMES HAWKINS APLC is qualified to represent you and the other Class Members simultaneously. As part of this settlement, Plaintiff's Counsel is working on your behalf. If you want your own attorney, you may use your own attorney or you may hire one at your own cost.

6. *What are My Options?*

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: *Bright Horizons will take no actions against you in any way for either participating or not participating in this Settlement.*

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this lawsuit and will receive an Individual Settlement Payment based on the total number of workweeks during which you were employed as a hourly paid non-exempt employee in California during the Release Period. You will release all of the Released Claims, as defined in Section No. 9 below, and you will give up your right to pursue the Released Claims as defined in Section No. 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may "opt out," which will remove you from the Settlement Class and this Action. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Payment and you will not give up the right to sue the Released Parties, including Bright Horizons, for any of the Released Claims as defined in Section No. 9 below. If you are a PAGA Employee, you will, however, still release the PAGA Released Claims and receive a payment from the PAGA Fund (described in Question 12).
- **OBJECT:** You may file a legal objection to the proposed settlement. If you would like to object, you may not opt out of this Settlement.

- 4 -

Questions? Call the Settlement Administrator toll free at [phone number]

The procedures for opting out and objecting are set forth below in the sections entitled “How do I Opt Out or Exclude Myself from this Settlement?” and “How do I Object to the Settlement?”

7. How do I Opt Out or Exclude Myself from this Settlement?

If you do not wish to participate in the Settlement, you may be excluded (i.e., “opt out”) by sending a timely written Request for Exclusion. You may choose to use the form that comes with this Notice or you may submit a separate written Request that contains your name, address, telephone number, the last four digits of your Social Security number, and the name of the case and case number (*Mara Santamaria v. Bright Horizons Children’s Center, et al.*, Case No. CIVSB2210140).

If you opt out of the Settlement, you will not be releasing the claims set forth in Question 9.

The Exclusion Form must be signed, dated, and mailed by First Class U.S. Mail, postmarked no later than [the Response Deadline], to: Mara Santamaria v. Bright Horizons Children’s Center, et al., c/o _____.

The Court will exclude any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline shall be bound by all terms of the Settlement, Release and any Judgment entered in the Action if the Settlement receives final approval from the Court.

8. How do I Object to the Settlement?

If you are a Class Member who does not opt out of the Settlement, you may object to the Settlement, personally or through an attorney, by mailing it to the Settlement Administrator at Mara Santamaria v. Bright Horizons Children’s Center, et al., c/o _____ by [the Response Deadline]. The Objection must state: (a) your full name, address, and telephone number; (b) the words “Notice of Objection” or “Formal Objection”; (c) describe, in clear and concise terms, the grounds for objection; (d) whether you are represented by counsel; (e) whether you would like to appear at the Final Approval Hearing; and (f) identify the name of the case (*Mara Santamaria v. Bright Horizons Children’s Center, et al.*, Case No. CIVSB2210140).

Class Members who timely file valid written objections to the Settlement may appear at the Final Approval Hearing, either in person or through the objector’s own counsel, provided the objector has first notified the Settlement Administrator by sending his/her written objection(s) to the Settlement Administrator, postmarked no later than [the Response Deadline]. Class Members’ timely and valid objections to the Settlement will still be considered even if the objector does not appear at the Final Approval Hearing. If the Court rejects the Notice of Objection, the Class Member will receive an Individual Settlement Share and will be bound by the terms of the Settlement.

9. How does this Settlement Affect My Rights? What are the Released Claims?

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not validly opt-out of the Settlement will be bound by the Court’s Final Judgment and will fully release and discharge Bright Horizon’s Children’s Centers LLC, Bright Horizons Family Solutions Inc.,

and their past, present, and future agents, managing agents, employees, officers and directors (“Released Parties”) from the Released Claims. The Released Claims are as follows:

Released Claims.

The claims that Plaintiff and the other participating Settlement Class Members are releasing in exchange for the consideration provided for by this Agreement include any and all claims set forth in the Santamaria Case, specifically, (1) failure to pay and/or accurately calculate minimum, regular, overtime, and double time wages (Violation of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, 1198, 1199); (2) failure to provide meal periods or properly pay premiums in lieu thereof (Violation of Labor Code §§ 512, 226.7, and the applicable Wage Order); (3) failure to provide rest periods or properly pay premiums in lieu thereof (Violation of Labor Code § 226.7 and the applicable Wage Order); (4) failure to reimburse and indemnify expenses (Violation of Labor Code §§ 2800, 2802); (5) failure to timely pay wages during and upon termination of employment (Violation of Labor Code §§ 201-204); (6) failure to furnish and/or keep timely and accurate wage statements and employment records (Violation of Labor Code §§ 226, 1174, 1174.5, 1175); (7) violation of California’s Unfair Competition Law (Violation of Business & Professions Code §§ 17200 et seq.) in connection with claims asserted in the Santamaria Case; and (8) Violation of the California Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.).

The claims that Plaintiff and the other participating Settlement Class Members are releasing in exchange for the consideration provided for by this Agreement also includes any and all claims predicated on the same or similar facts and/or claims alleged in the Santamaria case and/or any PAGA letter or amended PAGA letter sent to the Labor and Workforce Development Agency by Plaintiff during the pendency or prior to the Santamaria Case and incorporated therein, as well as any claims that could have been pled which arise from the facts alleged in the Santamaria Case concerning the Plaintiff or the Settlement Class, including any claims for unpaid wages (including minimum, regular, vacation and overtime wages), untimely wage payments both during and at the end of employment, non-compliant meal periods, non-compliant rest periods, failure or properly pay meal period premiums in lieu of a meal period, failure to properly pay rest period premiums in lieu of a rest period, non-compliant wage statements, failure to reimburse and indemnify business expenses, failure to correctly calculate the regular rate of pay, and claims for interest, penalties (including but not limited to waiting time penalties), or premiums in connection therewith, as well as any claims under the California Labor Code and California Industrial Welfare Commission Wage Orders that were alleged or which could have been alleged under the facts, allegations and/or claims pleaded in the Santamaria Case, as well as claims for injunctive relief, declaratory relief, restitution, fraudulent business practices, or punitive damages alleged, or which could have been alleged, under the facts, allegations and/or claims pleaded in the Santamaria Case.

The Release will be as to the Released Parties for the period from April 2, 2017 through September 1, 2022. The Released Claims include all claims described above—that is, those claims that are, or reasonably could have been, asserted in the First Amended Complaint—whether known or unknown. This means that even if the participating Settlement Class Member discovers facts in addition to, or different from, those facts that they now know or believe to be true, or otherwise fail to discover facts with respect to the subject matter of the Released Claims, those claims will remain released and forever barred.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Bright Horizons could be required to pay under this Agreement shall be \$2,500,000 plus the employer's share of applicable payroll taxes with respect to the Settlement Fund ("Settlement Fund").

The "Net Settlement Fund" or "NSF" means the portion of the Settlement Fund available for distribution to Class Members after the deduction of:

- Attorneys' Fee Award (up to \$833,333.33),
- Cost Award (up to \$20,000),
- Class Representative Enhancement (up to \$10,000);
- the PAGA Payment (\$100,000), and
- Administration Costs (up to \$52,000).

All of these payments are subject to Court approval.

After deducting the above-referenced items, the remaining Net Settlement Fund will be distributed amongst all Settlement Class Members (that is those Class Members who have not opted out).

Individual Settlement Payments will be calculated and apportioned from the NSF based on the number of qualifying workweeks a Class Member worked during the Class Period, as follows:

- a. Settlement Class Members will receive a pro rata share of the NSF. To calculate each Settlement Class Member's share of the NSF, the NSF shall be multiplied by a fraction, the numerator of which is the number of work weeks the Settlement Class Member worked any regular hours as a non-exempt, hourly paid employee in California during the Settlement Class Period, and the denominator of which is the total of all weeks in which the Settlement Class Members worked any regular hours during the Settlement Class Period. The resulting number shall be the Individual Settlement Payment.
- b. Thirty-Three and One-Third percent (33.33%) of the NSF distributed to each Settlement Class Member will be considered wages and will be reported as such to each Settlement Class Member on an IRS Form W-2.
- c. Sixty-Six and Two-Thirds percent (66.67%) of the NSF distributed to each Settlement Class Member will be considered penalties and interest and will be reported as such to each Settlement Class Member on an IRS Form 1099 misc., if applicable.

Although your exact share of the Net Settlement Fund cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement concludes, based upon the calculation above, your approximate share of the Net Settlement Fund is as follows: \$ [REDACTED], less tax withholdings customarily made from employee's wages. This is based on Bright Horizon's records, which show you worked [REDACTED] workweeks during the period of April 2, 2017 through September 1, 2022.

If you believe the number of workweeks is incorrect, you may provide documentation and/or an explanation to show contrary information to the Settlement Administrator at Mara Santamaria v. Bright Horizons Children's Center, et al., c/o [REDACTED] on or before [the Response Deadline].

- 7 -

Questions? Call the Settlement Administrator toll free at [phone number]

Your Individual Settlement Payment check will remain valid for 180 calendar days, and will be canceled thereafter. The amount of any uncashed checks will be disbursed to Next Door Solutions, San Jose as cy pres.

11. *How Will the Attorneys for the Class and the Class Representative be Paid?*

The attorneys for Plaintiff and the Settlement Class will be paid from the Settlement Fund. Subject to Court approval, the attorneys shall be paid an amount not to exceed 33 ⅓% of the Settlement Fund (\$2,500,000) for attorney fees and up to \$833,333.33 for litigation costs.

Bright Horizons has paid all of its own attorneys' fees and costs.

The Plaintiff will also be paid a Class Representative Enhancement Payment, up to \$10,000.00, subject to Court approval.

12. *What are the PAGA Released Claims?*

If you were employed by Bright Horizons in the State of California during the period of April 2, 2020 through September 1, 2022 you are a PAGA Employee. The Court approved the PAGA settlement on [date of Preliminary Approval].

As part of the Settlement, Bright Horizons has agreed to pay a PAGA Payment of \$100,000. Seventy-five percent (75%) of this payment goes to the Labor and Workforce Development Agency ("LWDA") and twenty-five percent (25%) is divided among PAGA Employees. The 25% that goes to PAGA Employees is called the PAGA Fund.

The PAGA Fund is allocated to each PAGA Employee based on the number of weeks worked by each PAGA Employee during the period of April 2, 2020 through September 1, 2022. The amount to be paid per workweek worked by a PAGA Employee will be calculated on a pro rata basis by dividing the value of the portion of the PAGA Fund that will be paid to each PAGA Employee by the total number of weeks worked by all PAGA Employees during the PAGA Period.

Plaintiff, on behalf of herself and as representatives of the State of California as a private attorney general and all PAGA Employees, fully release and forever discharge the Released Parties (described above) from any and all claims for PAGA penalties under Labor Code Sections 2698, *et seq.* for all claims that were, or could have been, alleged in the First Amended Complaint or are based upon the factual allegations contained in the First Amended Complaint, for the period April 2, 2020 through September 1, 2022. As a result of this Release, the PAGA Employees will be unable to bring a claim under the California Private Attorneys General Act, and California Labor Code Sections 2698 *et seq.* for any alleged violations of the PAGA Released Claims that took place between April 2, 2020 through September 1, 2022.

If you are a Settlement Class Member who does not opt-out of the Settlement and a PAGA Employee, you will only receive one check that combines your Individual Settlement Payment and your payment related to PAGA.

Your check for the PAGA Payment will remain valid for 180 calendar days, and will be canceled thereafter. The amount of any uncashed checks will be disbursed to Next Door Solutions, San Jose as cy pres..

* * *

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above or the Settlement Administrator at the telephone number listed below, toll free. Please refer to the Bright Horizons Class Action Settlement.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court at the San Bernardino Justice Center, located at 247 W 3rd St., San Bernardino, CA 92415 between 8:30 a.m. and 2:00 p.m.

You may also contact Plaintiff's counsel, whose contact information is above, and they will provide you with a copy via email of the Settlement Documents or case documents free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

PLEASE DO NOT CONTACT DEFENSE COUNSEL. YOU MAY CONTACT THE ADMINISTRATOR WHICH MAY BE ABLE TO ANSWER QUESTIONS BUT CANNOT PROVIDE ANY LEGAL ADVICE.

EXHIBIT 2

REQUEST FOR EXCLUSION FROM CLASS ACTION SETTLEMENT

Superior Court of the State of California, County of San Bernardino
Mara Santamaria v. Bright Horizons Children's Centers, et al.
Case No. CIVSB2210140

DO NOT SIGN OR SEND THIS DOCUMENT UNLESS YOU WISH TO EXCLUDE YOURSELF FROM THE SETTLEMENT. IF YOU EXCLUDE YOURSELF, YOU WILL NOT RECEIVE ANY PAYMENT FROM THE SETTLEMENT.

THIS DOCUMENT MUST BE POSTMARKED NO LATER THAN _____, 2022.

PLEASE MAIL THIS EXCLUSION FORM VIA REGULAR U.S. MAIL TO:

BRIGHT HORIZONS SETTLEMENT ADMINISTRATOR, C/O [INSERT ADMINISTRATOR NAME]. [INSERT ADMINISTRATOR ADDRESS]

IT IS MY DECISION NOT TO PARTICIPATE IN THE CLASS ACTION REFERRED TO ABOVE, AND NOT TO BE INCLUDED IN THE CLASS IN THAT ACTION. I UNDERSTAND THAT BY EXCLUDING MYSELF, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION SETTLEMENT AND ANY CLAIMS I MAY HAVE WILL NOT BE RELEASED. I UNDERSTAND THAT THERE MAY BE TIME LIMITS ON THE CLAIMS THAT MAY PREVENT ME FROM FILING A LAWSUIT OR PURSUING CLAIMS AGAINST BRIGHT HORIZONS CHILDREN'S CENTERS LLC AND BRIGHT HORIZONS FAMILY SOLUTIONS INC.

Dated: _____

(Signature)

(Last 4 digits of Social Security Number)

(Type or print name and former name(s))

(Telephone Number)

(Address)

(Address continued)

EXHIBIT 3

SUPERIOR COURT OF THE STATE CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

MARA SANTAMARIA, and on behalf of
all others similarly situated,

Plaintiffs,

v.

BRIGHT HORIZONS CHILDREN'S
CENTER, a Delaware Corporation;
BRIGHT HORIZONS FAMILY
SOLUTIONS INC., a Delaware
Corporation, and DOES 1-10, inclusive,

Defendants.

Case No.: CIVSB2210140

OBJECTION FORM

THIS FORM MUST BE POSTMARKED NO LATER THAN _____, 2022.

ONLY RETURN THIS FORM IF YOU WANT TO OBJECT TO THE SETTLEMENT.

Name (First, Middle, Last)

[preprinted by claims administrator]

OBJECT

If you choose, you may object to this Settlement. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from the Settlement. If you participate in the Settlement and receive an Individual Settlement Payment, you do so in exchange for a release of the Released Claims as more fully discussed below.

If you wish to Object to the Settlement, you should submit your objection to the Settlement Administrator. You may use this Objection Form to submit your objection. Your objection should state why you object to the settlement. The objection must be mailed to the Settlement Administrator at the address below and must be postmarked no later than _____, **2022**. Late objections will not be considered. If your objection is overruled, you will still receive your Individual Settlement Payment and you will have released the Released Parties from the Released Claims as provided for in the Notice of Class Action and Private Attorney General Act ("PAGA") Settlement.

You may also, if you wish, appear at the Final Fairness and Approval Hearing set for _____, _____ at _____ a.m. in Dept. S28 of the San Bernardino Justice Center

located at 247 W 3rd St., San Bernardino, CA 92415 and discuss your objections with the Court and the Parties. If you submit an objection, counsel for the Plaintiff will notify you of any continued hearing date. Otherwise, the Final Approval Hearing may be continued to another date without further notice. You may withdraw your objections at any time. You may not present an objection at the Final Approval Hearing unless you have submitted a timely objection that complies with the terms of the Notice of Class Action and Private Attorney General Act Settlement. If you have submitted a Request for Exclusion Form, you may not submit objections to the Settlement. You do not need to appear at the Final Approval Hearing to have your Objection considered by the Court.

Please state all reasons for the objection below and sign, date and include your address and telephone number. Any reasons not included in the written objection will not be considered. The Settlement Administrator will stamp the date received on the original and send copies of each objection to Class Counsel and Counsel for Bright Horizons Children's Centers LLC and Bright Horizons Family Solutions Inc. by email within two business days after receipt thereof.

Reason(s) for Objection: (you may include additional pages if necessary)

Dated: _____

(signature)

(typed or print name)

(address)

(telephone number)

(last four digits of social security number)

If you object, please mail the completed form by _____, 2022 to:

BRIGHT HORIZONS WAGE AND HOUR SETTLEMENT ADMINISTRATOR
c/o ILYM Group
[ADDRESS and phone number]

EXHIBIT 3

James R. Hawkins (SBN 192925)
Christina M. Lucio (SBN 253677)
Mitchell J. Murray (SBN 285691)
Danielle L. Piskor (SBN 338246)
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676
James@Jameshawkinsaplc.com
Christina@Jameshawkinsaplc.com
Mitchell@Jameshawkinsaplc.com
Danielle@Jameshawkinsaplc.com

Attorneys for Plaintiff MARA SANTAMARIA,
individually and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MARA SANTAMARIA, and on behalf of all
others similarly situated,

Plaintiff,

v.

BRIGHT HORIZONS CHILDREN'S
CENTER, a Delaware Corporation; BRIGHT
HORIZONS FAMILY SOLUTIONS INC., a
Delaware Corporation, and DOES 1-10,
inclusive,

Defendants.

Case No.: CIVSB2210140

**CLASS ACTION AND PAGA
REPRESENTATIVE ACTION**

Assigned For All Purposes To:
Judge: Michael A. Sachs
Dept.: S28

**DECLARATION OF JAMES R.
HAWKINS IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Hearing re Prelim Approval: December 8, 2022
Time: 8:30 a.m.

Action Filed: May 17, 2022

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Mara Santamaria (hereinafter referred to as “Plaintiff” or “Class Representative”), who filed this action on behalf of herself and the Class Members as defined herein. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit A** is a true and correct copy of the executed Settlement Agreement which the Parties ask the Court to approve. Attached as **Exhibit 1** to the Settlement Agreement is a true and correct copy of the Notice of Class Action Settlement which the Parties have requested the Court approve for sending to the Settlement Class. Attached as **Exhibit 2** to the Settlement Agreement is a true and correct copy of the Request for Exclusion which the Parties have requested the Court approve for sending to the Settlement Class. Attached as **Exhibit 3** to the Settlement Agreement is a true and correct copy of the Objection Form which the Parties have requested the Court approve for sending to the Settlement Class.

3. On September 22, 2021, Plaintiff submitted a letter to the Labor and Workforce Development Agency (“LWDA”) for the purpose of complying with Labor Code § 2699.3’s notice requirement, giving notice of Plaintiff’s allegations based upon the legal claims set forth in the SF Action (defined below).

4. On September 23, 2021, Plaintiff filed a Class Action Complaint in San Francisco Superior Court against BHCC (“SF Action”). The SF Action alleged that BHCC: (1) failed to pay wages; (2) failed to provide meal periods as required; (3) failed to provide rest periods as required; (4) failed to reimburse business expenses; (5) failed to pay timely wages (6) failed to provide accurate itemized wage statements; and (7) violated Business & Professions Code § 17200, *et seq.* The SF Action has since been dismissed without prejudice.

1 5. On May 17, 2022, after conducting significant informal discovery and exchange of
2 information, the Parties prepared for and participated in a full-day mediation presided over by experienced
3 wage and hour mediator Gig Kyriacou.

4 6. Following mediation, the Parties agreed, subject to approval by the Court, to the Settlement
5 of this case, with Plaintiff agreeing to amend the Complaint and PAGA notice to conform to the allegations
6 made and forming the basis of the Settlement agreed upon.

7 7. On May 17, 2022, Plaintiff commenced the “Action,” filing a Class Action Complaint in
8 San Bernardino Superior Court against BHCC (“Complaint”). The Complaint alleged that BHCC: (1)
9 failed to pay wages; (2) failed to provide meal periods as required; (3) failed to provide rest periods as
10 required; (4) failed to reimburse business expenses; (5) failed to pay timely wages (6) failed to provide
11 accurate itemized wage statements; and (7) violated Business & Professions Code § 17200, *et seq.*

12 8. On August 5, 2022, Plaintiff submitted a second letter to the LWDA for the purpose of
13 complying with Labor Code § 2699.3’s notice requirement, giving amended and supplemental notice of
14 Plaintiff’s allegations based upon the legal claims set forth in the Operative Complaint (“PAGA Notice”).

15 9. On August 5, 2022, Plaintiff filed a First Amended Complaint against Defendantss in the
16 San Bernardino action for: (1) failure to pay wages, including minimum wages and overtime at the correct
17 rates and for all hours worked; (2) failure to provide meal periods as required, or premiums at the correct
18 rate in lieu; (3) failure to provide rest periods as required, or premiums at the correct rate in lieu; (4) failure
19 to reimburse business expenses; (5) failure to pay timely wages during employment (6) failure to timely
20 pay wages upon separation or termination from employment; (7) failure to provide accurate and itemized
21 wage statements; (8) violation of Business & Professions Code § 17200, *et seq.*; and (9) civil penalties
22 under Private Attorneys General Act , Labor Code section 2698, *et seq* (“Operative Complaint”). The
23 Operative Complaint and PAGA Notice conform to the claims made by Plaintiff during the litigation and at
24 mediation and the basis for the agreed Settlement.

25 10. During the mediation with Mediator Kyriacou, each side, represented by its respective
26 counsel, recognized the risk of an adverse result in the Action and agreed to settle the Action pursuant to
27 the terms and conditions of the Settlement Agreement.

28 11. Throughout the Action, the Parties extensively investigated the relevant facts and

1 applicable law, potential defenses, and damages claims by Plaintiff on behalf of herself and the Settlement
2 Class.

3 12. Defendants continues to deny, each and every material allegation, dispute, and claim raised
4 in the underlying actions. Defendants has at all times denied, and continues to deny, all of these allegations,
5 and denies any and all liability for Plaintiff's claims. Defendants further denies that Plaintiff's allegations
6 are appropriate for class, and/or representative treatment for any purpose other than for settlement purposes
7 only.

8 13. Prior to mediation, Plaintiff's Counsel conducted a thorough investigation into the
9 factual and legal issues implicated by Plaintiff's claims and were able to objectively assess the
10 settlement's reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff's
11 Counsel to discuss the factual bases for pursuing their actions against Defendants for Labor Code
12 violations. Plaintiff was intimately familiar with Defendants's labor policies and practices, and
13 over the course of multiple interviews, knowledgeably summarized those policies and practices to
14 Plaintiff's Counsel. During those conversations, Plaintiff explained how the policies and practices
15 were instituted and provided valuable insight into how they gave rise to the alleged Labor Code
16 violations. Based on these interviews with Plaintiff, Plaintiff's Counsel determined that there were
17 legally sufficient grounds for pursuing the Actions against Defendants. And in preparation for
18 drafting the complaints, Plaintiff's Counsel conducted their own independent preliminary
19 investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a careful
20 examination of Plaintiff's personnel files and associated records.

21 14. In response to Plaintiff's informal discovery requests, Plaintiff's Counsel received a
22 considerable amount of documents and data, including Plaintiff's time sheets, earnings statements,
23 and acknowledgements, employee demographic data, time and pay records, a payroll calendar,
24 postings from the location, and Defendants's policies and procedures manuals which covered a
25 broad range of topics including, *inter alia*, employee clock-in policies and procedures, attendance
26 policies, meal periods/rest periods, overtime & premium pay, etc. and sampled time and pay
27 records. Defendants also provided substantial information concerning the total number of potential
28 class members, the payroll data at issue, and the applicable hourly rates, workweeks and pay

1 periods, and other summary data related to the alleged class. The Parties have conducted
2 themselves in informed, good faith arms-length negotiations after conducting discovery and
3 exchanging extensive evidence and information about the claims and defenses of this lawsuit
4 through informal discovery, and engaging in pre-mediation discussions, telephone conferences,
5 and correspondence all aimed at settling their dispute. The document and data exchanges allowed
6 Plaintiff's Counsel to fully assess the nature and magnitude of the claims being settled, as well as
7 the impediments to recovery, and ultimately enabled Plaintiff's Counsel so as to make an
8 independent assessment of the reasonableness of the settlement's terms.

9 15. In summary, Class Counsel performed a thorough investigation into the claims at
10 issue, which included: (1) determining Plaintiff's suitability as private attorney general and class
11 representative through interviews, background investigations, and analyses of her employment
12 files and related records; (2) evaluating all of Plaintiff's potential representative claims; (3)
13 engaging in informal discovery, which included production of Defendants's timekeeping, meal
14 period and rest break policies; documents evidencing Defendants's handbooks, policies and
15 procedures for managing payment for all hours worked, meal periods and rest breaks; and other
16 relevant information, including Plaintiff's personnel and payroll file; (4) exchanging documents,
17 data, and information based on electronic time and pay records for the Putative Class Members to
18 determine the number of current and former putative class members who worked during the
19 relevant time period, the total number of workweeks at issue, the average hourly rate for the
20 putative class and aggrieved employees; (5) researching similar wage and hour class actions as to
21 the claims brought, the nature of the positions, and the type of employer; (6) analyzing employees'
22 time, pay, and wage records; (7) reviewing Defendants's employment policies and practices; (8)
23 researching settlements in similar cases; (9) evaluating Plaintiff's claims and estimating
24 Defendants's liability for purposes of settlement; (10) drafting the mediation brief; and (11)
25 participating in the mediation.

26 16. By engaging in such a thorough investigation and evaluation of Plaintiff's claims,
27 Class Counsel can opine that the Settlement, for the consideration and on the terms set forth in
28 the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class

Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendants.

17. Defendants categorically denies all of the above-mentioned assertions and allegations raised in and in support of the claims in the Class and PAGA Actions. To that end, Defendants has denied and continues to deny each, and all of the allegations, claims, and contentions alleged by the Plaintiff in the Class and PAGA Actions. Defendants has expressly denied and continues to deny all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts or omissions alleged in the Class and PAGA Actions. Defendants contends that it complied in good faith with wage and hour laws and has dealt legally and fairly with Plaintiff and putative class members. Defendants further denies that, for any purpose other than settling the Class and PAGA Actions, these claims are appropriate for class or representative treatment. To date, no class has been certified and no court has made any findings that Defendants engaged in any wrongdoing or in any wrongful conduct, or otherwise acted improperly or in violation of any law, rule or regulation with respect to any of the issues presented in this action. Nonetheless, the Parties have concluded that further proceedings in the Class and PAGA Actions would be protracted and expensive and that it is desirable that the Class and PAGA Actions be fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement in order to dispose of burdensome and protracted litigation, to permit the operation of Defendants's business without further expensive litigation and the distraction and diversion of its personnel with respect to matters at issue in the Class and PAGA Actions. Defendants has also taken into account the uncertainty and risks inherent in any litigation, especially in complex cases such as the Class and PAGA Actions. Defendants has, therefore, determined that it is desirable and beneficial to it that the Class and PAGA Actions be settled in the manner and upon the terms and conditions set forth in Settlement.

18. In connection with this Settlement, Plaintiff seeks to represent the Aggrieved Employees and the Settlement Class Members. The "Settlement Class Members" are defined as all current and former nonexempt, hourly-paid employees employed by Defendantss, or either of them, in California at any time during April 2, 2017, through September 1, 2022.

1 19. The Parties were represented by experienced class action counsel throughout the
2 negotiations resulting in this Settlement. Plaintiff is represented by James Hawkins, APLC. Class
3 Counsel employs seasoned class action attorneys who regularly litigate wage and hour claims
4 through certification and on the merits, and have considerable experience settling wage and hour
5 class actions. Defendants is represented by Littler Mendelson P.C., a respected and seasoned
6 defense firm.

7 20. In preparation for the mediation, Plaintiff's counsel reviewed the entirety of the
8 documents and information produced with the assistance of an expert. The information had to be
9 extrapolated and processed to create a damages model. The evidence and information gathered and
10 reviewed by counsel provided a factual framework for a comprehensible and reliable damage
11 model pertaining to all Settlement Class Members. The mediation included discussions and
12 examination of the proposed Class and the Parties' respective positions on the legal and factual
13 issues raised in the Complaint.

14 21. As a result of the mediation, the Parties agreed to settle this matter for a Gross
15 Settlement Amount of \$2,500,000.00. This is a non-reversionary settlement. No portion of the
16 Gross Settlement Amount will revert to Defendantss. The Class consists of all current and former
17 nonexempt, hourly-paid employees employed by Defendantss, or either of them, in California at
18 any time during April 2, 2017, through September 1, 2022. It is estimated that there are
19 approximately 6,325 Class Members.

20 22. Counsel for the Parties investigated the applicable law as applied to the facts
21 discovered regarding the claims of Plaintiff, Defendants's defenses thereto and the damages
22 claimed by Plaintiff on behalf of the Settlement Class. Plaintiff's counsel balanced the terms of
23 the proposed Settlement against the risk of litigation and probable outcome at the class
24 certification stage, and if any Class were certified, at trial. Based on their own respective
25 independent investigations and evaluations, and after taking into account the sharply disputed
26 factual and legal issues involved in this matter, the risks attending further prosecution of the case,
27 Defendants's defenses, the potential applicability of arbitration agreements, and the monetary
28 benefits received under the Settlement, Plaintiff's counsel is of the opinion that Settlement for the

1 consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and
2 adequate and is in the best interests of Plaintiff and the Class.

3 23. I believe that the consideration and terms set forth in the Settlement Agreement are
4 fair, reasonable, and adequate and are in the best interests of the Settlement Class in light of all
5 known facts and circumstances, including the various defenses asserted by Defendants, and
6 numerous potential appellate issues. In addition, the prospect of a potential adverse summary
7 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
8 litigation, the lengthy process of establishing specific damages and various possible delays and
9 appeals, were also carefully considered in agreeing to the proposed Settlement.

10 24. The Total Gross Settlement Amount includes, without limitation, attorneys' fees of
11 one-third of the Maximum Gross Settlement Amount (estimated at \$833,000.00) ("Attorneys'
12 Fees") plus litigation costs according to proof not to exceed \$20,000.00; (3) class representative
13 service payment not to exceed \$10,000 to Plaintiff ("Service Payment"); (4) all settlement
14 administration fees and costs, including those of the Settlement Administrator not to exceed
15 \$52,000.00 ("Claims Administration Fees"); (5) Penalties paid pursuant to PAGA in the amount
16 of \$100,000.00 of which seventy five percent (75%) or \$75,000.00 will be paid the LWDA and
17 twenty five percent (25%) or \$25,000.00 will be distributed pro rata to all PAGA Releasees and (5)
18 all payroll taxes and all other applicable taxes, excluding the employer's portion of the payroll
19 taxes ("Payroll Taxes"). This is a non-reversionary settlement. After deductions, the Net
20 Settlement Amount is estimated to be approximately \$1,485,000.00.

21 25. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff
22 involved both in not prevailing on one or more of the causes of action or theories alleged in the
23 operative Complaint and in non-certification, and if successful, Defendants's dispute of the ability
24 of Plaintiff to maintain certification in this case. Defendants also argued it maintained lawful
25 written policies that were provided to the class members. Defendantss have many strong
26 arguments, which could render the Class Members' claims worthless at either class certification or
27 trial. Yet, despite the defenses proffered by Defendants, the proposed Settlement commits
28 Defendants to pay each Class Member a portion of the NSA. The amount to be paid to the Class is

1 fair, adequate and reasonable given the significant risk to Plaintiff and the Class in continuing with
2 the litigation and not prevailing on their claims at class certification or at trial or not being paid
3 anything even if trial was successful.

4 26. The predominant claims in this action arise from alleged violations of California law
5 with respect to Defendants's failure to provide meal periods and permit and authorize rest periods,
6 failing to pay overtime at the correct rate, failure to reimburse for necessary business expenses,
7 and failing to pay all wages earned at termination. Plaintiff alleges that these practices resulted
8 directly from the implementation and enforcement of Defendants' own policies and practices.

9 27. Defendants argued that it complied with applicable law at all times and that its
10 applicable policies and procedures were legally complaint. Defendants argued that it properly
11 paid overtime as required by law and factored in all required sums and those sums that were not
12 factored into the regular rate were discretionary. Defendants argued that to the extent a meal or
13 rest period was missed, late or short, it was a matter of individual preference, and the existence of
14 a violation could not be determined without an evaluation of the circumstances of each instance.
15 Defendants argued that these issues were accordingly not ripe for certification. Defendants further
16 argued that the employees were not performing any work during the meal periods and that the
17 employees were required to take a meal period and let Defendants know if they did not take a meal
18 period. With regard to final payment of wages, Defendants argued that as a matter of policy and
19 practice, wages were timely paid in connection with termination. As for the reimbursement issue,
20 Defendantss claim they have never required Plaintiff or any other Class Member to incur a
21 business expense, but if they did, all reimbursements were lawfully given. Defendants contended
22 that any anecdotal evidence to the contrary constituted a one-off situation but was not indicative of
23 any wide-spread policy or practice.

24 28. The Labor Code section 203 claim was also uncertain given the defenses asserted for
25 the underlying meal and rest break claims and as a lack of evidence of the "willfulness" prong
26 necessary for a Labor Code § 203 claim. Further, California's Second District Court of Appeals
27 in *Gustavo Naranjo, et al. v. Spectrum Security Services, Inc.* held that unpaid premium wages for meal
28 break violations do not entitle employees to additional remedies under the California Labor Code for

1 inaccurate wage statements or waiting time penalties. Class Counsel recognized these risks of an
2 adverse finding on certification as to these claims.

3 29. Defendants's time keeping records, payroll records, and review other relevant data
4 points, were analyzed to come up with a damage model to determine Defendants's exposure.

5 30. Class certification was somewhat uncertain given the numerous hurdles necessary
6 under the California Supreme Court decision in *Brinker Restaurant Corp. v. Superior Court*.
7 Plaintiff also considered Defendants's; arguments that subsequent decisions citing and relying on
8 the U.S. Supreme Court decision in *Wal-Mart v. Dukes*, 564 U.S. 338 (2011) arguably made it
9 more difficult to certify a class in this case based upon the need to demonstrate that common
10 issues are superior and could be dealt with in "one stroke" and that the "trial by formula" (*Duran*
11 *v. U.S. Bank* (2014) 59 Cal.4th 1172) could not satisfy such requirements based upon due process
12 grounds. However, Plaintiff disagreed that the subsequent decisions citing *Walmart*, applied to the
13 facts in this case. Additionally, Plaintiff believes the cases denying certification are distinguishable
14 and that the facts in this case are more akin to the facts in cases where certification had been
15 granted, Class Counsel recognize the risk of an adverse finding on certification and considered and
16 weighed this risk in determining to settle and compromise these claims. Lastly, Plaintiff believe
17 the decisions in *Sav-On Drug Stores, Inc. v. Sup. Ct.*, (2004) 34 Cal. 4th 319, 340 and *Bell v*
18 *Famers Ins. Exchange*, (2004) 115 Cal. App. 4th 715 provide the applicable framework for class
19 certification trial by formula plans. See also *Duran v. Superior Court*, 2014 Cal. LEXIS 5569
20 (Cal. Aug. 13, 2014).

21 31. Further, beyond the risk of an adverse ruling on the merits or certification, Class
22 Counsel considered the fact that continued litigation would likely take years and would be
23 extremely expensive given the breadth and complexity of the claims. In this case, post-trial and
24 appellate proceedings are likely to occur, which will surely drag the case far into the future even
25 with a positive trial result. When facing a distant and unsure resolution of the allegations in this
26 action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly
27 litigation in favor of more immediate benefits to the Class was a consideration favoring settlement.
28 Given these realities, it is highly likely that the future expense of this litigation, and its likely

1 duration if the settlement is not approved, would be significant and weigh heavily in favor of
2 approval of this settlement.

3 32. The GSA is well within the acceptable range of reasonableness for the claims of the
4 Settlement Class Members. The Parties estimated that there were approximately 450,000
5 workweeks at issue in the class period (and 225,000 pay periods), 4.3 shifts per workweek,
6 1,935,000 shifts, 77,357 in the PAGA period, and approximately 5,500 employees in the class.
7 The average hourly rate was approximately \$19.11 per hour.

8 a. **Rounding**: Plaintiff alleged that Defendantss unlawfully rounded employee time
9 punches to the detriment of employees. Plaintiff alleged that while the rounding policy purported
10 to be facially neutral, it inured to the benefit of the employer because employees were required to
11 report to work early and work after their scheduled end of shift to prepare for the day, begin
12 supervision, and complete the duties and tasks assigned. Plaintiff also argued that employees were
13 encouraged to log in early and begin working before their scheduled start times by Defendants by
14 virtue of Defendants's attendance and tardy policy. Thus, Plaintiff argued that she and her co-
15 workers reported to work early and began working immediately after clocking in and should have
16 been paid for all hours worked. Plaintiff also argued that rounding practices in California were
17 unlawful in light of recent Supreme Court guidance in *Donohue v. AMN Servs., LLC*, 11 Cal. 5th
18 58 (2021) and *Troester v. Starbucks Corp.*, 5 Cal. 5th 829 (2018).

19 i. Defendantss offered evidence that the rounding policy was facially
20 neutral and employees often benefitted from the rounding practices.
21 Defendantss also disputed Plaintiff's contentions that its rounding
22 practices were unlawful in California. Defendants argued an
23 employer may use a rounding policy if it "is fair and neutral on its
24 face and '... is used in such a manner that it will not result, over a
25 period of time, in failure to compensate the employees properly for
26 all the time they have actually worked.'" (*See's Candy Shops, Inc. v.*
27 *Superior Court* (2012) 210 Cal.App.4th 889, 907.) "[C]ourts have
28 upheld an employer's rounding policy if "on average, [it] favors

1 neither overpayment nor underpayment,..”(Silva v. See's Candy
2 Shops, Inc. (2016) 7 Cal.App.5th 235, 249 (See's Candy II).
3 Defendantss argued that its rounding policy was facially neutral and
4 lawful because the system gave equal opportunity to round up or
5 down. Defendantss further argued that to the extent there was any
6 liability Plaintiff's estimates of liability were vastly overblown
7 because any such liability had to be calculated at minimum wage
8 rather than the average regular rate.

9 ii. Plaintiff estimated Defendants's maximum exposure on the
10 rounding claim to be approximately \$2,033,781.75 [.1 (6 min per
11 shift) x 1,935,000 shifts x \$19.11 (average rate of pay) x .55 (% of
12 shifts with underpayment due to rounding).] Plaintiff estimated the
13 realistic value of the claim taking into account Defendants's
14 defenses and issues of proof as \$813,512.70 [.1 (6 min per shift) x
15 1,935,000 shifts x \$19.11 (average rate of pay) x .55 (% of shifts
16 with underpayment due to rounding) x .4 (likelihood of certification
17 and success on claims)].

18 b. **Off-the-Clock Minimum Wage and Overtime:** Plaintiff further asserted that
19 Defendants failed to pay at least minimum wage for each hour worked and overtime as required,
20 as Plaintiff and the Class Members were required to work off the clock before and after shifts, and
21 during meal periods to meet Defendantss' demands and requirements. Plaintiff argued that this off
22 the clock work typically occurred on shifts of eight hours and, thus, payment for these hours
23 worked should have been made at the overtime rate. Defendantss argued that its timekeeping
24 policies were legally compliant and it strictly prohibited employees from working off the clock.
25 Defendantss also argued that they trained employees to clock in before performing any work, and
26 to promptly report any suspected violation of the policy prohibiting off the clock work.
27 Defendantss also argued that they trained employees that all hours worked should be recorded and
28

1 trained them on how to ensure such hours worked were captured (if a time clock was unavailable)
2 as necessary.

3 i. Defendantss argued that it was factually unaware of any off the
4 clock work, and did not mandate any such off the clock work. Thus,
5 Defendantss contended that to the extent any work was performed
6 off the clock (which it denied), this was an individualized issue
7 which could not be certified.

8 ii. Plaintiff estimated Defendants's maximum exposure on this claim to
9 be approximately \$5,062,500 [.75 (45 min per week) x 450,000
10 workweeks x \$15.00 (minimum wage).] Plaintiff estimated the
11 realistic value of the claim taking into account Defendants's
12 defenses and issues of proof as \$506,250 [.75 (45 min per week) x
13 450,000 workweeks x \$15.00 (minimum wage) x .1 (likelihood of
14 certification and success on claims)].

15 c. **Meal Periods, Rest Periods, and Accurate Premiums:** Plaintiff further alleged that
16 Defendants failed provide lawful meal breaks and authorize and permit rest breaks as a
17 consequence of Defendantss' staffing and scheduling practices, lack of coverage, work demands,
18 and Defendantss' policies and practices. Plaintiff also argued that employees were required to
19 carry communications devices (walkie talkies) at all times, including during meal and rest breaks.
20 Plaintiff also contended that Defendantss encouraged employees to remain on premises meal
21 periods and rest periods so such periods could be interrupted and employees could return to work
22 to assist with tasks and supervise as necessary. Plaintiff also argued that Defendants failed to
23 provide meal periods on shifts between 5 and 6 hours and on shifts over ten hours as required by
24 law without a valid waiver. Further, with regard to rest periods, Plaintiff argued that Defendantss
simply did not provide the as a matter of practice.

25 i. Defendants argued that its policies were facially compliant with the
26 law, and that employees were trained regarding the importance of
27 taking meal and rest periods, and meal and rest period requirements.
28 Defendantss further argued that they maintained extra staffing in

1 their facilities to ensure that there was coverage during meal and rest
2 periods, and that as a matter of practice they worked to ensure that
3 such periods were lawfully provided. Defendantss disputed any
4 contention that employees were required to remain on premises or
5 remain available during meal or rest periods. Further, Defendants
6 argued that employees were free to leave the premises during meal
7 and rest periods if they wished. If employees chose to remain on
8 premises during meal or rest periods, it was a matter of individual
9 preference and there was nothing unlawful about such a practice.
10 Defendantss also produced significant evidence, including time and
11 payroll records, memos, and policies, demonstrating that meal
12 periods were provided in accordance with the law, and if an
13 employee indicated that they had not been provided a meal period, a
14 meal period premium payment was paid. Defendantss produced
15 evidence demonstrating that they had paid several hundred thousand
16 dollars in meal period premiums during employment. Defendantss
17 also produced exemplars of waivers for meal periods on shifts less
18 than 6 hours and for second meal periods on shifts of between 10
19 and 12 hours. Defendantss also produced evidence that, in practice,
20 employees were free to take lawful rest periods and were free from
21 control. Thus, Defendants denied all liability and reasoned that all
22 period premiums owed were paid as required by law. Separate and
23 apart from these violations, Plaintiff also argued that Defendants
24 failed to pay premiums at the regular rate as required by *Ferra v.*
25 *Loews Hollywood Hotel, LLC*, 11 Cal. 5th 838 (2021), as such the
26 premiums did not include all earned non-discretionary sums.
27 Defendantss argued that their policies complied with the law, any
28 additional sums were discretionary, and they always paid all sums

owed, and that to the extent there was any underpayment (which they denied), it was not willful.

ii. Estimated maximum exposure for unlawful meal periods: 1,716,345 (shifts greater than six hours) x \$19.11 x .035 (violation rate) = \$1,147,977.35. Realistic value taking into account Defendants's defenses and issues of proof: \$1,147,977.35 x .5 (likelihood of certification and success on merits)= \$573,988.68

iii. Estimated maximum exposure for unlawful rest periods (assuming 100% violation rate): 1,884,690 shifts over 3.5 hours x \$19.11 = \$36,016,425.90. Realistic value taking into account Defendants's defenses and issues of proof = 1,884,690 shifts over 3.5 hours x \$19.11 x .25 (violation rate) x .2 (likelihood of certification and success on merits) = \$1,800,821.30.

d. **Reimbursement:** Plaintiff also alleged that the Class Members incurred necessary expenses in the discharge of their duties, including, without limitation, related to the use of cellular phones, and a personal home computer and internet particularly during the pandemic. Plaintiff alleged that, during the pandemic, Plaintiff and the Class Members were required to perform certain functions remotely and in furtherance of their job duties as employees for Defendantss but were never reimbursed nor indemnified by Defendantss for the cost associated, and Plaintiff and the Class Members should have been reimbursed for said usage.

i. Defendantss argued that employees were provided with all equipment necessary to perform their job functions, and there was no expectation that employees would use personal devices or computers to perform any job functions. Defendantss also contended that during the pandemic operations were wholly shut down for a period of time and that employees were not expected to use their personal computers or devices to perform any duties. Defendantss further argued that to the extent employees incurred any expenses in the course of performing their job duties, employees

1 were made aware of procedures for seeking reimbursements and that
2 Defendants maintained a legally compliant reimbursement
3 mechanism.

- 4 ii. Plaintiff estimated Defendants's maximum exposure on this claim to
5 be approximately \$2.5 million [$\40 (average expenses) $\times$ 62,500
6 months]. Plaintiff estimated the realistic value of the claim taking
7 into account the defenses and issues of proof as \$500,000 [$\40
8 (average expenses) $\times$ 62,500 months $\times$.2].

9 e. **Wage Statement Penalties:** Plaintiff also sought derivative wage statement penalties
10 for the violations set forth in the complaint and direct wage statement penalties for the failure to
11 indicate the rates earned on wage statements.

- 12 i. Defendantss contended they complied with all wage statement
13 requirements, and all information on the wage statements was
14 accurate and reflected the amount of money paid to employees.
15 Defendantss contended that Plaintiff could not demonstrate that any
16 violation (to the extent any existed which they denied) was
17 intentional or willful. Defendantss also contended penalties were
18 not available for certain derivative violations. Defendantss also
19 contended that no employee suffered injury because of any alleged
20 violations.

- 21 ii. There were approximately 1,875 employees and 77,357 pay periods
22 in the wage statement subclass. Plaintiff's expert calculated
23 maximum wage statement penalties to be approximately \$7,641,950.
24 Given the strength of Defendants's defenses and potential issues
25 related to any injury suffered under the statute, Plaintiff's counsel
26 estimated the value of this claim to be approximately \$764,195.

27 f. **Labor Code Section 203 – Waiting Time Penalties:** Plaintiff also sought waiting
28 time penalties on both a direct and derivative basis.

- 1 i. Defendantss further contended that employees could not recover
2 waiting time penalties because all wages were lawfully paid and any
3 failure to pay all wages at the time of termination was not willful.
4 ii. Plaintiff estimated Defendants's maximum exposure as
5 \$13,152,935.20 [3,059 terminated employees x 30 days x 7.5 hours
6 per day x \$19.11]. Plaintiff estimated the realistic value of the claim
7 taking into account Defendants's defenses (including lack of
8 willfulness) and issues of proof as \$2,630,587.05 [3,059 terminated
9 employees x 30 days x 7.5 hours per day x \$19.11 x .2].

10 g. **PAGA Penalties**: Plaintiff also asserted derivative claims for violations under PAGA.

11 Defendantss asserted a number of defenses in response.

- 12 i. First, Defendantss claimed the Plaintiff's notice to the LWDA was
13 insufficient to exhaust their administrative remedies and that
14 Defendantss would prevail on summary judgment as to the PAGA
15 claim.
16 ii. Second, Defendantss defend that PAGA penalties cannot and should
17 not be stacked and that, even if they could, very few Courts have
18 ever exercised discretion to stack them. Further, it is Defendantss'
19 contention that PAGA penalties cannot be stacked, and that at most
20 just one PAGA penalty can be awarded to an aggrieved employee in
21 any one pay period. See Labor Code section 2699 (f)(2) (authorizing
22 awardable PAGA penalties to be measure by "each "each aggrieved
23 employee per pay period"); *Smith v. Lux Retail North America, Inc.*,
24 2013 WL 2932243, at *1, *4 (N.D. Cal. 2013) (rejecting a pleading
25 that sought the "stacking of penalties"; "[f]or the single mistake of
26 failing to include commissions in the overtime base, plaintiff has
27 asserted five (count them, five) separate labor code violations that
28 could lead to statutory penalties;" "is it plausible that we would

really pile one penalty on another for a single substantive wrong?"; noting that "no actual holding in any judicial decision has ever blessed such stacking"). As such, and for this initial reason, Defendantss contend that the maximum potential recovery in this action is significantly lower than as stated by Plaintiff.

- iii. Third, Defendantss argue that even were liability established, one does not reach the second-tier penalty for that violation unless and until the employer is first cited for the violation, and that Defendantss had never been cited. *See Amalgamated Transit Union Local 1309, AFL-CIO v. Laidlaw Transit Servs., Inc.*, 2009 WL 2448430 *1, *9 (S.D. Cal. 2009) ("For the purposes of subsequent violation penalties, the issue is not whether [Defendants] willfully violated the Labor Code, but rather whether a court or commissioner had notified it of any violation."); *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008) ("[u]ntil the employer has been notified that it is violating a Labor Code provision (whether or not the Commissioner or court chooses to impose penalties), the employer cannot be presumed to be aware that its continuing underpayment of employees is a 'violation' subject to penalties" at a second tier); *Robinson v. Open Top Sightseeing San Francisco, LLC*, No. 14-CV-00852-PJH, 2018 WL 895572, at *20 (N.D. Cal. Feb. 14, 2018) (applying "initial" penalty to each violation of § 226 and § 2699(f)(2) because there was no evidence showing Defendants was previously notified its practice violated § 226); *Willis v. Xerox Bus. Servs., LLC*, 2013 WL 605383, at *1, *6 (E.D. Cal. 2013) ("for a plaintiff to recover for a 'subsequent violation,' an employer must have notice that it has violated the Labor Code"). As such, Defendantss contend that Plaintiff's calculations are inflated not only because they "stack" penalties for a single person during a

single pay period, but because the penalties Plaintiff would be awarded in each instances are at an inapplicable (doubled) rate.

iv. Fourth, Defendantss deny that a violation for each pay period can be established. Defendantss state that because the PAGA Action heavily relies on the same allegations made in the Class Action, they are subject to the same defenses, and, thus, for the same reason Defendantss believe there will be no damages collectible in the class action, no PAGA penalties would be awarded, either.

v. Fifth, Defendantss assert that individualized issues predominate the PAGA claims, making the claims unmanageable for trial (despite Plaintiff's contentions that there is no manageability requirement for trial).

vi. Sixth, Defendantss asserted that Plaintiff could not obtain penalties under Labor Code section 226.3, because Defendantss maintained they did not violate Labor Code section 226, and, to the extent there was any violation, it was inadvertent.

vii. Finally, Defendantss point out that there is no conduct shown by Plaintiff that would demonstrate any Labor Code violations by Defendantss are knowing and intentional such that PAGA penalties would be justified. Defendantss argued that the Court could reduce any penalty potentially due where, as Defendantss contend, any technical violation of law would have been inadvertent and in good faith, particularly where the law is undefined and capable of differing interpretations. Section 226, for example, is not violated where the employer acted in "good faith." See *Pedroza v. PetSmart, Inc.*, 2012 WL 9506073 (C.D. Cal. June 14, 2012) ("The good faith defense to the willfulness element of these sections [226, 203] is clearly established under California law); *Woods v. Vector Mktg. Corp.*, 2015 WL 2453202, at *3 (N.D. Cal. May 22, 2015) ("The

1 ‘good faith dispute’ rule has been extended by courts to apply to
2 California Labor Code Section 226 wage statement penalties”).
3 “Mere recklessness” is not a basis for liability. *Pedroza*, 2012 WL
4 9506073, *5. Defendantss further contend that an award of PAGA
5 penalties in addition to class action damages is discretionary, and
6 thus insists a Court is unlikely to exercise its discretion to award any
7 PAGA penalties in this Action where class action damages are
8 available to Class Members. See Labor Code section 2699 (e)(2).
9 Defendantss further contend that such an award of PAGA penalties
10 in addition to class action damages would constitute an unjust,
11 arbitrary, oppressive or confiscatory double recovery.

12 viii. While Plaintiff believes that it is possible to recover the subsequent
13 violation rate for penalties and that stacking is permissible, Plaintiff
14 also understands the risks inherent should the Court not exercise its
15 discretion to grant any PAGA penalties, in addition to potential
16 issues on the merits, trial manageability, and the possibility that the
17 Court does not use permit stacking of penalties or permit the use of
18 the subsequent violation rate when providing penalties. Plaintiff
19 also understands that the bar for establishing knowing and
20 intentional violations of the Labor Code may not be easily met under
21 the circumstances.

22 ix. Plaintiff estimated that for each PAGA violation, there was a
23 maximum liability of approximately \$15,283,900 (based upon 1875
24 employees, 77,357 pay periods at \$100/\$200 penalties). At \$100 per
25 pay period, each PAGA violation posed a maximum liability of
\$7,735,700.

26 33. Based on these figures, taking into account the risks associated with continued
27 litigation and certification, and differences in the Parties’ estimates of violation rates, Plaintiff
28 estimated the maximum exposure for the claims asserted to be approximately \$67.56 million

1 (exclusive of PAGA). Plaintiff estimated the realistic exposure for the claims asserted (exclusive
2 of PAGA) to be approximately \$7.59 million. The realistic exposure including one PAGA
3 violation at \$100 for each pay period was estimated to be \$15.33 million. Accordingly, the \$2.5
4 million settlement is approximately 32.9% of the realistic exposure for the claims asserted
5 exclusive of PAGA (16.5% of the realistic exposure for the claims inclusive of PAGA at \$100 per
6 pay period). Thus, I respectfully submit that the settlement is well within the ballpark of
7 reasonableness. Even though Plaintiff disputes the merits of Defendantss’ defenses to class
8 certification and liability, she cannot ignore the fact that if those defenses were successful,
9 they would eliminate or substantially reduce any recovery on behalf of the Settlement
10 Class.

11 34. As a result, the GSA of \$2,500,000 represents a reasonable recovery. The proposed
12 GSA is within the “ballpark of reasonableness” and should be approved. Counsel for Plaintiff
13 believe that this is a fair and reasonable Settlement in light of the complexities of the case, the
14 state of the law and uncertainties of class certification and litigation, the policies and practices
15 Defendants has had in place or implemented during the purported liability period, and the benefit
16 to be recovered for the Class. Given the risks inherent in litigation, this settlement is fair,
17 adequate, and reasonable and is in the best interests of the Settlement Class, and should be
18 preliminarily approved. The risk of further litigation is substantial, while the benefit of the
19 Settlement is immediate and real.

20 35. To the extent any amount for Attorneys’ Fees, Costs, Claims Administration Costs
21 or Enhancements are not awarded, the difference in those amounts will be added to the NSA. This
22 is a guaranteed amount of money paid to Settlement Class Members now, rather than the
23 continued risk of further litigation and receiving no money sometime in the far future and after
24 trial and appeals.

25 36. The Class Representative has provided extensive supporting documents and
26 assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff
27 also conducted record review and consultation with counsel in preparation for discovery and
28 eventual mediation, and to assist in evaluating and proving the claims. The settlement provides for

1 a Payment to be paid to the Class Representative in the amount of \$10,000 subject to Court
2 approval. The purpose is to compensate the Class Representatives an additional enhanced
3 payment, taking into consideration the risks, time, effort and expenses incurred in coming forward
4 to provide invaluable information and negotiate and litigate this matter on behalf of all Settlement
5 Class Members who otherwise, would probably not file their own individual claims to recover
6 what may be relatively low damages. 5,500 Settlement Class Members have little incentive to
7 litigate their claims that were worth a relatively small amount on an individual basis where the
8 out-of-pocket expense and personal commitment necessary to litigate each claim potentially
9 outweighs the recovery. Further, the Payment of \$10,000.00 as a Service Payment to the Class
10 Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has
11 taken and benefits conferred upon the Settlement Class. Plaintiff provided additional data and
12 information to counsel, relayed her experiences to counsel, and analyzed the Settlement and
13 determined that it was in the best interests of the Settlement Class of which she was a part. Her
14 consultation with counsel to assist in evaluating the Settlement was vital in bringing this matter to
15 a resolution.

16 37. Class certification, as requested by the Parties for the purposes of the settlement
17 only, should be granted because Plaintiff allege that the proposed Settlement Class Members'
18 claims all stem from the same alleged conduct, i.e., that Defendants violated California law
19 because they: (1) failed to pay all wages earned; (2) failed to provide rest periods and meal
20 periods; (3) failed to reimburse business expenses; (4) failed to timely pay wages; (5) failed to
21 provide accurate and itemized wage statements; and (6) engaged in unfair competition. In
22 addition to compensatory damages and penalties, Plaintiff and the Settlement Class seek
23 restitution, attorneys' fees, costs, and interest. Under these specific circumstances, the
24 commonality requirement for class certification is satisfied as these claims are susceptible to
25 common proof. The typicality requirement for certification is also met as it is alleged that the
26 Class Representative and the proposed Settlement Class were subjected to similar violations based
27 upon similar conduct, policies and practices. The typicality requirement for class certification for
28 settlement purposes is further satisfied because the Class Representative and the proposed

1 Settlement Class Members all claim that Defendantss committed similar violations based upon
2 similar conduct, policies, and practice and they seek the same remedies.

3 38. The adequacy requirement for certification is also met. The Class Representative
4 and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The
5 Class Representative will receive a reasonable award for the time and effort spent assisting Class
6 counsel with factual issues surrounding the case. Other than this specific payment to the Class
7 Representative, all of the Settlement Class Members will receive a proportionate share of the
8 NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Members
9 during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is
10 no conflict of interest between the Class Representative and the Settlement Class Members.
11 Further, the NSA will be fairly distributed among Participating Settlement Class Members, and no
12 “settlement allocation” questions will be raised.

13 39. Common questions of law and fact predominate over individual questions and
14 class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the
15 proposed Settlement Class in this case is sufficiently cohesive, since all Settlement Class Members
16 share a common nucleus of facts and potential legal remedies, and since all of the Settlement Class
17 Members and the Class Representatives seek compensation for unpaid wages and other civil and
18 statutory penalties from Defendants for the allegations described in the Complaints. Common
19 questions about compensation or lack thereof for work performed by Settlement Class Members
20 and the Settlement Class Members’ potential legal remedies are identical. The alternative method
21 of resolution is individual claims for relatively small amounts of damages, but individual cases
22 would be uneconomical for potential Plaintiff because the cost of litigation dwarfs potential
23 recovery. Therefore, a class action is the preferred method of resolution.

24 40. The class notice plan here calls for the Settlement ILYM Group, Inc. to mail a
25 Notice of Proposed Class Action Settlement to all known and reasonably ascertainable Settlement
26 Class Members based on Defendants’ records.

27 41. Within forty-five (45) calendar days from the Order granting preliminary approval,
28 Defendants shall provide a database containing the following information for each Settlement

1 Class Member (“Settlement Class database”): (1) the full name, last known address, and full social
2 security number of all Settlement Class Members; and (2) the information necessary to determine
3 the estimated settlement allocation to each Settlement Class Member, including without limitation,
4 the total number of work weeks in which each Settlement Class Member worked any regular hours
5 in the Settlement Class Period and the total number of pay periods in which each PAGA
6 Employee worked any regular hours during the PAGA Period.

7 42. Within fourteen (14) calendar days upon receipt of the Class database, the
8 Settlement Administrator will run a check of the Class Members’ addresses against those on file
9 with the U.S. Postal Service’s National Change of Address List; this check will be performed only
10 once per Settlement Class Member by the Settlement Administrator.

11 43. Within twenty-one (21) calendar days after the Class Database is provided to the
12 Settlement Administrator, the Settlement Administrator will mail the Class Notices and Notices of
13 Settlement Award to Settlement Class Members by first class United States mail. There will be a
14 forty-five (45) day period from the date the Class Notices are mailed during which Class Members
15 can dispute the information contained in the Class Notice, file an objection, or “opt-out” by
16 submitting a Request for Exclusion Form. In the case of a second mailing to the Settlement Class
17 Member, for example because of an undeliverable mailing, the forty-five (45) day period shall be
18 computed from the date of the second mailing.

19 44. To provide the best notice practicable, any Class Notice returned to the Settlement
20 Administrator as non-deliverable with an updated mailing address affixed shall be sent by First
21 Class U.S. Mail to the forwarding address affixed thereto. If a Class Notice is returned as
22 undeliverable without a forwarding address affixed thereto, the Settlement Administrator shall
23 attempt to locate a current mailing address for the Settlement Class Member by skip tracing and
24 will mail the Class Notice to the updated address identified. If no current address can be located,
25 the Class Notice for that individual will be deemed undeliverable.

26 45. Each Qualified Class Member will be paid a pro-rata share of the Net Settlement
27 Amount, as calculated by the Settlement Administrator. The pro-rata share will be determined by
28 multiplying the Net Settlement Amount by the fraction that results from dividing the number of

1 work weeks the Qualified Class Member worked any regular hours as a non-exempt, hourly paid
2 employee in California during the Settlement Class Period divided by the total of all weeks in
3 which the Qualified Class Members worked any regular hours during the Settlement Class Period.
4 If a Class Member disputes the number of Workweeks, any evidence to support that dispute may
5 be presented to the Settlement Administrator in accordance with the procedures set forth in the
6 Class Notice.

7 46. The notice is consistent with the class certification notices approved by numerous
8 state and federal courts, and is the best notice practicable under circumstances of this case. The
9 proposed Settlement Class Members are ascertainable because all of the Settlement Class
10 Members have worked for Defendants during the Class Period and can be identified through
11 Defendants' records. To the best of my knowledge, neither party or its counsel owns or is
12 affiliated with ILYM.

13 47. The Notice also fulfills the neutrality requirement. It summarizes the proceedings
14 to date and the terms and conditions of the Settlement in an informative and coherent manner, and
15 is accurate, objective, and understandable to Settlement Class Members, as is required under
16 prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of
17 liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final
18 settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement
19 Class Members on how to object or exclude themselves from the Settlement. Therefore,
20 Settlement Class Members will have the option to participate or exclude themselves simply by
21 following the instructions in the notice. The Settlement Class consists of primarily of non-exempt
22 employees who speak English and worked for Defendantss during the relevant time period. Thus,
23 the Notice of Class Action Settlement is drafted in a manner that is likely to be readily understood
24 by the Settlement Class. Accordingly, the Notice complies with the standards of fairness,
25 completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore
26 is neutral, objective and understandable.

27 48. The Parties agree to fully cooperate with each other to accomplish the terms of the
28 Settlement including, but not limited to, execution of such documents and taking such other action

1 as reasonably may be necessary to implement the terms of the Settlement. The Parties to the
2 Settlement shall use their best efforts, including all efforts contemplated by the Settlement and any
3 other efforts that may become necessary by order of the Court, or otherwise, to effectuate the
4 Settlement and the terms set forth herein.

5 49. I have a great deal of experience in wage and hour class action litigation. I have
6 obtained certification of several classes, I have been approved as class counsel in many other
7 wage/hour class actions, and I am currently litigating numerous others. Although not an all-
8 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
9 lead counsel, all of which implicated similar law and facts to those associated with this action:

10 a. *Aguilar v. 7-Eleven, Inc.*, et. al., Orange County Superior Court- Case No.: 30-
11 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium
12 wages for meal period and rest periods and resultant penalties. Class
13 Notice pending.

14 b. *Carey, et. al. v. Arthur J. Gallagher*, et. al., USDC, SOUTHERN DISTRICT- Case
15 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
16 classification of insurance claims adjusters employed by Gallagher Bassett, a third
17 party administrator (TPA) in the State of California. Certification granted. Plaintiff'
18 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds
19 fully distributed.

20 c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-
21 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
22 overtime and meal and rest break violations for production workers in the State of
23 California. Plaintiff' Counsel appointed as Lead Counsel. Case settled, Final Approval
24 granted, no objections and funds fully distributed.

25 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
26 Wage and Hour Class Action case seeking past wages for meal and rest period
27 violations for retail employees in the State of California. Plaintiff' counsel appointed
28 co-lead counsel. Case settled, Final Approval granted, no objections and funds fully

distributed.

e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff' counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff' counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal

1 and rest break violations for security officers in the State of California. Plaintiff'
2 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
3 objections and funds fully distributed.

4 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
5 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
6 seeking past wages for meal and rest break violations for security officers employed by
7 Defendants in the State of California. Plaintiff' counsel and co-counsel. Case settled,
8 Final Approval granted and funds fully distributed.

9 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
10 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
11 meal and rest break violations for housekeepers employed by Defendants in the State
12 of California. Plaintiff' counsel appointed as lead counsel. Case settled, Final Approval
13 granted, no objections and funds fully distributed.

14 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
15 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
16 rest period violations for non-exempt employees employed by Defendants in the state
17 of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has
18 petitioned the Court for Lead Counsel.

19 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
20 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
21 for field and branch employees of Defendants in the State of California. Plaintiff'
22 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

23 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
24 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
25 employees of Defendants in the State of California. Plaintiff' counsel appointed as lead
26 counsel. Case settled, Final Approval granted, no objections and funds fully
27 distributed.

28 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.

1 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest
2 break violations for security guards employed by Defendants in the State of California.
3 Plaintiff' counsel appointed as lead counsel. Case settled, Final Approval granted, no
4 objections and funds fully distributed.

5 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc.*, et al., Los Angeles Superior
6 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and
7 rest break violations for production employees employed by Defendants in the State of
8 California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval
9 granted, no objections and funds fully distributed.

10 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
11 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest
12 break violations for restaurant employees employed by Defendants in the State of
13 California. Plaintiff' counsel appointed as co-lead counsel. Case settled, Final
14 Approval granted, no objections and funds fully distributed.

15 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC
16 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
17 classification of managers employed by Defendants, DBA Carl's Jrs. in the State of
18 California. Plaintiff' counsel appointed as co-lead counsel. Case settled, Final
19 Approval granted, no objections and funds fully distributed.

20 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No.
21 CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest
22 break violations for retail employees employed by Defendants in the State of
23 California. Plaintiff' counsel appointed lead counsel. Case settled, Final Approval
24 granted, no objections and funds fully distributed.

25 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
26 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-
27 classification of managers employed by Defendants in the State of California. Plaintiff'
28 counsel appointed lead counsel. Case settled, Final Approval granted, no objections

1 and funds fully distributed.

2 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case
3 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
4 and rest break violations for production workers employed by Defendants in the State
5 of California. Plaintiff' counsel appointed lead counsel. Cased settled; final approval
6 granted; no objections and funds fully distributed.

7 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
8 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
9 meal and rest period violations for production employees employed by Defendants in
10 the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
11 Approval granted, no objections and funds fully distributed.

12 50. Here, the Parties' agreement to pay Class Counsel Fees of 33.33% of the GSA is
13 reasonable. My firm and I have been the only counsel to represent Plaintiff the Settlement Class in
14 this matter, and we have borne the entire risk and cost of this litigation on a pure contingency fee
15 basis. The legal issues raised drew significantly upon our experience and the extensive review and
16 analysis of documents and information by me and others at my firm. In a complex action such as
17 this, the proposed attorneys' fees are, at the very least, on the low side of the market rate for
18 contingency fees.

19 51. Additional hours will be required due to the administration of the Settlement by Class
20 Counsel, administration of the Settlement, and preparation for final approval, the attorneys' fees
21 exceed the requested amounts. To the extent the Court would like to receive detail regarding the
22 hours our firm has invested in this matter as Class Counsel, we will provide this information to the
23 Court in advance of the final approval hearing. Plaintiff's counsel will file a motion for attorneys'
24 fees and costs to be heard concurrently with the motion for final approval in accordance with the
25 terms of the settlement agreement.

26 52. Despite the complexity of the case, Class Counsel has, through the investment of
27 substantial effort and the resources of my law firm been able to secure an outstanding settlement
28 on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual

1 obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been
2 required to establish a significant amount of witness testimony, pattern and practice evidence,
3 statistical evidence, sampling evidence, expert testimony, and other evidence in order to present
4 their case both at the class certification stage and trial. Defendants vigorously contested liability,
5 the amount of claimed damages, and the propriety of class certification, and would have continued
6 to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate
7 and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is
8 confirmed by all known facts and circumstances, including the risk of significant delay and
9 uncertainty associated with litigation, the various defenses asserted by Defendants, and numerous
10 potential appellate issues.

11

12 I declare under penalty of perjury that the foregoing is true and correct. Executed on November
13 14, 2022 at Irvine, California.

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James R. Hawkins, Esq.

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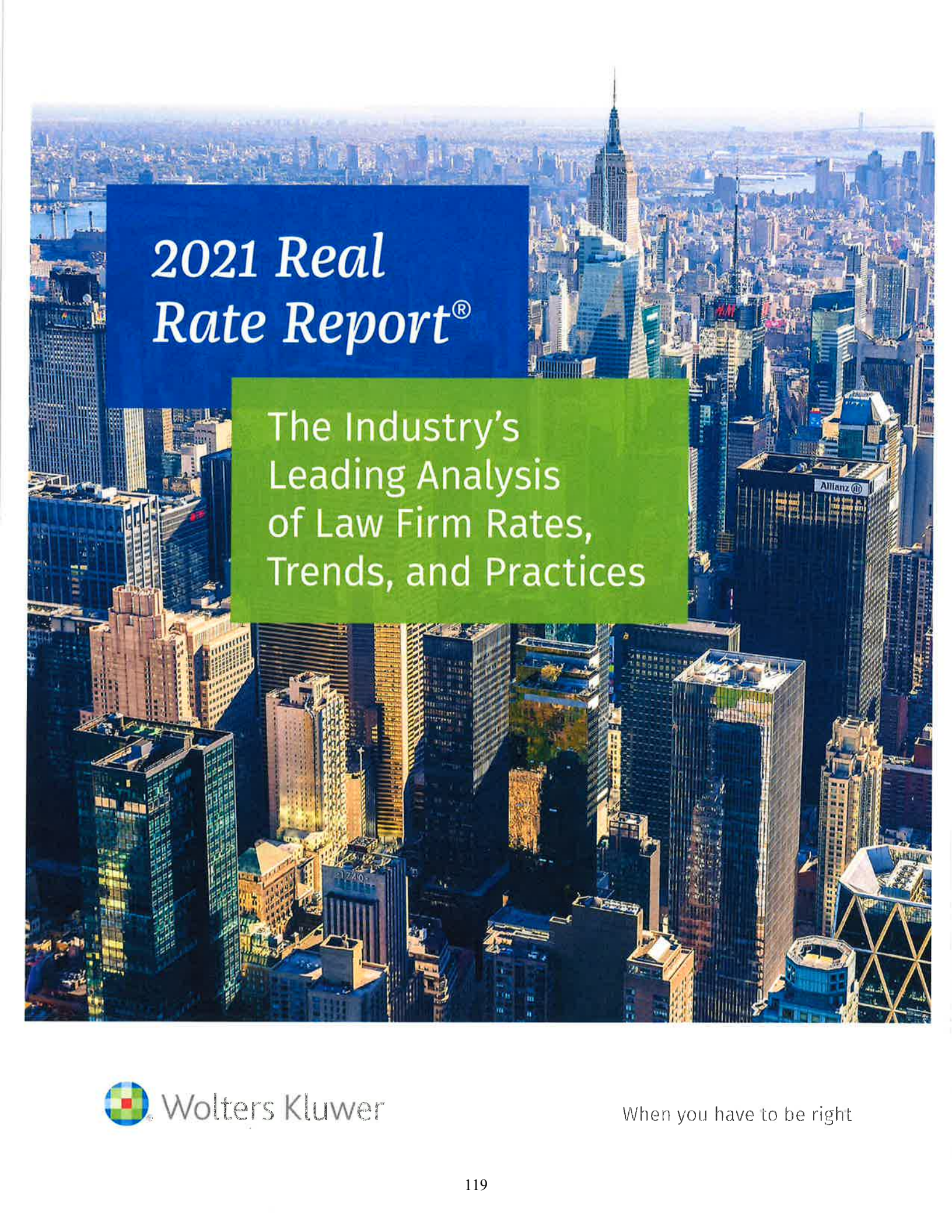
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EXHIBIT 4



2021 Real Rate Report®

The Industry's
Leading Analysis
of Law Firm Rates,
Trends, and Practices



Wolters Kluwer

When you have to be right

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A Letter to Our Readers

Welcome to the Wolters Kluwer's ELM Solutions Real Rate Report®, the industry's leading data-driven benchmark report for lawyer rates.

Our Real Rate Report has been a relied upon data analytics resource to the legal industry since its inception in 2010 and continues to evolve. The Real Rate Report is powered by Wolters Kluwer's ELM Solutions LegalVIEW® data warehouse, the world's largest source of legal performance benchmark data, which has grown to include over \$150 billion in anonymized legal data.

This year, we launched our LegalVIEW Insights Report series, which explores the emerging trends behind the overall legal spend volatility seen in corporate legal departments. The insights reports coupled with the Real Rate Report are great tools to drive actionable decisions.

The legal services industry relies on internal analytics and the use of external data resources, such as the LegalVIEW® data warehouse, to support legal management strategies. The depth and details of the data in the Real Rate Report enable you to better benchmark and make more informed investment and resourcing decisions for your organization.

As with past Real Rate Reports, all of the data analyzed are from corporations' and law firms' e-billing and time management solutions. We have included lawyer and paralegal rate data filtered by specific practice and sub-practice areas, metropolitan areas, and types of matters to give legal departments and law firms greater ability to pinpoint areas of opportunity. We strive to make the Real Rate Report a valuable and actionable reference tool for legal departments and law firms.

As always, we welcome your comments and suggestions on what information would make this publication more valuable to you. We thank our data contributors for participating in this program. And we thank you for making Wolters Kluwer's ELM Solutions your trusted partner for legal industry domain expertise, data, and analytics and look forward to continuing to provide market-leading, expert solutions that deliver the best business outcomes for collaboration among legal departments and law firms.

Sincerely,



Barry Ader

Vice President, Product Management and Marketing
Wolters Kluwer's ELM Solutions

Report Use Considerations

2021 Real Rate Report

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

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

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

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

Some key factors¹ that drive rates²:

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

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

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

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

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

Rates increase in geographic areas with growing population

Additional analysis was performed to examine the impact of geographic location on law firm hourly rates. This report, like previous ones, shows that large, cosmopolitan legal services markets like New York City, San Francisco, and Los Angeles are associated with higher hourly rates. In addition, our analysis reveals a significant spike in hourly rates in areas of the country

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

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

Report Use Considerations

that are currently experiencing high population growth. Significant average rate increases occurred from 2020 to 2021 in many areas, but especially Fresno, California (~15% average rate increase), Greenville, SC (~18%), Miami, FL (~9%), Nashville, TN (~11%), Oklahoma City (~13%), Phoenix, AZ (~10%), and Seattle, WA (~11%) -- all of which have experienced much higher than average population growth in recent years.

The correlation between hourly rates and population growth makes sense. When people and businesses move into an area, it creates a spike in demand for all sorts of goods and services, including legal services. However, it is hard for the supply of legal services to move as quickly as demand because attorneys looking to move into a new geographic area face high switching costs that most will refuse to pay unless they absolutely have to.

First, attorneys looking to take work in a new state have to get licensed there, which takes time and effort and is a distraction that can reduce their current income in the form of the number of hours they are able to bill to clients. Second, despite the rise in remote working, many attorneys looking to establish practices in a new geographic location may have to establish at least some physical presence there, find a new office, new lodging, and potentially uproot their entire family. Third, even if the switching costs of licensure, physically moving, etc. are paid, attorneys may fear yet another switching cost in the form of attrition of their existing clients from their original geographic locale, who may view them as no longer investing in their knowledge of the legal problems and legal solutions that are specific to the original locale.

³ Source: 2020 RRR. Factor order validated in multiple analyses since 2010

Section I: High-Level Data Cuts

Cities

By Matter Type

2021 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Matter Type	Role	n	First Quartile	Median	Third Quartile	2021	2020	2019
Kansas City MO	Non-Litigation	Associate	95	\$250	\$320	\$385	\$323	\$288	\$278
		Partner	14	\$285	\$350	\$484	\$402	\$445	\$413
Las Vegas NV	Non-Litigation	Partner	19	\$250	\$300	\$445	\$375	\$421	\$480
		Associate	12	\$238	\$323	\$377	\$320	\$282	\$280
Little Rock AR	Non-Litigation	Partner	12	\$215	\$215	\$300	\$267	\$290	\$274
Los Angeles CA	Litigation	Partner	342	\$475	\$715	\$1,042	\$759	\$708	\$694
		Associate	433	\$402	\$602	\$806	\$610	\$583	\$535
Los Angeles CA	Non-Litigation	Partner	559	\$600	\$880	\$1,160	\$894	\$872	\$816
		Associate	761	\$480	\$685	\$895	\$696	\$665	\$620
Louisville KY	Litigation	Partner	18	\$265	\$356	\$405	\$344	\$353	\$338
		Associate	16	\$178	\$200	\$278	\$225	\$227	\$214
Louisville KY	Non-Litigation	Associate	12	\$208	\$215	\$249	\$224	\$230	\$197
		Partner	15	\$244	\$389	\$529	\$421	\$424	\$430
Madison WI	Non-Litigation	Partner	15	\$244	\$389	\$529	\$421	\$424	\$430
Memphis TN	Litigation	Partner	16	\$290	\$415	\$425	\$364	\$355	\$347
		Associate	20	\$298	\$340	\$369	\$345	\$346	\$334
Miami FL	Litigation	Partner	100	\$282	\$475	\$614	\$465	\$473	\$453
		Associate	100	\$282	\$475	\$614	\$465	\$473	\$453

Section I: High-Level Data Cuts

Cities

By Years of Experience

2021 - Real Rates for Associate

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2021	2020	2019
Jackson MS	7 or More Years	22	\$55	\$55	\$183	\$124	\$125	\$183
Kansas City MO	3 to Fewer Than 7 Years	26	\$252	\$310	\$349	\$306	\$294	\$292
	7 or More Years	28	\$295	\$325	\$370	\$325	\$283	\$282
Los Angeles CA	Fewer Than 3 Years	70	\$494	\$533	\$622	\$543	\$511	\$413
	3 to Fewer Than 7 Years	128	\$533	\$709	\$821	\$673	\$582	\$510
	7 or More Years	164	\$412	\$565	\$841	\$629	\$604	\$576
Miami FL	3 to Fewer Than 7 Years	14	\$277	\$340	\$408	\$364	\$323	\$323
	7 or More Years	30	\$310	\$475	\$540	\$431	\$429	\$374
Minneapolis MN	3 to Fewer Than 7 Years	23	\$330	\$351	\$462	\$394	\$388	\$355
	7 or More Years	26	\$326	\$448	\$580	\$441	\$397	\$384
Nashville TN	7 or More Years	13	\$245	\$283	\$325	\$287	\$271	\$253
New Orleans LA	3 to Fewer Than 7 Years	13	\$235	\$238	\$280	\$251	\$260	\$248
	7 or More Years	13	\$260	\$340	\$364	\$324	\$326	\$276
New York NY	Fewer Than 3 Years	160	\$440	\$590	\$775	\$629	\$560	\$513
	3 to Fewer Than 7 Years	237	\$412	\$670	\$875	\$681	\$625	\$559

Section I: High-Level Data Cuts

Cities

By Years of Experience

2021 - Real Rates for Partner

Trend Analysis - Mean

City	Years of Experience	n	First Quartile	Median	Third Quartile	2021	2020	2019
Los Angeles CA	Fewer Than 21 Years	173	\$550	\$855	\$1,065	\$815	\$724	\$703
	21 or More Years	332	\$527	\$725	\$1,145	\$844	\$818	\$758
Memphis TN	Fewer Than 21 Years	11	\$283	\$300	\$340	\$317	\$324	\$309
	21 or More Years	17	\$365	\$415	\$425	\$391	\$379	\$370
Miami FL	Fewer Than 21 Years	44	\$408	\$540	\$583	\$503	\$484	\$485
	21 or More Years	99	\$414	\$550	\$750	\$569	\$564	\$532
Milwaukee WI	Fewer Than 21 Years	14	\$306	\$358	\$433	\$373	\$355	\$323
	21 or More Years	26	\$375	\$470	\$545	\$535	\$530	\$431
Minneapolis MN	Fewer Than 21 Years	41	\$400	\$520	\$604	\$513	\$515	\$478
	21 or More Years	82	\$450	\$659	\$789	\$619	\$591	\$579
Nashville TN	Fewer Than 21 Years	27	\$375	\$464	\$495	\$436	\$413	\$374
	21 or More Years	49	\$420	\$470	\$536	\$481	\$472	\$433
New Orleans LA	Fewer Than 21 Years	24	\$275	\$305	\$390	\$346	\$361	\$337
	21 or More Years	40	\$295	\$332	\$412	\$352	\$373	\$369
New York NY	Fewer Than 21 Years	456	\$656	\$1,044	\$1,407	\$1,033	\$987	\$938

Section I: High-Level Data Cuts

Cities

By Role

2021 - Real Rates for Associate and Partner

Trend Analysis - Mean

City	Role	n	First Quartile	Median	Third Quartile	2021	2020	2019
Little Rock AR	Partner	16	\$215	\$250	\$300	\$272	\$287	\$282
Los Angeles CA	Partner	786	\$536	\$822	\$1,101	\$843	\$808	\$766
	Associate	1,110	\$450	\$653	\$860	\$664	\$636	\$587
Louisville KY	Partner	25	\$278	\$355	\$400	\$348	\$363	\$348
	Associate	25	\$180	\$210	\$264	\$224	\$228	\$210
Madison WI	Partner	15	\$241	\$389	\$536	\$419	\$435	\$440
Memphis TN	Partner	30	\$290	\$351	\$415	\$354	\$351	\$342
Miami FL	Partner	226	\$360	\$530	\$675	\$525	\$524	\$516
	Associate	149	\$265	\$361	\$475	\$375	\$381	\$365
Milwaukee WI	Partner	52	\$316	\$390	\$476	\$452	\$450	\$387
	Associate	36	\$270	\$305	\$358	\$316	\$305	\$269
Minneapolis MN	Partner	175	\$419	\$595	\$711	\$578	\$544	\$531
	Associate	137	\$295	\$406	\$521	\$405	\$377	\$376
Nashville TN	Partner	108	\$375	\$468	\$535	\$463	\$457	\$414
	Associate	73	\$252	\$311	\$338	\$305	\$283	\$257

EXHIBIT 5

LAFFEY MATRIX

History

Case Law

See the Matrix

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363
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The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

* $\frac{1}{2}$ Years Out of Law School $\frac{1}{2}$ is calculated from June 1 of each year, when most law students graduate. $\frac{1}{2}$ 1-3" includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). $\frac{1}{2}$ 4-7" applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier $\frac{1}{2}$ 1-3" from June 1, 1996 until May 31, 1999, would move into tier $\frac{1}{2}$ 4-7" on June 1, 1999, and tier $\frac{1}{2}$ 8-10" on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 6

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 04/24/2023
Client: BRIGHT001 - Mara Santamaria
Matter: DARYA004 - Bright Horizons Children’s Centers, SAN FRAN-Mara Santamaria

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	\$0.00						
09/22/2021	FST	First Legal Network - E-File: Class Complaint and Initial Docs - IV#30179004	\$1,615.50		Unbilled				
09/28/2021	POS	Postage - 09.22.2021 Certified Mail to Agent re LWDA Filing	\$8.76		Unbilled				
09/28/2021	FIL	Filing Fee - 09.22.2021 LWDA Filing Fee	\$75.00		Unbilled				
12/21/2021	MED	Mediation Services Gig Kyriacou CK#9693	\$9,000.00		Unbilled				
01/06/2022	FST	First Legal Network - E-Filing , request for dismissal , dec of SAS , IN#30192286	\$38.50		Unbilled				
03/24/2022	CCL	Court Call - CCL Confirmation - EX Parte-CML	\$94.00		Unbilled				
04/01/2022	LEX	Lexis Nexis Court Link -PLAINTIFF SANTAMARIA’S NOTICE OF EX PARTE APPLICATION -in#202203692536101	\$75.00		Unbilled				
05/03/2022	LEX	Lexis Nexis Court Link- Notice of Motion to Dismiss, MPA, Decs in Support- In#202204692536101	\$120.00		Unbilled				
06/07/2022	EXA	Expert Analysis BCG IN#6118 CK#10044	\$5,125.00		Unbilled				
06/13/2022	FST	First Legal Network- Additional Billing: CA Complaint, Summons, Ce IN#30202789	\$478.50		Unbilled				
		Total:	\$16,630.26	\$0.00					
		Balance:	\$16,630.26						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed- - - - -			\$0.00						
Total Fees Unbilled : - - - - -			\$0.00						
Total Fees Received : - - - - -			\$0.00						
Total Soft Cost Billed : - - - - -			\$0.00						
Total Soft Cost Unbilled : - - - - -			\$0.00						
Total Soft Cost Received : - - - - -			\$0.00						
Total Hard Cost Billed : - - - - -			\$0.00						
Total Hard Cost Unbilled : - - - - -			\$16,630.26						
Total Hard Cost Received : - - - - -			\$0.00						
Total Taxes Billed : - - - - -			\$0.00						
Total Taxes Unbilled : - - - - -			\$0.00						
Total Taxes Received : - - - - -			\$0.00						
Total Late Charges Billed : - - - - -			\$0.00						
Total Late Charges Unbilled: - - - - -			\$0.00						
Total Late Charges Received : - - - - -			\$0.00						
Trust Balance: - - - - -			\$0.00						

Matter Billing Detail

JAMES HAWKINS APLC

Date Range:01/01/1900 to 04/26/2023

Client: BRIGHT001 - Mara Santamaria

Matter: BRIGHTHOR004 - Bright Horizons Children’s Centers,SAN BERDO- Mara Santamaria

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	\$0.00						
05/17/2022	FST	First Legal Network- Filed Class Action Complaint, Summons IN 30199329	\$93.81		Unbilled				
08/09/2022	POS	Postage -- Certified mail postage 8.5.22	\$21.22		Unbilled				
10/12/2022	FST	First Legal Network - Filing - FAC IN# 30216387	\$148.41		Unbilled				
11/14/2022	FST	First Legal Network - Filing - Mtn for Prelim Approval IN# 30219274	\$342.61		Unbilled				
12/02/2022	FST	First Legal Network - Filing - Ntc of Remote Appearance, Plf's Ntc of Minute Order IN# 30222171	\$181.17		Unbilled				
12/05/2022	CCL	Courtcall - 12.05.22 CCL Confirmation - Trial Setting Conf - CML	\$94.00		Unbilled				
12/08/2022	CCL	Courtcal - 12.08.22 CCL Confirmation - PrelimApp - CML	\$94.00		Unbilled				
01/04/2023	CRT	Court Documents - Order	\$12.00		Unbilled				
01/06/2023	FST	First Legal Network - Complaint Fee Delivery - Class Action Complaint, Summons IN# 30224217	\$1,192.38		Unbilled				
01/10/2023	FST	First Legal Network - Filing - Notice of Entry of Order Granting IN# 30224217	\$105.71		Unbilled				
03/30/2023	FST	First Legal Network - Filing - Joint CMC Statement IN# 30230586	\$86.11		Unbilled				
04/07/2023	CCL	Court Call - 04.07.23 CCL Confirmation - FCMC - CML	\$72.00		Unbilled				
04/26/2023	CCL	Court Call-Final Approval Hearing 5/3/23-CML	\$72.00		Unbilled				
04/26/2023	FST	First Legal Network - estimated filing fee on Motion for Final Approval, Declarations and related documents	\$350.00		Unbilled				
		Total:	\$2,865.42		\$0.00				
		Balance:	\$2,865.42						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
Total Fees Billed- - - - -			\$0.00						
Total Fees Unbilled : - - - - -			\$0.00						
Total Fees Received : - - - - -			\$0.00						
Total Soft Cost Billed : - - - - -			\$0.00						
Total Soft Cost Unbilled : - - - - -			\$0.00						
Total Soft Cost Received : - - - - -			\$0.00						
Total Hard Cost Billed : - - - - -			\$0.00						
Total Hard Cost Unbilled : - - - - -			\$2,865.42						
Total Hard Cost Received : - - - - -			\$0.00						
Total Taxes Billed : - - - - -			\$0.00						
Total Taxes Unbilled : - - - - -			\$0.00						
Total Taxes Received : - - - - -			\$0.00						
Total Late Charges Billed : - - - - -			\$0.00						
Total Late Charges Unbilled: - - - - -			\$0.00						
Total Late Charges Received : - - - - -			\$0.00						
Trust Balance: - - - - -			\$0.00						