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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES**

SYDNEE FIGUEROA, individually and on  
behalf of all similarly situated current and  
former non-exempt employees of  
DEFENDANTS in the State of California,

Plaintiff,

v.

INDIGO SKY INC., and DOES 1 through  
50, inclusive,

Defendants.

Case No.: 21STCV42069

*[Assigned for all purposes to Hon. Kenneth R.  
Freeman, Dept. 14]*

**~~PROPOSED~~ ORDER GRANTING  
PLAINTIFF'S MOTION FOR FINAL  
APPROVAL OF CLASS AND PAGA  
ACTION SETTLEMENT**

Date: January 9, 2024

Time: 11:00 a.m.

Dept.: 14

Judge: Hon. Kenneth R. Freeman

*[Filed concurrently herewith Notice of Motion,  
Memorandum of Points and Authorities;  
Declarations of Graham S.P. Hollis and  
Christina Fowler; and [Proposed] Judgment]*

Complaint Filed: November 15, 2021

FAC Filed: October 10, 2022

Trial Date: None set

Having come before the Honorable Kenneth R. Freeman in Department 14 of the Superior Court of the State of California for the County of Los Angeles for a motion by Plaintiff Sydnee Figueroa ("Plaintiff" or the "Named Plaintiff") for Final Approval of Class and PAGA Action Settlement, and Request for Class Counsel Fees Payment, Litigation Expenses Payment, and Class Representative Service Payment ("Plaintiff's Motion for Final Approval") pursuant to

California Rules of Court, Rule 3.769 and Labor Code section 2698 *et seq.*, on a motion scheduled for January 9, 2024, at 11:00 a.m.:

On August 18, 2023, the Court granted Plaintiff's Unopposed Motion for: (1) Preliminary Approval of Class Action and PAGA Representative Action Settlement; (2) Provisional Certification of the Settlement Class; (3) Approval of Class Notice and Notice Plan; (4) Appointment of Class Counsel and Class Representative; (5) Appointment of Settlement Administrator; and (6) Setting a Final Approval Hearing and entered an Order in accordance therewith.

Having duly considered the Settlement and all other papers, evidence, and oral arguments in this matter to date, including Plaintiff's Motion for Final Approval and the Supplemental Declaration of Christina Fowler of ILYM Group Inc., and good cause appearing, the Court grants final approval of the Settlement, enters this Final Approval Order, and ORDERS as follows:

1. This Order shall incorporate the parties' Joint Stipulation of Class Action and PAGA Settlement Agreement and Class Notice ("Settlement" or "Settlement Agreement") and to the extent that the terms are defined in the Settlement Agreement, all defined terms contained herein shall have the same meaning as set forth in the Settlement Agreement. A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit A**.

2. This Court has jurisdiction over the claims asserted in this Action and personal jurisdiction over Plaintiff, Defendant, the Class Members, and the Aggrieved Employees (collective, the "Settlement Class Members"), as defined in the Settlement Agreement.

3. This Court finds that the applicable requirements of the California Code of Civil Procedure section 382 and California Rule of Court 3.769, have been satisfied with respect to the Settlement Class Members and the Settlement, and further finds that the Settlement Class has at all times been adequately represented by the Named Plaintiff and Class Counsel. The Court makes final its earlier provisional certification of the following settlement class for the purposes of settlement only, which the Settlement Agreement defines as the Participating Class (defined as all current and former hourly or non-exempt employees who worked for Defendant in the State of

California at any time during the Class Period.) The “Class Period” means the period from November 15, 2017 through March 1, 2023.

4. The PAGA Group means all current and former hourly-paid or non-exempt employees who worked for Defendant in California at any time during the period from October 15, 2020, through March 1, 2023 (the “PAGA Period”). The Court finds that the PAGA Group has at all times been adequately represented by the Named Plaintiff and Class Counsel.

5. The Court also confirms the following appointments: Plaintiff Sydnee Figueroa as the Class Representative; Graham S.P. Hollis, Hali M. Anderson, and Nathan J. Reese of GrahamHollis, APC as Class Counsel; and ILYM Group, Inc. as the Settlement Administrator.

6. The Court finds that the Notice of Class Action Settlement and Hearing Date for Final Court Approval that was approved by the Court on August 18, 2023, and transmitted to the Settlement Class Members, fully and accurately informed the Settlement Class Members of all material elements of the Settlement, including their opportunity to request exclusion from the Settlement or object to the Settlement (notwithstanding the PAGA portion of the Settlement); was the best notice practicable under the circumstances; provided valid, due, and sufficient notice to all Settlement Class Members; and complied fully with the laws of the state of California, the United States Constitution, due process, Rule 3.766 of the California Rules of Court, and all other applicable laws.

7. Based on the Declaration of Christina Fowler for ILYM Group, Inc. filed in support of the Motion for Final Approval, zero Settlement Class Members submitted a request for exclusion, and zero Settlement Class Members submitted an objection. Further, based on the Supplemental Declaration of Christina Fowler of ILYM Group Inc., the Court finds that there are a total of 290 Participating Class Members who worked 9,805 Eligible Workweeks during the Class Period. Thus, pursuant to page 9 of the Stipulation of Class Action and PAGA Settlement, the escalator clause is not triggered because the number of Workweeks is below the 10% threshold, or 10,427 workweeks worked.

8. In accordance with California law, the Court hereby GRANTS final approval of the Settlement and finds it fair, reasonable, adequate, and in the best interest of the Settlement Class

1 and the PAGA Group as a whole. Specifically, the Court finds that the Settlement is the result of  
2 serious, informed, adversarial, and arm's-length negotiations between the parties and that the  
3 terms of the Settlement are, in all respects fair, adequate, and reasonable. In so finding, the Court  
4 has considered all the evidence presented, including evidence regarding the strength of Plaintiff's  
5 case; the risks, expense, and complexity of claims presented; the likely duration of further  
6 litigation; the amount offered in the Settlement; the extent of investigation and discovery  
7 completed; and the experience and views of Class Counsel. The Court ORDERS and directs that  
8 the Settlement be effectuated in accordance with the Settlement Agreement and the following  
9 terms and conditions.

10 9. The Court finds that a full opportunity has been afforded to the Settlement Class  
11 Members to participate in the hearing on Plaintiff's Motion for Final Approval, and all Settlement  
12 Class Members and other persons wishing to be heard, have been heard. The Settlement Class  
13 Members have had a full and fair opportunity to exclude themselves from the Settlement.  
14 Therefore, the Court ORDERS that, pursuant to the Settlement Agreement, and in exchange for  
15 the consideration agreed to by the parties in the Settlement Agreement, effective on the date that  
16 Defendant deposits all amounts into the Qualified Settlement Fund, the Settlement Class Members  
17 release and discharge Defendant and its former, present and future owners, parents, and  
18 subsidiaries, and all of their current, former and future spouse(s), children, officers, directors,  
19 members, managers, employees, consultants, partners, shareholders, joint ventures, agents,  
20 predecessors, successors, assigns, accountants, insurers, reinsurers, and legal representatives  
21 (individually and collectively "Released Parties") from and with respect to all claims, rights,  
22 demands, liabilities and causes of action that were pled in Plaintiff's Operative Complaint, or  
23 which could have been pled in the Operative Complaint based on the factual allegations therein,  
24 arising during the Class Period, including but not limited to causes of action for Failure to Provide  
25 Meal Periods or Required Premiums; Failure to Provide Rest Periods or Required Premiums;  
26 Failure to Pay All Overtime Wages; Failure to Provide Accurate Itemized Wage Statements;  
27 Failure to Timely Pay All Wages Due Upon Separation of Employment; Violation of California  
28 Business & Professions Code §§ 17200, *et seq.*; and any violation or breach of the California

1 Labor Code arising from or related to the conduct alleged, including without limitation, Labor  
2 Code sections 201, 202, 203, 218.5, 218.6, 226, 226.7, 510, 512, 1194, 1198, 2698, and Industrial  
3 Welfare Commission Wage Orders (including and not limited to Wage Order No. 2-2001)  
4 (“Released Class Claims”).

5 10. The Court further ORDERS that, pursuant to the Settlement Agreement, and in  
6 exchange for the consideration agreed to by the parties in the Settlement Agreement, effective on  
7 the date that Defendant deposits all amounts into the Qualified Settlement Fund, the Settlement  
8 Class Members release and discharge Released Parties from all claims, rights, demands, liabilities  
9 and causes of action for civil penalties under California Labor Code Private Attorneys General Act  
10 of 2004 (Cal. Lab. Code § 2698, *et seq.*) that were alleged in the LWDA Notice and Operative  
11 Complaint, or which could have been alleged in the LWDA Notice and Operative Complaint  
12 based on the factual allegations therein, arising during the PAGA Period, including but not limited  
13 to causes of action for Failure to Provide Meal Periods or Required Premiums; Failure to Provide  
14 Rest Periods or Required Premiums; Failure to Pay All Overtime Wages; Failure to Provide  
15 Accurate Itemized Wage Statements; Failure to Timely Pay All Wages Due Upon Separation of  
16 Employment; Civil Penalties for Violations of California Labor Code, pursuant to PAGA,  
17 §§ 2698, *et seq.*; and any violation or breach of the California Labor Code arising from or related  
18 to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 226,  
19 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1198, 2698, and Industrial Welfare Commission Wage  
20 Orders (including and not limited to Wage Order No. 2-2001) (“Released PAGA Claims”).

21 11. Defendant is ORDERED to fund the Gross Settlement Amount of \$200,000.00.  
22 Defendant is further ORDERED to fund the settlement with four equal installments of \$50,000,  
23 the first installment shall be paid no later than twenty-one (21) days after Final Approval, the  
24 second installment shall be paid no later than six (6) months after the Final Approval, the third  
25 installment shall be paid no later than six (6) months after the second installment, and the fourth  
26 installment shall be paid no later than six (6) months after the third installment.

27 12. ILYM Group, Inc., the Settlement Administrator, is ORDERED to distribute the  
28 Settlement funds in accordance with the terms of the Settlement Agreement.

13. In accordance with Labor Code section 2699(l)(2), the Court has reviewed the Settlement Agreement as it relates to the allocation of civil penalties under the PAGA. The Court finds that the allocation of \$20,000.00 in civil penalties for claims under the PAGA is fair, reasonable, and appropriate. The Court GRANTS approval of the \$20,000.00 allocation towards claims under the PAGA. The Court ORDERS that \$15,000.00 (75% of \$20,000.00) be paid to the California Labor and Workforce Development Agency (“LWDA”), as required by the statute. The Court ORDERS that \$5,000.00 (25% of \$20,000.00) be allocated to the PAGA Group based on the number of pay periods each member of the PAGA Group worked during the PAGA Period, as the term is defined in the Settlement Agreement. The Court further finds that the Named Plaintiff fully complied with California Labor Code §§ 2699.3 and 2699(l). The Court hereby approves this Settlement of PAGA claims pursuant to California Labor Code § 2699(l)(2). Accordingly, the LWDA shall be bound by the release(s) of PAGA claims set forth in the Settlement. In addition, all members of the PAGA Group attempting to stand in the shoes of the LWDA and/or the State of California and other purported “aggrieved employees” under the PAGA, or attempting to recover penalties from a PAGA action filed by another purported “aggrieved employee,” shall be bound by the release(s) of PAGA claims set forth in the Settlement and shall be barred from prosecuting and/or participating in such PAGA action and/or PAGA recovery, regardless of whether they submitted a request for exclusion from the Settlement.

14. The Court ORDERS that the amount of the Net Settlement Amount be distributed to Settlement Class Members based on each Settlement Class Member’s number of pay periods worked during the Class Period, as described in the Settlement Agreement.

15. The Court finds that the requested Class Representative Enhancement Award of \$5,000.00 to named Plaintiff Sydnee Figueroa is fair and reasonable for the work performed and the risks associated with bringing this Action. The Court awards and thus ORDERS that the Administrator issue an Enhancement Award to Plaintiff in the amount of \$5,000.00. The Enhancement Award is in addition to Plaintiff’s respective payment under the Settlement.

16. The Court finds that Class Counsel’s request for attorneys’ fees in the amount of \$66,666.67 falls within the range of reasonableness and the result achieved justifies the award

sought. The Court awards and therefore ORDERS the Administrator to issue attorneys' fees in the amount of \$66,666.67 to GrahamHollis APC.

17. The Court finds that Class Counsel's request for litigation costs incurred in the amount of \$13,500.00 falls within the range of reasonableness and the result achieved justifies the award sought. The Court awards and thus ORDERS that the Administrator issue payment for litigation costs incurred in the amount of \$13,500.00 to GrahamHollis APC.

18. The Court finds that the request for Settlement Administration Fees in the amount of \$11,250.00 is fair, reasonable, and appropriate. The Court awards and thus ORDERS that the Administrator issue payment for Administration Expenses Payment to ILYM Group, Inc., in the amount of \$11,250.00.

19. Plaintiff's Motion for Final Approval is GRANTED.

20. Pursuant to Rule 3.769, subdivision (h), of the California Rules of Court, this Court retains exclusive and continuing jurisdiction over this action and the parties for the purposes of: (a) supervising the implementation, enforcement, construction, and interpretation of the Settlement Agreement, and the Order of Final Approval and Judgment; and (b) supervising distribution of amounts paid under this Settlement.

21. The Court sets a non-appearance hearing regarding the distribution of the settlement for October 11, 2024 at 4:00 p.m. in Department 14 of the Superior Court of California, County of Los Angeles, Spring Street Courthouse. The Parties are ordered to file a declaration regarding the distribution of the settlement by noon on October 9, 2024. If the declaration is not filed an Order to Show Cause hearing will be set.

**IT IS SO ORDERED.**

Dated: 02/15/2024



  
Honorable Kenneth R. Freeman  
Judge of the Superior Court  
Kenneth R. Freeman / Judge

# EXHIBIT A

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

2           This Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or  
3 “Settlement Agreement”) is made and entered into by and between Plaintiff Sydnee Figueroa  
4 (“Plaintiff” or “Class Representative”) and Defendant Indigo Sky, Inc. (“Defendant”) (collectively  
5 with Plaintiff, the “Parties”).

6           This Settlement Agreement shall be binding on Plaintiff, Class Members (as defined herein),  
7 the State of California as to the employment of aggrieved employees (as set forth herein) and on  
8 Defendant, subject to the terms and conditions hereof and the approval of the Court.

9                   **DEFINITIONS**

10           1.       “Action” refers to the putative class action entitled *Sydnee Figueroa v. Indigo Sky,*  
11 *Inc.*, filed in Los Angeles County Superior Court on November 15, 2021, Case No. 21STCV42069.

12           2.       “Class Counsel” shall mean Graham S.P. Hollis, Vilmarie Cordero, Hali Anderson,  
13 and Nathan Reese of GrahamHollis APC, counsel for Plaintiff, who will seek to be appointed  
14 counsel for the Class.

15           3.       “Class” or “Class Member(s)” shall mean all current and former hourly-paid or non-  
16 exempt employees who worked for Defendant in California at any time during the period from  
17 November 15, 2017 through March 1, 2023.

18           4.       “Class Counsel’s Fees and Costs” shall mean attorneys’ fees agreed upon by the  
19 Parties and approved by the Court for Class Counsel’s litigation and resolution of the Action, and  
20 all costs incurred and to be incurred by Class Counsel in the Action. Class Counsel will request  
21 attorneys’ fees not to exceed one-third of the Gross Settlement Amount (i.e., up to Sixty-Six  
22 Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents [\$66,666.67]) and  
23 reimbursement of actual costs and expenses associated with Class Counsel’s litigation and  
24 settlement of the Action, in an amount not to exceed Thirteen Thousand Five Hundred Dollars  
25 (\$13,500), subject to Court approval.

26           5.       “Class List” shall mean a complete list of all Class Members that Defendant will  
27 diligently and in good faith compile from its records and provide to the Settlement Administrator  
28 within twenty-one (21) calendar days after Preliminary Approval. The Class List will be formatted

1 in a readable Microsoft Office Excel spreadsheet and will include each Class Member's: (1) full  
2 name; (2) last known mailing address; (3) last known telephone number (if available); (4) social  
3 security number; (5) dates of employment as a Class Member during the Class Period); and (6) such  
4 other information as is necessary for the Settlement Administrator to be able to calculate individual  
5 Class Member Workweeks. Because social security numbers are included in the list, the Settlement  
6 Administrator will maintain the list in confidence, and shall only access and use the list to administer  
7 the Settlement in conformity with the Court's orders.

8 6. "Class Period" shall mean the period of November 15, 2017 through March 1, 2023..

9 7. "Class Representative" shall mean Plaintiff Sydnee Figueroa.

10 8. "Class Representative Incentive Payment" shall mean the amounts to be paid to the  
11 Class Representative, as set forth in Paragraph 57 below, in addition to her Individual Settlement  
12 Payment and Individual PAGA Payment, in recognition of her efforts in assisting with the  
13 prosecution of the Action.

14 9. "Class Settlement" shall mean the settlement and resolution of Released Class  
15 Claims.

16 10. "Court" shall mean the Los Angeles County Superior Court of California.

17 11. "Defendant" shall mean Indigo Sky, Inc.

18 12. "Defense Counsel" shall mean Katherine C. Den Bleyker and Samuel Knecht of  
19 Lewis Brisbois Bisgaard & Smith LLP.

20 13. "Effective Date" shall mean the later of the following: (a) if no timely objections are  
21 filed or if all objections are withdrawn, the date upon which the Court enters the Final Approval  
22 Order; (b) if an objection is filed and not withdrawn, the date after the last day for filing an appeal  
23 from the Final Approval Order and Judgment and no such appeal being filed; (c) if any timely  
24 appeals from the Judgment are filed, the date of the resolution (or withdrawal) of any such appeal  
25 in a way that does not alter the terms of the Settlement.

26 14. "Employee PAGA Portion" shall mean the amount that is Twenty-Five percent  
27 (25%) of the PAGA Penalties, in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00),  
28 available for distribution to PAGA Members.

1           15.     “Final Approval” shall mean the Court entering an order granting final approval of  
2 the Settlement.

3           16.     “Final Approval Hearing” shall mean the hearing at which the Court will consider  
4 and determine whether the Settlement should be granted Final Approval.

5           17.     “Gross Settlement Amount” shall mean the amount of Two Hundred Thousand  
6 Dollars and Zero Cents (\$200,000.00) to be paid by Defendant in full resolution of all Released  
7 Class Claims, Released PAGA Claims, and the Action, which is inclusive of Class Counsel’s Fees  
8 and Costs, the Class Representative Incentive Payment, Settlement Administration Costs, PAGA  
9 Penalties (consisting of the LWDA Payment and the Employee PAGA Portion), and the Individual  
10 Settlement Shares. Defendant shall pay the Employer Taxes in addition to the Gross Settlement  
11 Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement  
12 Amount will return to Defendant.

13           18.     “Individual PAGA Payment” shall mean the amount payable from the Employee  
14 PAGA Portion to each PAGA Member.

15           19.     “Individual Settlement Payment” shall mean the amount payable from the Net  
16 Settlement Amount to each Participating Class Member, which is the Participating Class Member’s  
17 Individual Settlement Share reduced by the employee’s share of taxes and withholdings with respect  
18 to the wage portion of the Individual Settlement Share, as provided in Paragraph 61 below.  
19 Individual Settlement Payments shall be paid by a settlement check made payable to Participating  
20 Class Members.

21           20.     “Individual Settlement Share” shall mean the pro rata share of the Net Settlement  
22 Amount that a Class Member may be eligible to receive under the Settlement Agreement, to be  
23 calculated in accordance with Paragraph 61 below.

24           21.     “LWDA” shall mean the California Labor and Workforce Development Agency.

25           22.     “LWDA Payment” shall mean the amount that is Seventy-Five percent (75%) of the  
26 PAGA Penalties, in the amount of Fifteen Thousand Dollars and Zero Cents (\$15,000.00), to be  
27 paid to the LWDA.

28           23.     “Net Settlement Amount” shall mean the portion of the Gross Settlement Amount

1 that is available for distribution to Participating Class Members after the following amounts are  
2 deducted from the Gross Settlement Amount: (1) Class Counsel's Fees and Costs, (2) Settlement  
3 Administration Costs, (3) the Class Representative Incentive Payment to Plaintiff, and (4) PAGA  
4 Penalties to be paid to the LWDA and PAGA Members.

5 24. "Class Notice" shall mean the Notice of Class Action Settlement, substantially in the  
6 form attached hereto as "**Exhibit A**," that will be mailed to Class Members' last known addresses  
7 and which will provide Class Members with information regarding the Action and information  
8 regarding the Settlement of the Action.

9 25. "PAGA" shall mean the Private Attorneys General Act of 2004 pursuant to  
10 California Labor Code Section 2698, *et seq.*

11 26. "PAGA Member" or "PAGA Members" shall mean all current and former hourly-  
12 paid or non-exempt employees who worked for Defendant in California at any time during the  
13 period from October 15, 2020 through March 1, 2023.

14 27. "PAGA Penalties" shall mean the amount that the Parties have agreed to allocate as  
15 civil penalties in order to settle claims arising under PAGA. The Parties have agreed to allocate  
16 Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the Gross Settlement Amount as PAGA  
17 Penalties. Seventy-Five percent (75%) of the PAGA Penalties in the amount of Fifteen Thousand  
18 Dollars and Zero Cents (\$15,000.00) shall be paid directly to the LWDA (i.e., the LWDA Payment)  
19 in accordance with Labor Code §§ 2698 *et seq.* The remaining Twenty-Five percent (25%) of the  
20 PAGA Penalties in the amount of Five Thousand Dollars and Zero Cents (\$5,000.00), shall be  
21 distributed to PAGA Members (collectively, the amount is the "Employee PAGA Portion" and  
22 individually these payments are "Individual PAGA Payment(s)"). PAGA Members will receive an  
23 Individual PAGA Payment regardless of their decision to participate in (or opt out of) the Class  
24 Settlement, if the PAGA Penalties are approved by the Court.

25 28. "PAGA Period" shall mean the period of October 15, 2020 through March 1, 2023.

26 29. "PAGA Settlement" shall mean the settlement and resolution of Released PAGA  
27 Claims.

28 30. "PAGA Pay Periods" shall mean the number of pay periods of employment for each

1 PAGA Member during the PAGA Period. The Settlement Administrator will calculate the number  
2 of PAGA Pay Periods by calculating the number of days each PAGA Member was employed during  
3 the PAGA Period, and dividing by fourteen (14).

4 31. "Parties" shall mean Plaintiff and Defendant as defined above.

5 32. "Participating Class Members" shall mean all Class Members who do not submit a  
6 valid and timely Request for Exclusion.

7 33. "Participating Class Members" shall mean all Class Members who do not submit a  
8 valid and timely Request for Exclusion.

9 34. "Plaintiff" shall mean Plaintiff Sydnee Figueroa.

10 35. "Preliminary Approval" shall mean the Court entering an order granting preliminary  
11 approval of the Class Settlement.

12 36. "Objection" shall mean a Class Member's complete and timely written objection to  
13 the Class Settlement. For an Objection to be complete, it must include: (a) the Participating Class  
14 Member's full name, address, telephone number, and signature; (b) the title of the Action or  
15 something similar to the title of the Action (e.g., "Sydnee Figueroa v. Indigo Sky, Inc.);" (c) a  
16 written statement of all grounds for the objection accompanied by legal support, if any, for such  
17 objection; (d) whether the Participating Class Member intends to appear at the Final Approval  
18 Hearing, either in person or through counsel; and (e) if represented by separate counsel, the name,  
19 address, bar number, and telephone number of the Participating Class Member's representing  
20 attorney. For an Objection to be timely, it must be post-marked by the Response Deadline and  
21 received by the Settlement Administrator.

22 37. "Release Effective Date" is the point in time at which the release will be deemed  
23 effective as to Plaintiff and the absent class members. The "Release Effective Date" is the date when  
24 the Defendant deposits all amounts into the Qualified Settlement Fund ("QSF"), as required under  
25 this agreement.

26 38. "Released Class Claims" shall collectively mean any and all claims, rights, demands,  
27 liabilities and causes of action that were pled in Plaintiff's Operative Complaint, or which could  
28 have been pled in the Operative Complaint based on the factual allegations therein, arising during

1 the Class Period, including but not limited to causes of action for Failure to Provide Meal Periods  
2 or Required Premiums, Failure to Provide Rest Periods or Required Premiums, Failure to Pay All  
3 Overtime Wages, Failure to Provide Accurate Itemized Wage Statements, Failure to Timely Pay All  
4 Wages Due Upon Separation of Employment, Violation of California Business & Professions Code  
5 §§ 17200, et seq., and any violation or breach of the California Labor Code arising from or related  
6 to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 218.5,  
7 218.6, 226, 226.7, 510, 512, 1194, 1198, 2698, and Industrial Welfare Commission Wage Orders  
8 (including and not limited to Wage Order No. 2-2001).

9         39. “Released PAGA Claims” shall mean all claims, rights, demands, liabilities and  
10 causes of action for civil penalties under California Labor Code Private Attorneys General Act of  
11 2004 (Cal. Lab. Code § 2698 et seq.) that were alleged in the LWDA Notice and Operative  
12 Complaint, or which could have been alleged in the LWDA Notice and Operative Complaint based  
13 on the factual allegations therein, arising during the PAGA Period, including but not limited to  
14 causes of action for Failure to Provide Meal Periods or Required Premiums, Failure to Provide Rest  
15 Periods or Required Premiums, Failure to Pay All Overtime Wages, Failure to Provide Accurate  
16 Itemized Wage Statements, Failure to Timely Pay All Wages Due Upon Separation of Employment,  
17 Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq., and  
18 any violation or breach of the California Labor Code arising from or related to the conduct alleged,  
19 including without limitation, Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 558.1,  
20 1174, 1174.5, 1198, 2698, and Industrial Welfare Commission Wage Orders (including and not  
21 limited to Wage Order No. 2-2001).

22         40. “Released Parties” shall mean Defendant and its former, present and future owners,  
23 parents, and subsidiaries, and all of their current, former and future spouse(s), children, officers,  
24 directors, members, managers, employees, consultants, partners, shareholders, joint venturers,  
25 agents, predecessors, successors, assigns, accountants, insurers, reinsurers, and legal  
26 representatives.

27         41. “Request for Exclusion” shall mean a written statement submitted by a Class  
28 Member requesting to be excluded from the Class Settlement. To be valid, the Request for Exclusion

1 must contain: (a) the Class Member's full name, address, telephone number, signature, and date;  
2 and (b) a clear statement referencing the case title of the Action and requesting to be excluded from  
3 the settlement of the class claims similar to the following: "I wish to exclude myself from the class  
4 settlement reached in the matter of Sydnee Figueroa v. Indigo Sky, Inc." To be timely, the Request  
5 for Exclusion must be post-marked by the Response Deadline and received by the Settlement  
6 Administrator.

7 42. "Response Deadline" shall mean the date that is sixty (60) days after the Settlement  
8 Administrator mails the Class Notice to Class Members and the last date on which Class Members  
9 may submit Requests for Exclusion from the Class Settlement, written Objections to the Class  
10 Settlement, or Workweek disputes. In the event the 60th day falls on a Sunday or Federal holiday,  
11 the Response Deadline will be extended to the next day on which the U.S. Postal Service is open.  
12 The Response Deadline for Requests for Exclusion or Objections will be extended fifteen (15)  
13 calendar days for any Class Member who is re-mailed a Class Notice by the Settlement  
14 Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the Response  
15 Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response  
16 Deadline may also be extended by express agreement between Class Counsel and Defendant. Under  
17 no circumstances, however, will the Settlement Administrator have the authority to unilaterally  
18 extend the Response Deadline.

19 43. "Settlement Administrator" shall mean ILYM Group, Inc., or any other third-party  
20 class action settlement administrator agreed to by the Parties and approved by the Court for purposes  
21 of administering this Settlement. The Parties each represent that they do not have any financial  
22 interest in the Settlement Administrator or otherwise have a relationship with the Settlement  
23 Administrator that could create a conflict of interest.

24 44. "Settlement Administration Costs" shall mean the costs payable from the Gross  
25 Settlement Amount, subject to Court approval, to the Settlement Administrator for administering  
26 this Settlement, including, but not limited to, printing, distributing, and tracking documents for this  
27 Settlement, calculating/confirming the Workweeks from the information contained in the Class List,  
28 calculating each Participating Class Member's Individual Settlement Share and Individual

1 Settlement Payment, calculating each PAGA Member's Individual PAGA Payment, tax reporting,  
2 distributing payments due under the Settlement, providing necessary reports and declarations, and  
3 other duties and responsibilities set forth herein to process this Settlement, and as requested by the  
4 Parties or the Court. Settlement Administration Costs shall not exceed Eleven Thousand Two  
5 Hundred Fifty Dollars (\$11,250).

6 45. "Workweeks" shall mean the number of weeks each Class Member worked at  
7 Defendant during the Class Period. The Settlement Administrator will calculate the number of  
8 Workweeks by calculating the number of days each Class Member worked at Defendant during the  
9 Class Period and dividing by seven (7).

#### 10 RECITALS

11 46. On October 15, 2021, Plaintiff provided written notice by online submission to the  
12 Labor and Workforce Development Agency and by certified mail to Defendant of the specific  
13 provisions of the California Labor Code that were allegedly violated, a true and correct copy of  
14 which is attached hereto as "Exhibit B" ("October 15, 2021 Notice to the Labor & Workforce  
15 Development Agency").

16 47. On November 15, 2021, Plaintiff commenced the Action by filing a Class Action  
17 Complaint.

18 48. On April 25, 2022, Defendant filed an Answer to Plaintiff's Complaint, denying all  
19 material allegations set forth in the Action and asserting numerous affirmative defenses.

20 49. On October 10, 2022, Plaintiff filed a First Amended Individual and Class Action  
21 Complaint ("Operative Complaint") alleging seven (7) causes of action against Defendant for:  
22 Failure to Provide Meal Periods or Required Premiums, Failure to Provide Rest Periods or Required  
23 Premiums, Failure to Pay All Overtime Wages, Failure to Provide Accurate Itemized Wage  
24 Statements, Failure to Timely Pay All Wages Due Upon Separation of Employment, Violation of  
25 California Business & Professions Code §§ 17200, et seq., and Civil Penalties for Violations of  
26 California Labor Code, Pursuant to PAGA, §§ 2698, et seq. ("Operative Complaint").

27 50. Class Counsel in the Action diligently investigated the claims against Defendant,  
28 including any and all applicable defenses and the applicable law, and obtained and reviewed

1 extensive information, data, and documents to assess the claims and allegations.

2       51. The Parties also engaged in an exchange of informal discovery prior to attending a  
3 private mediation in an effort to resolve the case. On December 1, 2022, the Parties attended a full-  
4 day, private mediation with an experienced wage and hour mediator, Henry Bongiovi, and reached  
5 an agreement to settle the present case at mediation, pursuant to Henry Bongiovi's mediator's  
6 proposal.

7       52. The settlement discussions were conducted at arm's-length, and the Settlement is the  
8 result of an informed and detailed analysis of Defendant's potential liability and total exposure in  
9 relation to the costs and risks associated with continued litigation. Based on the documents  
10 produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel  
11 believes that the settlement with Defendant for the consideration and on the terms set forth in this  
12 Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class  
13 Members in light of all known facts and circumstances, including the risk of significant delay and  
14 uncertainty associated with litigation and various defenses asserted by Defendant.

15                                   **TERMS OF AGREEMENT**

16       53. Settlement Consideration. Defendant shall fund the Gross Settlement Amount  
17 following Final Approval by the Court and the occurrence of the Effective Date. The following will  
18 be paid out of the Gross Settlement Amount: (1) Class Counsel's Fees and Costs, (2) Settlement  
19 Administration Costs, (3) the Class Representative Incentive Payment to Plaintiff, (4) PAGA  
20 Penalties to be paid to the LWDA and PAGA Members, and (5) the Individual Settlement Shares to  
21 be paid to Participating Class Members. Any employer-side payroll taxes due on the Individual  
22 Settlement Shares shall be paid by Defendant separately from and in addition to the Gross Settlement  
23 Amount. Aside from the employer-side payroll taxes noted, or at the option of Defendant as  
24 specified in Paragraph 53 below, Defendant shall not be required under any circumstances to pay  
25 more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no  
26 portion of the Gross Settlement Amount will revert to Defendant.

27       54. Escalator Clause. As of October 10, 2022, Defendant represented that the number of  
28 total Workweeks as of December 1, 2022 was Ten Thousand Four Hundred and Twenty-Seven

(10,427). If the number of Workweeks is 10% or more higher than 10,427 workweeks worked, then Defendant shall, in its sole discretion, have the option to either:

- (a) de-escalate the Settlement so that the Class Period ends on the date that the workweek count totals 10,427; or
- (b) permit the Gross Settlement Amount, as defined in Paragraph 17 above, to be increased proportionally by the workweeks worked in excess of 10,427 multiplied by the workweek value.

55. Funding of the Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount by transmitting the funds into a Qualified Settlement Fund ("QSF"), to be established by the Settlement Administrator, in four (4) equal Installments of Fifty Thousand Dollars and Zero Cents (\$50,000), as follows: the First Installment shall be paid no later than 21 days after Final Approval; the Second Installment shall be paid no later than 6 months after Final Approval; the Third Installment shall be paid no later than 6 months after the Second Installment; and the Fourth Installment shall be paid no later than 6 months after the Third Installment.

56. Distribution of the Gross Settlement Amount. Within fourteen (14) calendar days following the funding of the second and fourth Installment payment, as defined in Paragraph 54 above, the Settlement Administrator shall distribute the amount of the Installments received by the administrator pro rata, including pro rata portions of the: (1) Individual Settlement Payments to all Participating Class Members and Individual PAGA Payments to all PAGA Members; (2) LWDA Payment to the LWDA; (3) the Class Representative Incentive Payment to Plaintiff; (4) Class Counsel's Fees and Costs to Class Counsel, and (5) Settlement Administration Costs to the Settlement Administrator.

57. Class Counsel's Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for attorneys' fees of up to one-third of the Gross Settlement Amount (i.e., up to Sixty-Six Thousand, Six Hundred and Sixty-Six Dollars and Sixty-Seven Cents [\$66,666.67]) plus the reimbursement of actual costs and expenses associated with Class Counsel's litigation and settlement of the Action, in an amount not to exceed Thirteen Thousand Five Hundred Dollars (\$13,500), subject to Court approval, which will be paid from the Gross Settlement Amount.

1 Any portion of the requested fees or costs that is not awarded by the Court to Class Counsel shall  
2 become part of the Net Settlement Amount and distributed to Participating Class Members as  
3 provided in this Agreement. Any adjustments made by the Court to the requested fees and costs  
4 shall not be deemed a material modification of this Agreement.

5 58. Class Representative Incentive Payment. Defendant agrees not to oppose or object  
6 to any application or motion by Plaintiff for a Class Representative Incentive Payment of Five  
7 Thousand Dollars and Zero Cents (\$5,000.00). The Class Representative Incentive Payment to  
8 Plaintiff is in exchange for the release of Released Class Claims, release of Released PAGA Claims,  
9 and general release of Plaintiff's individual claims, as provided herein, and for Plaintiff's time,  
10 effort, and risk in bringing and prosecuting the Action. Any adjustments made by the Court to the  
11 requested Class Representative Incentive Payment shall not be deemed a material modification of  
12 this Agreement. In the event that the Court reduces or does not approve the requested Class  
13 Representative Incentive Payment, the Settlement Agreement remains in full force and effect;  
14 Plaintiff shall not have the right to revoke the Agreement for that reason; it shall remain binding;  
15 and any portion of the requested Class Representative Incentive Payment that is not awarded to the  
16 Class Representative shall become part of the Net Settlement Amount and distributed to  
17 Participating Class Members as provided in this Agreement.

18 59. Settlement Administration Costs. The Settlement Administrator will be paid for the  
19 reasonable costs of administration of the Settlement and distribution of payments from the Gross  
20 Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not  
21 exceed Eleven Thousand Two Hundred Fifty Dollars (\$11,250). To the extent that Settlement  
22 Administration Costs are less than Eleven Thousand Two Hundred Fifty Dollars (\$11,250), the  
23 difference between Eleven Thousand Two Hundred Fifty Dollars (\$11,250) and the actual costs of  
24 settlement administration shall become part of the Net Settlement Amount and distributed to  
25 Participating Class Members as provided in this Agreement.

26 60. PAGA Penalties. Twenty Thousand Dollars and Zero Cents (\$20,000.00) of the  
27 Gross Settlement Amount shall be allocated from the Gross Settlement Amount for settlement of  
28 claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five

1 percent (75%) of the PAGA Penalties, or Fifteen Thousand Dollars and Zero Cents (\$15,000.00), to  
 2 the LWDA (i.e., the LWDA Payment). The remaining twenty-five percent (25%) of the PAGA  
 3 Penalties, or Five Thousand Dollars and Zero Cents (\$5,000.00) (i.e., the Employee PAGA Portion),  
 4 will be distributed to PAGA Members on a *pro rata* basis based on their PAGA Pay Periods. PAGA  
 5 Members shall be issued payment of their share of the Employee PAGA Portion regardless of their  
 6 decision to opt-out of the Class Settlement.

7 61. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount  
 8 will be distributed to Participating Class Members through Individual Settlement Shares in  
 9 accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

|    |                                         |                     |
|----|-----------------------------------------|---------------------|
| 10 | Gross Settlement Amount                 | \$ 200,000.00       |
| 11 | Class Representative Incentive Payment: | \$ 5,000.00         |
| 12 | Class Counsel's Fees:                   | \$ 66,666.67        |
| 13 | Class Counsel's Costs:                  | \$ 13,500.00        |
| 14 | PAGA Penalties:                         | \$ 20,000.00        |
| 15 | Settlement Administration Costs:        | \$ 11,250.00        |
| 16 | <b>Estimated Net Settlement Amount:</b> | <b>\$ 83,583.33</b> |

17 62. Calculations of Payments to Participating Class Members and PAGA Members.

18 (a) Calculation of Individual Settlement Shares. The Settlement  
 19 Administrator will determine the total number of Workweeks for each Participating Class  
 20 Member and the total aggregated number of Workweeks worked by all Participating Class  
 21 Members during the Class Period. The Settlement Administrator will be provided with such  
 22 information, by Defendant, as is necessary to calculate each Participating Class Member's  
 23 Workweeks and the aggregated number of Workweeks. The amount that each Participating  
 24 Class Member will be eligible to receive will be calculated by dividing each Participating  
 25 Class Member's individual Workweeks by the total Workweeks of all Participating Class  
 26 Members, and multiplying the resulting fraction by the Net Settlement Amount.

27 (b) Calculation of Individual PAGA Payments. The Settlement  
 28 Administrator will determine the total number of PAGA Pay Periods for each PAGA

1 Member and the total aggregated number of PAGA Pay Periods worked by all PAGA  
2 Members during the PAGA Period. The Settlement Administrator will be provided with such  
3 information, by Defendant, as is necessary to calculate each PAGA Member's PAGA Pay  
4 Periods and the aggregated number of PAGA Pay Periods. The amount that each PAGA  
5 Member will receive will be calculated by dividing each PAGA Member's individual PAGA  
6 Pay Periods by the total PAGA Pay Periods of all PAGA Members, and multiplying the  
7 resulting fraction by the Employee PAGA Portion. PAGA Members shall be issued payment  
8 of their Individual PAGA Payment regardless of whether they opt out of the Class  
9 Settlement.

10 (c) Tax Allocation of Individual Settlement Payments and Individual  
11 PAGA Payments. All Individual Settlement Shares will be allocated as follows: twenty  
12 percent (20%) of each Individual Settlement Share will be allocated as wages, and eighty  
13 percent (80%) shall be allocated as interest, penalties, and non-wage damages. The portion  
14 of the Individual Settlement Shares allocated to wages will be reported by the Settlement  
15 Administrator on an IRS Form W-2, and the portion of the Individual Settlement Shares  
16 allocated to interest, penalties, and non-wage damages will be reported by the Settlement  
17 Administrator on an IRS Form-1099 (if required). The Individual PAGA Payments are non-  
18 wage payments that will be reported by the Settlement Administrator on an IRS Form-1099  
19 (if required).

20 63. No Credit Toward Benefit Plans. The payments made to Plaintiff, Participating Class  
21 Members, and PAGA Members under this Settlement, will not be utilized to calculate any additional  
22 benefits under any benefit plans to which any Participating Class Members and/or PAGA Members  
23 may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock  
24 purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is  
25 the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or  
26 amounts to which any Participating Class Members and/or PAGA Members may be entitled under  
27 any benefit plans.

28 64. Settlement Administration Process. The Parties agree to cooperate in the

1 administration of the Settlement and to make all reasonable efforts to control and minimize the costs  
2 and expenses incurred in administration of the Settlement. The Settlement Administrator will  
3 provide the following services:

- 4 (a) Establish and maintain a Qualified Settlement Fund.
- 5 (b) Calculate the Individual Settlement Payment that each Participating Class  
6 Member shall receive and the Individual PAGA Payment that each PAGA  
7 Member shall receive.
- 8 (c) Print and mail the Class Notice.
- 9 (d) Perform address searches as detailed in Paragraph 66, including conduct  
10 additional address searches and skip traces for mailed Class Notices that are  
11 returned as undeliverable.
- 12 (e) Process Requests for Exclusion, Objections, calculate Participating Class  
13 Members' Individual Settlement Payments and PAGA Members' Individual  
14 PAGA Payments, field inquiries or disputes from Class Members and/or PAGA  
15 Members. This service will include payment calculations, printing and issuance  
16 of settlement payment checks, and preparation of any necessary IRS W2 and  
17 1099 Tax Forms. Basic accounting for and payment of employee tax  
18 withholdings will also be included as part of this service.
- 19 (f) Inform Defendant of its employer-side payroll tax liability and making all  
20 necessary deposits and payments to the necessary taxing authorities for the  
21 payments received for employer-share of payroll taxes.
- 22 (g) Supply Class Counsel with a draft declaration at the conclusion of the period  
23 for submission of Requests for Exclusion, Objections, and Workweeks  
24 disputes.
- 25 (h) Provide declarations and/or other information to this Court as requested by the  
26 Parties and/or the Court.
- 27 (i) Provide weekly status reports to counsel for the Parties.
- 28 (j) Posting a copy of the Final Approval Order and Judgment online at the

1 Settlement Administrator's website for a period of sixty (60) days pursuant to  
2 California Rule of Court 3.769.

3 65. Delivery of the Class List. Within (14) calendar days of Preliminary Approval,  
4 Defendant will provide the Class List to the Settlement Administrator.

5 66. Class Notice by First-Class U.S. Mail. Within ten (10) calendar days after receiving  
6 the Class List from Defendant, the Settlement Administrator will mail the Class Notice to all Class  
7 Members via regular First-Class U.S. Mail, using the most current, known mailing addresses  
8 identified in the Class List.

9 67. Confirmation of Contact Information in the Class List. Prior to mailing, the  
10 Settlement Administrator will perform a search based on the National Change of Address Database  
11 for information to update and correct for any known or identifiable address changes. Any Class  
12 Notice returned to the Settlement Administrator as non-deliverable on or before the Response  
13 Deadline will be sent within five (5) business days via regular First-Class U.S. Mail to the  
14 forwarding address affixed thereto and the Settlement Administrator will indicate the date of such  
15 re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator  
16 will promptly attempt to determine the correct address using a skip-trace, or other comparable search  
17 database, using the name, address and/or Social Security number of the Class Member involved,  
18 and will then perform a single re-mailing of the Class Notice within five (5) business days. If any  
19 Class Notice sent to a Class Member who is a current employee is returned to the Settlement  
20 Administrator as undeliverable, then, the Settlement Administrator shall request that Defendant  
21 undertake reasonable efforts to facilitate the Settlement Administrator's obtaining the current  
22 address from the Class Member within seven (7) calendar days of the Settlement Administrator's  
23 request for assistance. Those Class Members to whom a Class Notice is re-mailed, whether by skip-  
24 trace or by request, will have their Response Deadline extended to the date that is fifteen (15)  
25 calendar days after the original Response Deadline.

26 68. Class Notice. All Class Members will be mailed a Class Notice. Each Class Notice  
27 will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's  
28 principal terms; (c) the Class definition; (d) the total individual number of Workweeks credited to

1 each respective Class Member for the Class Period; (e) the total individual number of Workweeks  
2 credited to each respective PAGA Member for the PAGA Period; (f) the estimated Individual  
3 Settlement Share he or she is eligible to receive and the formula for calculating the Individual  
4 Settlement Share; (g) the estimated Individual PAGA Payment he or she is eligible to receive and  
5 the formula for calculating the Individual PAGA Payment; (h) the dates which comprise the Class  
6 Period and PAGA Period; (i) the deadlines by which the Class Member must postmark Requests for  
7 Exclusion from the Class Settlement, Objections to the Class Settlement, or Workweeks disputes;  
8 (j) the claims to be released, as set forth herein; and (k) the Final Approval Hearing date, time, and  
9 location.

10       69.     Workweeks Dispute. Class Members and PAGA Members will have an opportunity  
11 to dispute the number of Workweeks during the Class Period and/or PAGA Period which they have  
12 been credited in writing. Such disputes must: (a) contain the disputing individual's full name,  
13 address, telephone number, and the last four digits of his or her Social Security number, signature,  
14 and date; (b) the title of the Action or something similar to the title of the Action (e.g., "Sydney  
15 Figueroa v. Indigo Sky, Inc.;" ) (c) contain a clear statement explaining that the Class Member and/or  
16 PAGA Member disputes the number of Workweeks credited to him or her during the Class Period  
17 and/or PAGA Period and the reasons for doing so; and (c) if available, attach documentation to  
18 support the Class Member and/or PAGA Member's position. The date of the postmark on the return  
19 mailing envelope receipt confirmation will be the exclusive means to determine whether a  
20 Workweeks dispute has been timely submitted. All Workweeks disputes must be submitted to the  
21 Settlement Administrator, who will certify jointly to Class Counsel and Defense Counsel the  
22 Workweeks dispute were timely submitted. Absent evidence rebutting Defendant's records,  
23 Defendant's records will be presumed determinative. However, if a Class Member and/or PAGA  
24 Member produces evidence contrary to Defendant's records by the Response Deadline, the  
25 Settlement Administrator shall notify Class Counsel and Defense Counsel to discuss and resolve the  
26 dispute, including providing all available relevant information to all counsel. The Parties will resolve  
27 all disputes jointly, which shall be final and binding on any Class Member and/or PAGA Member  
28 disputing Workweeks, and shall thereafter instruct the Settlement Administrator how to proceed in

1 processing the dispute. If the Parties cannot reach an agreement, disputes shall be referred to the  
2 Settlement Administrator for a determination and if the dispute remains unresolved after that, the  
3 dispute shall be submitted to the Court for final determination. All such disputes are to be submitted  
4 to the Court prior to the Final Approval Hearing, for resolution by the Court.

5 70. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the  
6 Class Settlement must sign and postmark a written Request for Exclusion to the Settlement  
7 Administrator by the Response Deadline. The Request for Exclusion in conformity with Paragraph  
8 40 above. The date of the postmark on the return mailing envelope receipt confirmation will be the  
9 exclusive means to determine whether a Request for Exclusion has been timely submitted. All  
10 Requests for Exclusion must be submitted to the Settlement Administrator, who will certify jointly  
11 to Class Counsel and Defense Counsel the Requests for Exclusion that were timely submitted. All  
12 Class Members who do not request exclusion from the Class Settlement will be bound by the Class  
13 Settlement if the Settlement is granted final approval by the Court. All PAGA Members will be  
14 bound to the PAGA Settlement regardless of whether or not they submit a valid and timely Request  
15 for Exclusion.

16 71. Defendant's Right to Rescind. If ten percent (10%) or more of the Class Members  
17 elect not to participate in the Settlement, Defendant may, at its own individual election, rescind the  
18 Agreement and all actions taken in furtherance of it will be thereby null and void. Defendant must  
19 meet and confer with Class Counsel prior to exercising this right and must make clear their intent  
20 to rescind the Agreement within thirty (30) calendar days of the Response Deadline. If Defendant  
21 exercises its right to rescind the Agreement, Defendant shall be responsible for all Settlement  
22 Administration Costs incurred to the date of rescission.

23 72. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class  
24 Member who does not affirmatively opt-out of the Class Settlement by submitting a timely and valid  
25 Request for Exclusion will be bound by all of its terms, including those pertaining to the release of  
26 Released Class Claims, as well as any Judgment that may be entered by the Court if it grants Final  
27 Approval to the Class Settlement. Class Members who opt-out of the Class Settlement shall not be  
28 bound by the Judgment or release of Released Class Claims, however, they will still be bound to the

1 PAGA Settlement and Judgment with respect thereto if they are a PAGA Member.

2 73. Objection Procedures. To object to the Class Settlement in writing, a Participating  
3 Class Member must postmark a complete Objection to the Settlement Administrator on or before  
4 the Response Deadline. The Objection must be in conformity with Paragraph 36 above. The  
5 postmark date will be deemed the exclusive means for determining that the Objection is timely.  
6 Participating Class Members who fail to object in the manner specified above will be foreclosed  
7 from making a written Objection, but shall still have a right to appear at the Final Approval Hearing  
8 in order to orally present his or her objection to the Court. At no time will any of the Parties or their  
9 counsel seek to solicit or otherwise encourage Participating Class Members to submit objections to  
10 the Settlement or appeal from Final Approval of the Settlement. Class Counsel will not represent  
11 any Class Members with respect to any objections to the Settlement.

12 74. Certification Reports and Declarations.

13 a. The Settlement Administrator will provide Defense Counsel and Class  
14 Counsel a weekly report which certifies: (a) the number of Class Members who have submitted  
15 Requests for Exclusion; (b) the number of re-mailed and/or undeliverable Class Notices; and (c)  
16 whether any Class Member and/or PAGA Member has submitted a Workweeks dispute. The  
17 Settlement Administrator will also provide a declaration for filing with the Court in advance of the  
18 Final Approval Hearing that: (a) provides the number of Class Members who have submitted timely  
19 and valid Requests for Exclusion and provides these individuals' names; (b) provides the number  
20 of re-mailed and/or undeliverable Class Notices; (c) attaches copies of all Objections received; and  
21 (d) provides such other data and information as Class Counsel and Defense Counsel deem  
22 appropriate (e.g., a breakdown of how settlement funds are contemplated to be distributed and  
23 estimated average payment amounts).

24 b. Additionally, the Settlement Administrator will provide to counsel for all  
25 Parties any updated reports regarding the administration of the Settlement Agreement as needed or  
26 requested.

27 75. Cancellation of Settlement Checks. Any checks issued by the Settlement  
28 Administrator to Participating Class Members and PAGA Members will be negotiable for one

1 hundred eighty (180) calendar days after initial issuance, thereafter, the check will be cancelled and  
2 the funds associated with such cancelled checks, subject to Court approval, shall be distributed to  
3 Legal Aid At Work. The Parties and their counsel each represent that they do not have any financial  
4 interest in Legal Aid At Work, any interest in the governance or work of Legal Aid At Work, or  
5 otherwise have a relationship with Legal Aid At Work that could create a conflict of interest. The  
6 Individual Settlement Payments provided to Participating Class Members and to PAGA Members  
7 shall prominently state the expiration date or a statement that the settlement payment check will  
8 expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter  
9 accompanying the check(s). Expired checks will not be reissued, except for good cause and as  
10 mutually agreed by the Parties in writing. The Court may re-open judgment following the  
11 distribution of funds to the cy pres in the judgment and to include the unclaimed amount, plus an  
12 unspecified amount of interest.

13 76. Administration of Taxes by the Settlement Administrator. The Settlement  
14 Administrator will be responsible for issuing to the Plaintiff, Participating Class Members, PAGA  
15 Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all  
16 amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for  
17 forwarding all payroll taxes and penalties to the appropriate government authorities.

18 77. Tax Liability. Defendant makes no representation as to the tax treatment or legal  
19 effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and PAGA  
20 Members are not relying on any statement, representation, or calculation by Defendant or by the  
21 Settlement Administrator in this regard. Plaintiff, Participating Class Members, and PAGA  
22 Members understand and agree that except for Defendant's payment of the employer's portion of  
23 any payroll taxes, they will be solely responsible for the payment of their own share of any taxes  
24 and penalties due in connection with the payments made to them under the Settlement and described  
25 herein. Defendant's share of any employer-side payroll taxes and other required employer  
26 withholdings due on the Individual Settlement Shares, including, but not limited to, Defendant's  
27 FICA, FUTA, and SDI contributions ("Employer Taxes"), shall be paid separate and apart from the  
28 Gross Settlement Amount.

1           78.     Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section,  
2 the “acknowledging party” and each Party to this Agreement other than the acknowledging party,  
3 an “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written  
4 communication or disclosure between or among the Parties or their attorneys and other advisers, is  
5 or was intended to be, nor shall any such communication or disclosure constitute or be construed or  
6 be relied upon as, tax advice within the meaning of United States Treasury Department circular 230  
7 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her  
8 or its own, independent legal and tax counsel for advice (including tax advice) in connection with  
9 this Agreement, (b) has not entered into this Agreement based upon the recommendation of any  
10 other Party or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any  
11 communication or disclosure by any attorney or advisor to any other party to avoid any tax penalty  
12 that may be imposed on the acknowledging party, and (3) no attorney or adviser to any other party  
13 has imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax  
14 strategies (regardless of whether such limitation is legally binding) upon disclosure by the  
15 acknowledging party of the tax treatment or tax structure of any transaction, including any  
16 transaction contemplated by this Agreement.

17           79.     Release by Participating Class Members, PAGA Members, and Plaintiff on behalf of  
18 the LWDA and the State of California.

19                   a.     Upon the Release Effective Date and full funding of the Gross  
20 Settlement Amount, in exchange for the consideration set forth in this Agreement, Plaintiff  
21 and Participating Class Members shall fully release and discharge the Released Parties from  
22 any and all Released Class Claims for the Class Period. This release shall be binding on  
23 Plaintiff and all Participating Class Members, including each of their respective attorneys,  
24 agents, spouses, executors, representatives, guardians ad litem, heirs, successors, and  
25 assigns, and shall inure to the benefit of the Released Parties, who shall have no further or  
26 other liability or obligation to Plaintiff or any Participating Class Member with respect to  
27 the Released Class Claims, except as expressly provided herein.

28                   b.     Plaintiff, the State of California with respect to PAGA Members, and

1 all PAGA Members, regardless of whether they submit timely and valid Requests for  
2 Exclusion from the Class Settlement, shall fully release and discharge the Released Parties  
3 from any and all Released PAGA Claims for the PAGA Period, as well as claims that could  
4 have been premised on the claims, causes of action or legal theories described the Operative  
5 Complaint during the PAGA Period. Plaintiff, on behalf of the State of California and the  
6 LWDA will also release all PAGA Released Claims, as well as all claims that could have  
7 been premised on the claims, causes of action or legal theories described the Operative  
8 Complaint.

9 80. Release of Additional Claims & Rights by Plaintiff. Upon the Release Effective Date,  
10 and as a condition of receiving any portion of the Class Representative Incentive Payment, Plaintiff  
11 will agree to the additional following General Release: In consideration of Defendant's promises  
12 and agreements as set forth herein, Plaintiff hereby releases all claims related to her employment or  
13 alleged employment with the Released Parties including all claims alleged in the Action, and all  
14 claims known and unknown, without exception, except as may be prohibited by law. Specifically,  
15 Plaintiff waives all rights and benefits afforded by California Civil Code Section 1542, which  
16 provides:

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

22 This release specifically excludes claims for unemployment insurance, disability, social  
23 security, and workers' compensation (with the exception of claims arising pursuant to California  
24 Labor Code Sections 132(a) and 4553).

25 81. Nullification of Agreement. In the event that: (a) the Court does not finally approve  
26 the Settlement as provided herein; (b) the Court strikes or does not approve any material term of this  
27 Agreement; or (c) the Settlement does not become final as written and agreed to by the Parties for  
28 any other reason, then this Agreement, and any documents generated to bring it into effect, will be

1 null and void, all amounts deposited into the QSF will be returned to Defendant, and the Parties  
2 shall be returned to their original respective positions. Any order or judgment entered by the Court  
3 in furtherance of this Agreement will likewise be treated as void from the beginning. Pursuant to  
4 California Evidence Code § 1152, this Agreement is inadmissible in any proceeding, except a  
5 proceeding to approve, interpret, or enforce this Agreement. If Final Approval does not occur, the  
6 Parties agree that this Agreement is void, and remains protected by California Evidence Code  
7 § 1152. Should the Court fail to approve this Agreement for any reason, the Parties agree that they  
8 will return to and attend mediation with mediator Henry Bongiovi in an effort to reach an agreement  
9 that may be approved by the Court.

10 82. Preliminary Approval Hearing. Plaintiff will file an unopposed motion before the  
11 Court to request Preliminary Approval of the Agreement, and the entry of a Preliminary Approval  
12 order for: (a) conditional certification of the Class for settlement purposes only, (b) Preliminary  
13 Approval of the proposed Agreement, and (c) setting a date for a Final Approval Hearing. The  
14 Preliminary Approval order will provide for the Class Notice to be sent to all Class Members as  
15 specified herein. In conjunction with the Preliminary Approval Motion, Plaintiff will submit this  
16 Agreement, which sets forth the terms of the Settlement, and will include the proposed Class Notice  
17 attached as “Exhibit A.” Class Counsel will be responsible for drafting all documents necessary to  
18 obtain Preliminary Approval.

19 83. Final Settlement Approval Hearing and Entry of Judgment. Upon completion of the  
20 Class Notice process, including the expiration of the deadlines to postmark Requests for Exclusion  
21 or Objections to the Class Settlement, a Final Approval Hearing will be conducted to determine the  
22 Final Approval of the Settlement Agreement along with the amounts properly payable for: (a)  
23 Individual Settlement Shares; (b) PAGA Penalties; (c) Class Counsel’s Fees and Costs; (d) the Class  
24 Representative Incentive Payment for Plaintiff; and (d) Settlement Administration Costs. Class  
25 Counsel will be responsible for drafting all documents necessary to obtain Final Approval. In  
26 connection with the Final Approval Hearing, Class Counsel will request that the Court make a  
27 finding that the Settlement is fair, reasonable and adequate and that the Class Notice process  
28 satisfied the requirements of due process. Class Counsel will be responsible for drafting the

1 application for attorneys' fees and costs to be heard at the Final Approval Hearing. Any failure by  
2 the Court to fully and completely approve the Agreement as to the Action or the entry of any Order  
3 by the Court with regard to the Action which has the effect of modifying material terms of this  
4 Agreement or preventing the full and complete approval of the Agreement as written and agreed to  
5 by the Parties, will result in this Agreement and all obligations under this Agreement being null and  
6 void. Defendant agrees not to oppose the granting of the Motion for Final Approval, provided  
7 Defendant has not exercised its right to rescind pursuant to this Agreement.

8       84.     Judgment and Continued Jurisdiction. Upon expiration of the Response Deadline,  
9 with the Court's permission, a Final Approval Hearing shall be conducted to determine Final  
10 Approval of the Settlement. Pursuant to California Rule of Court 3.769(h), after granting Final  
11 Approval, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

12       85.     Exhibits Incorporated by Reference. The terms of this Agreement include the terms  
13 set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth  
14 herein. Any Exhibits to this Agreement are an integral part of the Settlement.

15       86.     Entire Agreement. This Agreement and any attached Exhibits constitute the entire  
16 Agreement among these Parties, and no oral or written representations, warranties or inducements  
17 have been made to any Party concerning this Agreement or its Exhibits other than the  
18 representations, warranties and covenants contained and memorialized in the Agreement and its  
19 Exhibits.

20       87.     Amendment or Modification. Prior to filing a motion for Preliminary Approval and  
21 submitting this Agreement to the Court, this Agreement may be amended or modified only by a  
22 written instrument signed by counsel for all Parties or their successors-in-interest. After filing a  
23 motion for Preliminary Approval and submitting this Agreement to the Court, this Agreement may  
24 be amended or modified only by a written instrument signed by counsel for all Parties or their  
25 successors-in-interest and subject to Court approval.

26       88.     Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant  
27 and represent they are expressly authorized by the Parties whom they represent to negotiate this  
28 Agreement and to take all appropriate action required or permitted to be taken by such Parties

1 pursuant to this Agreement to effectuate its terms and to execute any other documents required to  
2 effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each other  
3 and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to  
4 reach agreement on the form or content of any document needed to implement the Settlement, or on  
5 any supplemental provisions that may become necessary to effectuate the terms of this Settlement,  
6 the Parties may seek the assistance of the Court to resolve such disagreement.

7 89. Binding on Successors and Assigns. This Agreement will be binding upon, and inure  
8 to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

9 90. California Law Governs. All terms of this Agreement hereto will be governed by and  
10 interpreted according to the laws of the State of California.

11 91. Execution and Counterparts. This Agreement is subject only to the execution of all  
12 Parties. However, the Agreement may be executed in one or more counterparts. All executed  
13 counterparts and each of them, including facsimile and scanned copies of the signature page, will  
14 be deemed to be one and the same instrument provided that counsel for the Parties will exchange  
15 among themselves original signed counterparts.

16 92. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe  
17 this Settlement is a fair, adequate, and reasonable settlement of the Action and have arrived at this  
18 Settlement after extensive arms-length negotiations, taking into account all relevant factors, present  
19 and potential.

20 93. Invalidity of Any Provision. Before declaring any provision of this Agreement  
21 invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible  
22 consistent with applicable precedents so as to define all provisions of this Agreement valid and  
23 enforceable.

24 94. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to  
25 class certification for purposes of the Settlement only; except, however, that either party may appeal  
26 any court order that materially alters the terms of the Agreement.

27 95. Class Action Certification for Settlement Purposes Only. The Parties agree to  
28 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the

1 Settlement is not approved, the stipulation to certification will be void. The Parties further agree that  
2 certification for purposes of the Settlement is not an admission that class action certification is  
3 proper under the standards applied to contested certification motions and that this Agreement will  
4 not be admissible in this or any other proceeding as evidence that either: (a) a class action should be  
5 certified, or (b) Defendant is liable to Plaintiff or any Class Member.

6 96. Non-Admission of Liability. The Parties enter into this Agreement to resolve the  
7 dispute that has arisen between them and to avoid the burden, expense and risk of continued  
8 litigation. In entering into this Agreement, Defendant does not admit, and specifically deny, that  
9 they have violated any federal, state, or local law; violated any regulations or guidelines  
10 promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements;  
11 breached any contract; violated or breached any duty; engaged in any misrepresentation or  
12 deception; or engaged in any other unlawful conduct with respect to its employees. Neither this  
13 Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall  
14 be construed as an admission or concession by Defendant of any such violations or failures to  
15 comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this  
16 Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence  
17 in any action or proceeding to establish any liability or admission on the part of Defendant or to  
18 establish the existence of any condition constituting a violation of, or a non-compliance with,  
19 federal, state, local or other applicable law.

20 97. Captions. The captions and section numbers in this Agreement are inserted for the  
21 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the  
22 provisions of this Agreement.

23 98. Waiver. No waiver of any condition or covenant contained in this Agreement or  
24 failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or  
25 constitute a further waiver by such party of the same or any other condition, covenant, right or  
26 remedy.

27 99. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms  
28 and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly

1 against one Party than another merely by virtue of the fact that it may have been prepared by counsel  
2 for one of the Parties, it being recognized that, because of the arms-length negotiations between the  
3 Parties, all Parties have contributed to the preparation of this Agreement.

4 100. Representation By Counsel. The Parties acknowledge that they have been  
5 represented by counsel throughout all negotiations that preceded the execution of this Agreement,  
6 and that this Agreement has been executed with the consent and advice of counsel and reviewed in  
7 full. Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the  
8 Agreement.

9 101. All Terms Subject to Final Court Approval. All amounts and procedures described  
10 in this Agreement herein will be subject to Final Approval by the Court.

11 102. Cooperation and Execution of Necessary Documents. The Parties agree to cooperate  
12 to promote participation in the Settlement, and in seeking court approval of the Settlement. The  
13 Parties and their counsel agree not to take any action to encourage any Class Members to opt out of  
14 and/or object to the Settlement.

15 103. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent with  
16 class action procedure, this Agreement shall be enforceable by the Court pursuant to California Code  
17 of Civil Procedure § 664.6. The Court shall retain continuing jurisdiction over the Settlement and  
18 over all Parties and Class Members, to the fullest extent to enforce and effectuate the terms and  
19 intent of this Agreement, and to adjudicate any claimed breaches of this Agreement. The Court may  
20 award reasonable attorneys' fees and costs to the prevailing Party in any motion or action taken and  
21 based on an alleged violation of any material term of the Agreement.

22 104. Voluntary Agreement. The Parties acknowledge that they have entered into this  
23 Agreement voluntarily, on the basis of their own judgment and without coercion, duress, or undue  
24 influence of any Party, and not in reliance on any promises, representations, or statements made by  
25 the other Parties other than those contained in this Agreement. Each of the Parties hereto expressly  
26 waives any right he/it might ever have to claim that this Agreement was in any way induced by  
27 fraud.

28 105. Confidentiality. Other than the filing of the Motion for Preliminary Approval and the

1 Motion for Final Approval of the Agreement with the Court, submission of this Agreement and  
 2 other submissions required to be made to the Labor and Workforce Development Agency pursuant  
 3 to PAGA, Plaintiff and Class Counsel agree not to disclose or publicize the Agreement contemplated  
 4 herein, the fact of the Agreement, its terms or contents, or the negotiations underlying the  
 5 Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Class  
 6 Members, the Court, and as shall be contractually and/or legally required to effectuate the terms of  
 7 the Agreement as set forth herein in any manner. Nothing in this Agreement shall limit Defendant's  
 8 ability to fulfill disclosure obligations reasonably required by law or in furtherance of business  
 9 purposes, including the fulfillment of obligations stated in this Agreement or limit Class Counsel's  
 10 communications with the Class Members in furtherance of approval of this Settlement.

11 106. Binding Agreement. The Parties warrant that they understand and have full authority  
 12 to enter into this Settlement, and further intend that this Agreement will be fully enforceable and  
 13 binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding  
 14 to enforce its terms, notwithstanding any settlement confidentiality provisions that otherwise might  
 15 apply under federal or state law.

16  
 17 **IT IS SO AGREED.**

18  
 19 Dated: 5/24/2023, 2023

DocuSigned by:

Sydnee Figueroa

20 Sydnee Figueroa, Plaintiff and Proposed Class  
 21 Representative

22  
 23 **DEFENDANT INDIGO SKY, INC.**

24 Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_

25 Its: \_\_\_\_\_

1 Motion for Final Approval of the Agreement with the Court, submission of this Agreement and  
2 other submissions required to be made to the Labor and Workforce Development Agency pursuant  
3 to PAGA, Plaintiff and Class Counsel agree not to disclose or publicize the Agreement contemplated  
4 herein, the fact of the Agreement, its terms or contents, or the negotiations underlying the  
5 Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Class  
6 Members, the Court, and as shall be contractually and/or legally required to effectuate the terms of  
7 the Agreement as set forth herein in any manner. Nothing in this Agreement shall limit Defendant's  
8 ability to fulfill disclosure obligations reasonably required by law or in furtherance of business  
9 purposes, including the fulfillment of obligations stated in this Agreement or limit Class Counsel's  
10 communications with the Class Members in furtherance of approval of this Settlement.

11 106. Binding Agreement. The Parties warrant that they understand and have full authority  
12 to enter into this Settlement, and further intend that this Agreement will be fully enforceable and  
13 binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding  
14 to enforce its terms, notwithstanding any settlement confidentiality provisions that otherwise might  
15 apply under federal or state law.

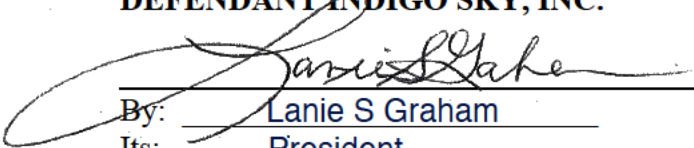
16  
17 **IT IS SO AGREED.**

18  
19 Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Sydnee Figueroa, Plaintiff and Proposed Class  
Representative

22  
23 **DEFENDANT INDIGO SKY, INC.**

24 Dated: June 2, 2023

  
\_\_\_\_\_  
By: Lanie S Graham  
Its: President

1 **APPROVED AS TO FORM:**

2  
3  
4 Dated: May 25, 2023

**GRAHAMHOLLIS APC**



Nathan Reese

Attorneys for Plaintiff and Proposed Class Counsel

6  
7  
8 **LEWIS BRISBOIS BISGAARD & SMITH LLP**

9 Dated: June 4, 2023, 2023



Katherine C. Den Bleyker

Samuel Knecht

Attorneys for Defendant Indigo Sky, Inc., et al.

# **EXHIBIT A**

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

Case No. 21STCV42069

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

**You may be eligible to receive money** from an employee class action Settlement resulting from a lawsuit (“Action”) against Indigo Sky Inc. (“Indigo Sky”) for alleged wage and hour violations. The Action was filed by a former Indigo Sky employee Sydnee Figueroa (“Plaintiff”) and seeks payment of unpaid overtime wages, meal and rest premiums, and penalties for a class of hourly and/or non-exempt employees in California (“Class Members”) at any time during the Class Period (between November 15, 2017 and March 1, 2023); and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for Indigo Sky during the PAGA Period (September 11, 2020 to March 1, 2023 (“Aggrieved Employees”).

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

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

The above estimates are based on Indigo Sky’s records showing that **you worked <number> workweeks** during the Class Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

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

If you worked for Indigo Sky during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                       | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the wage claims against Indigo Sky that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>You Can Opt-out of the Class Settlement</b><br><br><b>The Opt-out Deadline is &lt;date&gt;</b>                           | If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.                                                                                                                                                                                                                                                          |
| <b>Participating Class Members Can Object to the Class Settlement</b><br><br><b>Written Objections Must be Submitted by</b> | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice. |

|                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Can Participate in the &lt;date&gt; Final Approval Hearing</b>                                            | The Court's Final Approval Hearing is scheduled to take place on <date>. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section <b>8</b> of this Notice. |
| <b>You Can Challenge the Calculation of Your Workweeks</b><br><br><b>Written Challenges Must be Submitted by</b> | The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The number Class Period Workweeks you worked according to Indigo Sky's records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by <date>. See Section <b>4</b> of this Notice.                                                         |

## **1. WHAT IS THE ACTION ABOUT?**

Plaintiff is a former Indigo Sky employee. The Action accuses Indigo Sky of violating California labor laws by failing to pay overtime wages at the correct rate of pay and all wages due upon termination and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) (“PAGA”). Plaintiff is represented by attorneys in the Action: Hali M. Anderson and Nathan J. Reese of GrahamHollis, APC (“Class Counsel.”)

Indigo Sky strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. Indigo Sky has entered into the Settlement solely for the purposes of resolving this dispute and has agreed to settle the case as part of a compromise with Plaintiff. By agreeing to settle, Indigo Sky is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action.

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

So far, the Court has made no determination whether Indigo Sky or Plaintiff is correct on the merits. In the meantime, Plaintiff and Indigo Sky hired an experienced, neutral mediator to preside over a mediation in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Indigo Sky have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Indigo Sky does not admit any violations or concede the merit of any claims.

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

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

1. Indigo Sky Will Pay \$200,000.00 as the Gross Settlement Amount (Gross Settlement). Indigo Sky has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, and the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Indigo Sky will fund the Gross Settlement in four (4) equal Installments of Fifty Thousand Dollars and Zero Cents (\$50,000) after the Court finally approves the settlement and

the occurrence of the Effective Date. The Effective Date is the date the Court enters a Final Approval Order, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

The Administrator will issue two payments to Participating Class Members. The first payment will be mailed to Participating Class Members approximately seven (7) months following Final Approval, and the second payment will be mailed approximately nineteen (19) months following final approval. **In order to ensure you receive both the first and second payment, it is essential that you inform the Administrator (identified in Section 9 of this notice) about any changes to your mailing address that occur at time prior to mailing of the settlement payments.**

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$66,666.67 (1/3 of the Gross Settlement to Class Counsel for attorneys' fees and up to \$13,500.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$5,000.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
  - C. Up to \$11,250.00 to the Administrator for services administering the Settlement.
  - D. Up to \$15,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Indigo Sky are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Indigo Sky will separately pay employer payroll taxes it owes on the Wage Portion, and the Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will

report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will irrevocably be lost to you because they will be paid to a non-profit organization, Legal Aid At Work ("Cy Pres").
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than <60 days following mailing>, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the <60 days following mailing> Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Indigo Sky.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Indigo Sky based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Indigo Sky have agreed that, in either case, the Settlement will be void: Indigo Sky will not pay any money and Class Members will not release any claims against Indigo Sky.
8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.
9. Participating Class Members' Release. After the Judgment is final and Indigo Sky has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement

(Released Class Claims”). This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Indigo Sky or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

“Released Class Claims” shall collectively mean any and all claims, rights, demands, liabilities and causes of action that were pled in Plaintiff’s Operative Complaint, or which could have been pled in the Operative Complaint based on the factual allegations therein, arising during the Class Period, including but not limited to causes of action for Failure to Provide Meal Periods or Required Premiums, Failure to Provide Rest Periods or Required Premiums, Failure to Pay All Overtime Wages, Failure to Provide Accurate Itemized Wage Statements, Failure to Timely Pay All Wages Due Upon Separation of Employment, Violation of California Business & Professions Code §§ 17200, et seq., and any violation or breach of the California Labor Code arising from or related to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 218.5, 218.6, 226, 226.7, 510, 512, 1194, 1198, 2698, and Industrial Welfare Commission Wage Orders (including and not limited to Wage Order No. 2-2001).

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Indigo Sky has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA Released Claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendant or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

“Released PAGA Claims” means all claims, rights, demands, liabilities and causes of action for civil penalties under California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code § 2698 et seq.) that were alleged in the LWDA Notice and Operative Complaint, or which could have been alleged in the LWDA Notice and Operative Complaint based on the factual allegations therein, arising during the PAGA Period, including but not limited to causes of action for Failure to Provide Meal Periods or Required Premiums, Failure to Provide Rest Periods or Required Premiums, Failure to Pay All Overtime Wages, Failure to Provide Accurate Itemized Wage Statements, Failure to Timely Pay All Wages Due Upon Separation of Employment, Civil Penalties for Violations of California Labor Code, Pursuant to PAGA, §§ 2698, et seq., and any violation or breach of the California Labor Code arising from or related to the conduct alleged, including without limitation, Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1198, 2698, and Industrial Welfare Commission Wage Orders (including and not limited to Wage Order No. 2-2001).

#### **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all

Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

1. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
2. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Indigo Sky's records, are stated in the first page of this Notice. You have until <60 days after mailing> to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

## 5. HOW WILL I GET PAID?

Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.

Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Sydnee Figueroa v Indigo Sky, Inc.*, and include your identifying information (full name, address, telephone number, and date). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The**

**Administrator must be sent your request to be excluded by <60 days after mailing>, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## **7. HOW DO I OBJECT TO THE SETTLEMENT?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Indigo Sky are asking the Court to approve. At least 16 days before the <date> Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can view them on the Court's website (<https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the case number (21STCV42069).

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is <60 days after mailing>.** Be sure to tell the Administrator what you object to, why you object, and any facts and reasoning that support your objection. Make sure you identify the Action *Sydnee Figuero v Indigo Sky Inc.* and include your name, current address, telephone number, and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

You can, but don't have to, attend the Final Approval Hearing on <final approval date> at <time> in Department 14 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<http://www.lacourt.org/lacc/>). Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website (<https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>)

and entering the case number (21STCV42069) beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

## **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything Indigo Sky and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to ILYM Group's website at <https://ilymgroup.com/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 21STCV42069. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

#### Class Counsel:

Hali M. Anderson

Nathan J. Reese

GrahamHollis APC

3555 Fifth Ave, San Diego, CA 92115

Email: [nreese@grahamhollis.com](mailto:nreese@grahamhollis.com)

Telephone: 619-692-0800

Fax Number: 619-692-0822

#### Settlement Administrator:

ILYM Group, Inc.

<Email Address of Case Manager>

14751 Plaza Dr., Ste J Tustin, CA 92780

Telephone: 888-250-6810

Fax Number: 888-845-6185

## **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you will have no way to recover the money.

## **11. WHAT IF I CHANGE MY ADDRESS?**

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

# **EXHIBIT B**



October 15, 2021

**Attorneys at Law**

3555 Fifth Avenue Suite 200  
San Diego, California 92103  
619.692.0800 voice  
619.692.0822 fax

[www.grahamhollis.com](http://www.grahamhollis.com)

Nathan Reese  
[nreese@grahamhollis.com](mailto:nreese@grahamhollis.com)  
619.344.8696 direct

**VIA ONLINE ELECTRONIC FILING**

California Labor and Workforce Development Agency  
Attn: PAGA Administrator  
1515 Clay Street, Suite 801  
Oakland, CA 94612

**CERTIFIED MAIL (RETURN RECEIPT)**

Indigo Sky Inc.  
c/o Pierre J Rodnunsky, Registered Agent for Service of Process  
5959 Topanga Canyon Boulevard, Suite 220  
Woodland Hills CA 91367

Indigo Sky Inc.  
4315 Enorb Dr.  
View Park, CA 90008

**Re: Sydnee Figueroa's Wage and Hour Claims Against Indigo Sky Inc.**

Dear Labor and Workforce Development Agency and Indigo Sky Inc.

Please be advised that Sydnee Figueroa ("Claimant") has retained our firm to represent her for claims against her former employer Indigo Sky Inc. ("the Company").

This letter shall serve as Claimant's written notice to the Labor and Workforce Development Agency ("LWDA") and the Company of the alleged Labor Code violations Claimant claims that the Company committed against Claimant and all other aggrieved employees in California. Claimant provides this notice in accordance with the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2699.3. Claimant desires to file a civil action to enforce her rights under the Labor Code and seek compensation accordingly.

Pursuant to Labor Code § 2699(a), and by way of this letter, Claimant also intends to represent all other current and former aggrieved employees who performed work for the Company in California and who have suffered at least one of the wage and hour violations described herein during their employment. Claimant intends to represent current and former employees for violations which occurred during the statutory period preceding the filing of a civil lawsuit, including any periods during which equitable or statutory tolling apply (such as the 65 days during which Plaintiff must wait to file a

Graham S.P. Hollis

Vilmarie Cordero

Nathan Reese

Hali Anderson

David Lin

Erik Dos Santos

Alex Kuner

Monique Rodriguez

Alyssa Smith

\*Provisionally Licensed Lawyer

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civil action under Labor Code § 2699.3(a)(2)(B) and the tolling period provided pursuant to the Judicial Council of California's Covid 19 Pandemic Emergency Rule 9), and continuing through the conclusion of any civil action filed on Claimant's behalf.

### **FACTUAL BACKGROUND**

Indigo Sky Inc. is a California corporation with its principal place of business being in View Park, California. The Company operates several European Wax Center franchises in Southern California.

The Company employed Claimant at their European Wax Centers. Claimant is a former employee of the Company, who worked as a non-exempt wax specialist at the Company's European Wax center in both Santa Monica and Redondo Beach, California. As a wax specialist, Claimant handled the maintenance of her station, which included cleaning the station and heating wax, and would provide waxing services to her clients.

At no time during Claimant's employment as a wax specialist was she primarily engaged in administrative duties, and the majority of the work she performed was non-managerial in nature. Furthermore, Claimant was not primarily engaged in work directly related to management policies or general business operations of the Company. Claimant was not permitted to exercise discretion or independent judgment and could not hire or fire employees. At all times, Claimant was a non-exempt employee and should have received the protections afforded by the California Labor Code and the applicable Industrial Welfare Commission ("IWC") Wage Order.

The Company denied Claimant and other aggrieved employees in California specific rights afforded to them under the California Labor Code and the IWC Wage Order. For example, the Company failed to provide them with legally compliant meal and rest breaks or pay them meal and rest break premiums; failed to timely pay them all minimum, regular, and overtime wages owed; failed to reimburse them for all business expenses; failed to maintain accurate records and issue accurate itemized wage statements; and failed to timely pay all wages due during and upon separation of employment.

Throughout Claimant's employment, the Company provide Claimant and other aggrieved employees their schedules which would include all appointments and breaks. The Company had a pattern and practice of failing to authorize and permit Claimant and other aggrieved employees to take legally compliant off-duty and uninterrupted rest periods of at least ten (10) minutes for every four-hour work period, or major fraction thereof. For example, the Claimant and other aggrieved employees worked shift exceeding six (6) hours, yet the Company only scheduled and authorized or permitted one rest break per shift, regardless of how long the employee would work.

The Company scheduled a meal break that was exactly 30 minutes long for Claimant and other aggrieved employees. Before going on their meal break, Claimant, and other aggrieved employees, would need to preform lengthy duties, such as cleaning their work station. As a result, Claimant and other aggrieved employees would preform these duties into their scheduled meal break. Even though the meal break would start late, Claimant and other employees would need to cut their meal break shorts to be on time for their next appointments. The Company strictly required Claimant other and aggrieved employees to return to work and begin their post-meal appointment promptly. Therefore, Claimant and other aggrieved employees were required to end their meal periods early before a full 30 minutes had passed.

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In spite of the fact that the aggrieved employees did not also receive meal periods of a full uninterrupted 30-minute period, the Company required employees to clock out for 30-minutes for their meal breaks. The combination of the Company's strict schedules, the lack of sufficient time allotted to complete their required cleaning responsibilities, and the Company's requirement that employees time punches show they had clocked out for 30-minutes during meal breaks, resulted in employees being systematically deprived of compensation for all hours worked, including minimum and regular wage. Specifically, in order to comply with the Company's requirements, many aggrieved employees would clock out yet continue to work. On information and belief, the Company was aware of said conduct yet turned a blind eye, thereby allowing employees to continue working off the clock. Further, because Claimant and other aggrieved employees often worked over eight (8) hours in a workday or over forty (40) hours in a workweek, the time spent off-the-clock also resulted in Claimant and other aggrieved employees in being deprived of all overtime compensation earned.

Claimant and other aggrieved employees of the Company did not sign a valid on-duty meal period agreements at any point during their employment with the Company, nor did they properly waive any of their meal periods.

The Company had a pattern and practice of not providing Claimant and other aggrieved employees with legally compliant meal periods, even though Claimant and other aggrieved employees worked more than six (6) hours during their workday.

Although Claimant and other aggrieved employees' meal and rest periods were regularly denied compliant meal and rest periods, the Company did not compensate Claimant and other aggrieved employees an additional hour of pay at their regular rate of pay for the times that Claimant and other aggrieved employees were not provided meal periods or authorized or permitted to take compliant rest periods, in violation of Labor Code § 226.7.

As a direct consequence of the Company's illegal policies as described herein, the Company did not keep accurate records of the actual hours that Claimant and other aggrieved employees were under the control of the Company as well as all wages earned. The Company failed to keep accurate records of Claimant's and other aggrieved employees' hours worked when the Company failed to accurately record the proper beginning and ending of each workday and meal period, in addition to the total hours worked during the pay period, among others.

The Company similarly failed to provide Claimant and other aggrieved employees with accurate itemized wage statements. For example, during the applicable statutory period, the Company failed to furnish Claimant and other aggrieved employees with itemized wage statements that included the total regular and overtime hours worked during the pay period, the applicable hourly rates and the corresponding number of hours worked at each hourly rate, and the correct amount of gross and net wages earned. The wage statements also failed to provide written notice of accrued and used sick leave hours. Claimant and, on information and belief, other aggrieved employees received no written notice of accrued and used sick leave hours.

To date, the Company has not paid Claimant and other aggrieved employees all wages owed, including all minimum, regular, and overtime wages, as well as all meal and rest period premium wages.

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The Company maintained a pattern and practice of failing to pay Claimant and other aggrieved employees all wages due and owing at the time of their separation of employment within the time specified by Labor Code §§ 201 and 202 because The Company failed to pay Claimant and other aggrieved employees all wages due and owing at the time of discharge of their employment.

The Company also had a pattern or practice of having employees use their personal cellular devices to perform work duties, such as managing their schedules and clocking and out for work. Nevertheless, the Company did not pay Claimant and aggrieved employees any reimbursement for their cellular phone expenses incurred as a consequence of their duties of employment.

Due to the foregoing Labor Code violations, the Company denied Claimant and other aggrieved employees certain rights afforded them under the California Labor Code and IWC Wage Orders. Claimant makes these claims against the Company on behalf of herself and all other aggrieved current and former employees of the Company in California.

**FAILURE TO PAY MINIMUM, REGULAR, AND OVERTIME WAGES**

(Labor Code §§ 223, 225.5, 510, 558, 1194, 1194.2, 1197, 1197.1, 1198 and the  
“Minimum Wages” and “Hours and Days of Work” sections of the Applicable IWC Wage Order)

Labor Code section 1197 states, “[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.” Labor Code section 510 states, “[e]ight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.” The “Hours and Days of Work” and “Minimum Wages” sections of the applicable IWC Wage Order mandate the same requirements.

Labor Code section 1194(a) states, “...any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.” Liquidated damages in an amount equal to the minimum wages unlawfully unpaid and interest thereon are provided for under Labor Code section 1194.2.

Labor Code section 223 states, “[w]here any statute or contract requires an employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage designated by statute or by contract.” Labor Code section 225.5 provides that, “...every person who unlawfully withholds wages due any employee in violation of Section ...223 shall be subject to a civil penalty” of \$100 for each initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation.

As set forth above, the Company failed to pay Claimant and other aggrieved employees all minimum, regular, and overtime wages as required by law. Claimant will pursue all available remedies

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for the Company's violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

**FAILURE TO PROVIDE COMPLIANT MEAL PERIODS AND  
AUTHORIZE AND PERMIT REST PERIODS**

(Labor Code sections 226.7, 512, 558, 1198 and the "Meal Periods" and  
"Rest Periods" sections of the Applicable IWC Wage Order)

Labor Code section 226.7(b) states, "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission..." Labor Code section 226.7(c) states, "[i]f an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law... the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided."

Labor Code section 512(a) states, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes" and "[a]n employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes."

The "Meal Periods" section of the applicable IWC Wage Order states, "[n]o employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee." It further states, "[a]n employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of employer and employee only if the first meal period was not waived." Furthermore, "[i]f an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided."

The "Meal Periods" section of the applicable IWC Wage Order also states, "[u]nless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked. An 'on duty' meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time."

The "Rest Periods" section of the applicable IWC Wage Order states, "[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof." It further states, "[a]uthorized rest period time shall be counted as hours worked for which there shall be no deduction from wages." Furthermore, "[i]f an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

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Labor Code section 1198 states, “[t]he maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

As set forth above, the Company failed to provide Claimant and other aggrieved employees with the opportunity to take uninterrupted, off-duty meal breaks of at least 30-minutes before the start of their sixth hour of work and did not authorize and permit Claimant and other aggrieved employees to take legally compliant rest breaks, as required by California law.

Consequently, Claimant and other aggrieved employees are entitled to receive one-hour of premium wages for each day a compliant meal break was not provided and one-hour of premium wages for each day a compliant rest period was not authorized or permitted. However, the Company failed to pay all Claimant and aggrieved employees with all premium wages as required by law.

Claimant will pursue all available remedies for the Company’s violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

#### **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

(Labor Code section 2802)

Labor Code section 2802(a) provides in pertinent part, “[a]n employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer.”

Labor Code section 2802(b) states, “[a]ll awards made by a court or by the Division of Labor Standards Enforcement for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.” Accordingly, Claimant will request that she receive interest on the applicable amount.

Furthermore, Labor Code section 2802(c) states “[f]or purposes of this section, the term ‘necessary expenditures or losses’ shall include all reasonable costs, including, but not limited to, attorney’s fees incurred by the employee enforcing the rights granted by this section.” Consequently, Claimant will also request reimbursement of the attorney’s fees incurred in pursuing this matter.

As set forth above, the Company required that Claimant and other aggrieved employees to incur expenditures in the discharge of their duties of employment without providing reimbursement. Claimant will pursue all available remedies for the Company’s violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

#### **FAILURE TO MAINTAIN ACCURATE RECORDS**

(Labor Code sections 1174, 1174.5, 1198, and the “Records” section of the Applicable IWC Wage Order)

Labor Code section 1174 states, “[e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll

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records showing the hours worked daily by and the wages paid to, ..., employees employed at the respective plants or establishments.”

The “Records” section of the applicable IWC Wage Order states that every employer shall keep accurate information with respect to each one of its employees, including time records showing when the employee begins and ends each work period and meal period, total hours worked in the payroll period and applicable rates of pay, and total wages paid each payroll period.

Labor Code section 1174.5 imposes a civil penalty of \$500 for an employer’s failure to maintain accurate and complete records. This civil penalty is in addition to the civil penalty of \$100 per pay period, per aggrieved employee that would be imposed pursuant to Labor Code § 2699 for a violation of Labor Code § 1174(d).

As set forth above, the Company violated these requirements by failing to accurately record employee hours worked including, but not limited to, the Company’s failure to record the proper beginning and end of each work period, the meal periods, the total hours worked during the pay period, the applicable rates of pay, and the wages paid. Claimant will pursue all available remedies for the Company’s violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

#### **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

(Labor Code sections 226, 226.3, 246, 248.5, and 1198)

Labor Code section 226(a) states in pertinent part that every employer shall provide an accurate, itemized wage statement in writing with respect to each of its employees showing: “(1) gross wages earned, (2) total hours worked by the employee, ..., (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, ..., ..., and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.”

Labor Code section 226(e) imposes a penalty of the greater of all actual damages or \$50 for the initial pay period in which a violation occurs and \$100 per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of \$4,000, and entitles an employee to an award of costs and reasonable attorney’s fees. Labor Code section 226.3 imposes an additional civil penalty on the employer of \$250.00 per employee per violation of Labor Code section 226(a) in an initial citation and \$1,000 per employee for each violation in a subsequent citation.

Labor Code section 246(i) states that “[a]n employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee’s payment of wages.” Any person enforcing Labor Code section 246 on behalf of the public “shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and reasonable attorney’s fees and costs.”

As set forth above, and because of the Company’s illegal policies and procedures, the Company failed to provide Claimant and other aggrieved employees with accurate itemized wage statements that comply with the requirements of the Labor Code because the wage statements issued did not include the

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total regular and overtime hours worked, the applicable hourly rates and corresponding number of hours worked at each hourly rate, and the correct amount of gross and net wages earned. Claimant will pursue all available remedies for the Company's violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

**FAILURE TO TIMELY PAY ALL WAGES DUE DURING  
AND UPON TERMINATION OF EMPLOYMENT**

(Labor Code sections 201, 202, 203, 204, 210, 1194, 1194.2, 1198, and the  
"Minimum Wages" section of the Applicable IWC Wage Order)

Labor Code section 204(a) states in pertinent part, "[a]ll wages...earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays." Furthermore, Labor Code section 204(b)(1) states, "all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period." Labor Code section 210 provides that, "every person who fails to pay the wages of an employee as provided in Section...204...shall be subject to a civil penalty" of \$100 for an initial violation and \$200 plus 25% of the amount unlawfully withheld for a subsequent violation. The "Minimum Wages" section of the applicable IWC Wage Order also states that "[e]very employer shall pay to each employee, on the established payday for the period involved, not less than the applicable minimum wage for all hours worked in the payroll period, whether the remuneration is measured by time, piece, commission, or otherwise."

Labor Code section 201 states, in pertinent part, "[i]f an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately." Labor Code section 202 states, in pertinent part, "If an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting."

Labor Code section 203(a) states, in pertinent part, "[i]f an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced; but the wages shall not continue for more than 30 days."

Lastly, and as a direct result of the aforementioned Labor Code violations, the Company did not pay Claimant and all aggrieved employees all wages due and payable during and upon separation of employment, including minimum, regular, and overtime wages for all hours worked, and meal and rest period premium wages, as required pursuant to Labor Code §§ 201, 202 and 204.

As set forth above, the Company violated these Labor Code sections by not paying to Claimant and other aggrieved employees all minimum, regular, and overtime wages, and meal and rest break premium wages, within the required time during and upon separation of their employment. As a result of the Company's failure to comply with the aforementioned Labor Code provisions, the Company owes waiting time penalties to Claimant and other aggrieved employees, which it has not yet paid. Claimant will pursue all available remedies for the Company's violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

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**CIVIL PENALTIES FOR VIOLATION OF THE LABOR CODE AND IWC WAGE ORDERS**

(Labor Code sections 558, 558.1, and 1197.1)

Labor Code section 558 subjects any employer or any person acting on behalf of an employer who violates Part 2, Chapter 1, of the Labor Code (Labor Code §§ 500-558.1) or any provision regulating the hours and days of work in any IWC Wage Order to a civil penalty as follows: “[f]or any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.”

Labor Code section 558.1(a) states that “[a]ny employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wage or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation. This includes the owners, officers, directors, or managing agents of the employer. Labor Code section 558.1(b).

Similarly, Labor Code section 1197.1 subjects any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203 as follows: “(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203. (3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.”

As set forth above, the Company underpaid Claimant and aggrieved employees and violated the Labor Code and the applicable IWC Wage Order by failing to pay them all regular, minimum, and overtime wages, meal and rest break premium wages, and unreimbursed expenses, as required under Labor Code sections 203, 226, 226.7, 510, 512, 1194, 1197, 1198, 2802, and the applicable sections of the applicable IWC Wage Order. As a result, the Company is liable for civil penalties under Labor Code sections 558, 558.1, and 1197.1. Claimant will pursue all available remedies for the Company’s violations on behalf of herself and other aggrieved current and former employees to the extent allowed by law.

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**CONCLUSION**

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Claimant becomes aware of additional violations of the Labor Code or facts in support thereof, additional compensation owed to him or other losses incurred by him or by any other aggrieved employee of the Company, she reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action in his complaint.

Very truly yours,

A handwritten signature in black ink that reads "Nathan Reese". The signature is written in a cursive, flowing style.

Nathan Reese