

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com
Daniel J. Kramer (SBN 314625)
dkramer@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs

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

DANIEL HAYES, individually, and on behalf of
all others similarly situated, AUDREY
MIGLIACCIO, individually, and on behalf of all
others similarly situated, COURTNEY
MELVIN, individually, and on behalf of all
others similarly situated,

Plaintiffs,

v.

GONZALES PARK, a California corporation,
PROJECT FUSION, LLC, a Delaware
corporation, and DOES 1 through 10, inclusive,

Defendants

COURTNEY MELVIN, on behalf of the State of
California and other aggrieved persons,

Plaintiff,

v.

GONZALES PARK, LLC, a California Limited
Liability Company; PROJECT FUSION, LLC, a
Limited Liability Company; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 21CV02456
Consolidated With Case No.: 22CV01119

**CONSOLIDATED CLASS AND
REPRESENTATIVE ACTION**

[Assigned to: Hon. Tamara L. Mosbarger,
Department 1]

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

[Filed concurrently with: Plaintiffs' Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; [Proposed] Order]

PRELIMINARY APPROVAL HEARING

Date: November 8, 2023

Time: 9:00 a.m.

Dept: 1

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

I, Justin F. Marquez, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney Melvin (“Plaintiffs”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

CASE BACKGROUND

2. This is a consolidated wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiffs and the putative class members worked in California as hourly-paid or non-exempt employees for Defendants Gonzalez Park, LLC and Projection Fusion, LLC (“Defendants”) during the class period. Defendants own and manage a clothing company in Butte County that produces, *inter alia*, private label apparel for companies throughout the United States.

3. Plaintiffs allege that Defendants' payroll, timekeeping, and wage and hour practices resulted in numerous Labor Code violations. Specifically, Plaintiffs allege that Defendants failed to, *inter alia*, pay for all hours worked, provide employees with legally compliant meal and rest periods, indemnify employees for all necessary business expenses, and provide timely wages. Based on these allegations, Plaintiffs assert claims against Defendants for failure to pay minimum and straight time wages, failure to pay overtime wages, failure to provide meal periods, failure to authorize and permit rest periods, failure to indemnify for necessary business expenses, failure to timely pay all final wages at termination, failure to provide accurate itemized wage statements, unfair business practices, and civil penalties under PAGA.

4. On September 30, 2021, Plaintiff Hayes filed a putative wage and hour class action complaint against Defendants for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest

1 periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized
2 wage statements; (7) failure to indemnify necessary business expenses; and (8) unfair business
3 practices. Plaintiff Hayes then amended his complaint on January 12, 2022 to add additional class
4 representatives, Plaintiff Melvin and Plaintiff Migliaccio.

5 5. On October 1, 2021, Plaintiff Hayes sent a notice to Defendants and the California
6 Labor & Workforce Development Agency (“LWDA”) alleging similar wage and hour violations
7 pursuant to the PAGA. Attached as **Exhibit 1** is a true and correct copy of Plaintiff Hayes’ Notice
8 of Labor Code Violations and PAGA Penalties. Plaintiff Hayes also paid the \$75.00 filing fee on
9 October 1, 2021.

10 6. On March 15, 2022, Plaintiffs sent a subsequent joint notice to Defendants and the
11 California LWDA alleging similar violations pursuant to the PAGA. Plaintiff also paid the \$75.00
12 filing fee on March 28, 2022. Attached as **Exhibit 2** is a true and correct copy of Plaintiffs’
13 subsequent Notice of Labor Code Violations and PAGA Penalties. Plaintiffs also paid the \$75.00
14 filing fee on the same day. On May 27, 2022, Plaintiff Melvin filed a separate action pursuant to
15 the PAGA for civil penalties.

16 7. On February 22, 2023, the two actions described above were consolidated, with
17 Case Number 21CV02456 being designated as the lead case. Plaintiffs provided conformed copies
18 of both actions to the LWDA.

19 DISCOVERY AND INVESTIGATION

20 8. Following the filing of the initial Complaint, the Parties exchanged documents and
21 information before mediating this action. Defendants produced a sample of timekeeping and pay
22 records for the class members. Defendants also provided documents of their wage and hour
23 policies and practices during the class period and information regarding the total number of current
24 and former employees in their informal discovery responses. In total, Defendants produced policy
25 documents and corresponding time/wage records for approximately 160,000 shifts worked by
26 employees during the class period.

27 9. After reviewing documents regarding Defendants’ wage and hour policies and
28 practices, analyzing Defendant’s timekeeping and payroll records, and interviewing Class

Members, Class Counsel was able to evaluate the probability of class certification, success on the merits, and Defendants’ maximum monetary exposure for all claims. Class Counsel was also able to evaluate the extent to which Defendants paid premium wages for non-compliant meal and rest periods. Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and utilized an expert to prepare a damages analysis prior to mediation.

SETTLEMENT NEGOTIATIONS

10. On December 7, 2022, the Parties participated in private mediation with experienced class action litigator and mediator Brandon McKelvey, Esq. The mediation was conducted via Zoom. The settlement negotiations were at arm’s length and, although conducted in a professional manner, were adversarial. The Parties went into the mediation willing to explore the potential for a settlement of the dispute, but each side was also prepared to litigate their position through trial and appeal if a settlement had not been reached.

11. After extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiffs’ claims and Defendants’ defenses, the Parties reached a settlement following the issuance of a mediator’s proposal, the material terms of which were subsequently incorporated in the Parties’ proposed Settlement Agreement. Attached as Exhibit 3 is a true and correct copy of the Class Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement Agreement”).

12. The Parties used the Los Angeles Superior Court’s Form Class Action and PAGA Settlement Agreement and Class Notice as the base for drafting the Settlement Agreement.

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

14. Class Counsel requested several bids from experienced class action settlement administrators to handle the responsibilities of the Settlement Administrator under this Settlement. The Parties accepted the bid of ILYM Group, Inc. (“ILYM Group”). ILYM Group has numerous years of experience in the field of Class Action Administration, particularly in the wage and hour arena. In its bid, ILYM Group agreed to cap its costs at \$14,770 if there are no more than 700

1 class members. ILYM Group's bid also accounts for Notice in English and Spanish. A true and
2 correct copy of the bid is attached hereto as **Exhibit 4**.

3 15. Plaintiffs do not have any interest, financial or otherwise, in the third-party
4 administrator, ILYM Group.

5 16. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
6 employed at the law firm) has any interest, financial or otherwise, in the third-party administrator,
7 ILYM Group.

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

9 17. Class Counsel has conducted a thorough investigation into the facts of this case.
10 Based on the foregoing discovery and their own independent investigation and evaluation, Class
11 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
12 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
13 of significant delay, the defenses that could be asserted by Defendants both to certification and on
14 the merits, trial risk, and appellate risk.

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

23 Total Class Members: 657

24 Terminated Class Members during 3-year statute: 259

25 Total Workweeks: 61,491

26 Total Shifts Worked by the Class: 261,923

27 PAGA Pay Periods: 16,551

28 PAGA-Eligible Employees: 487

Avg. Hourly Rate: \$18.50

19. Based on Plaintiff's discovery and investigation, Class Counsel reached the conclusion that: Defendants failed to pay class members for all hours worked, including overtime wages; and Defendants had a policy and practice of not providing its employees with California compliant meal and rest periods which they did not pay appropriate premiums for. Defendants deny these claims.

20. Plaintiffs allege that Defendants failed to pay for all hours worked, including minimum, straight time, and overtime wages. For purposes of calculating Defendants' liability based on a best case scenario for Plaintiff and the Class, Class Counsel estimate that Defendants' maximum potential exposure by assuming that all unpaid work time should have been paid at the overtime rate, not minimum or straight time wages, even though a 25% of the recorded shifts were less than eight hours long, and Class Counsel assumed that Defendants are liable for 30 minutes of unpaid worktime per workweek. This results in an estimate of \$853,187.63 (61,491 workweeks * \$18.50 average hourly rate * 1.5 overtime rate * 30 minutes of unpaid work per workweek), but Class Counsel discounted this figure by 80% to account for the difficulty of prevailing on a motion for class certification and a trial on the merits, yielding a realistic damage estimate of \$170,637.53.¹

21. With respect to the meal period claim, Plaintiffs alleges that Defendants required them and similarly situated class members to either work in lieu of taking meal periods, or their meal periods were untimely or shortened. My expert analyzed Defendant's timekeeping records and found that Defendants failed to provide timely and compliant meal periods during approximately 10% of the recorded meal periods. Based on the records and Plaintiffs' and the other class members' experience working for Defendants, Class Counsel assumed a 10% meal period violation rate for the class period, yielding a damage estimate of \$530,095.30 (286,538 shifts * 0.10 * \$18.50 average hourly rate); however, Class Counsel discounted this figure by 80% to account for the difficulty of certifying and proving meal period claims, Defendants' showing of

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

1 paying meal period premiums, as well as Defendants' contention that the claim lacks merit,
2 yielding a realistic damage estimate of \$106,019.06.

3 22. With respect to the rest period claim, Plaintiffs allege that Defendants required them
4 and similarly situated class members to work in lieu of taking rest periods. Assuming a 25%
5 violation rate for the class period based on Plaintiffs' and other class members' experience working
6 for Defendants, Defendants' potential liability for the rest period claim is \$1,325,238.25 (286,538
7 shifts * 0.25 * \$18.50 average hourly rate); however, Class Counsel discounted this figure by 80%
8 to account for the difficulty of certifying and proving rest period claims, particularly because rest
9 periods do not have to be recorded, and to account for the possibility of class members voluntarily
10 choosing to forego a rest period, yielding a realistic damage estimate of \$265,047.65.

11 23. With respect to the business expense claim, Plaintiffs alleges that Defendants
12 required them and similarly situated class members to incur costs for work attire, work equipment,
13 and use of personal cell phones in order to perform their job duties. Based on Plaintiffs' and other
14 class members' experience working for Defendants, Class Counsel assumed a maximum potential
15 of \$10 per workweek, which would result in Defendant's potential liability for the business expense
16 claim being \$614,910 (61,491 workweeks * \$10); however, Class Counsel discounted this figure
17 by 80% to account for the difficulty of certifying and proving business expense claim, particularly
18 because Defendant may be able to show that such expenses did not occur for all class members
19 and, even if the expenses did occur, the costs were not necessary for class members to perform
20 their job duties. Based on this discount, a realistic damages estimate for this claim is \$122,982.

21 24. In sum, Class Counsel estimated that Plaintiffs' maximum recovery for the non-
22 penalty claims is \$3,323,431.18, but, after factoring in the risk and uncertainty of prevailing at
23 certification and trial, Class Counsel estimate that Plaintiff's realistic estimated recovery for the
24 non-penalty claims is \$664,686.24.

25 25. With respect to Plaintiffs' derivative claims for statutory and civil penalties,
26 Plaintiffs estimated that Defendant's realistic potential liability is \$443,581. While Defendants'
27 maximum potential liability for waiting time penalties is \$1,149,960 based on approximately 259
28 terminated class members during the 3-year statute of limitations; \$1,630,750 for inaccurate wage

1 statements within the 1-year statute of limitations (as based on 16,551 pay periods, with 487 initial
2 violations and 16,064 subsequent violations); \$1,655,100 for PAGA violations based on the Court
3 assessing a \$100 penalty for initial violations for all 16,551 pay periods within the 1-year statute
4 of limitations, I believe that it would be unrealistic to expect the Court to award the full \$4,435,810
5 in penalties given Defendants' defenses, the contested nature of Plaintiffs' claims, and the
6 discretionary nature of penalties. Considering that the underlying claims are realistically estimated
7 to be \$664,686.24, such a disproportionate award would also raise due process concerns. The
8 penalties at issue would also be difficult to obtain in light of the fact that approximately 75% of
9 the class members signed arbitration agreements that include class action waiver provisions.
10 Weighing these factors and applying a discount of 90% to account for the risk and uncertainty of
11 prevailing at trial, Class Counsel arrived at \$443,581 for statutory and civil penalties.

12 26. Using these estimated figures, Plaintiff predicted that the realistic maximum
13 recovery for all claims, including penalties, would be \$1,108,267.24. This means that the \$637,500
14 settlement figure represents **58% of the realistic maximum recovery** ($\$637,500 / \$1,108,267.24 =$
15 58%). Considering the risk and uncertainty of prevailing at class certification and at trial, this is an
16 excellent result for the Class.² Indeed, because of the proposed Settlement, class members will
17 receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment.

18 27. While Plaintiffs are confident in the merits of their claims, a legitimate controversy
19 exists as to each cause of action. Plaintiffs also recognizes that proving the amount of wages due
20 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

21 28. This Settlement avoids the risks and the accompanying expense of further litigation.
22 Although the Parties had engaged in a significant amount of investigation, informal discovery and
23 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiffs
24 intended to depose corporate officers and managers of Defendants. Moreover, preparation for class

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

1 certification and a trial remained for the Parties, as well as the prospect of appeals in the wake of
2 a disputed class certification ruling for Plaintiffs and/or adverse summary judgment ruling. Had
3 the Court certified any claims, Defendants could move to decertify the claims. As a result, the
4 Parties would incur considerably more attorneys' fees and costs through trial.

5 29. The Net Settlement Amount available for Class Member settlement payments is
6 estimated to be \$345,000, for a class of 657 persons.³ As a result, each Settlement Class Member
7 is eligible to receive an average net benefit of approximately \$525.11.

8 30. The proposed Settlement of \$637,500, therefore, represents a substantial recovery
9 when compared to Plaintiffs' reasonably forecasted recovery. When considering the risks of
10 litigation, the uncertainties involved in achieving class certification, the burdens of proof necessary
11 to establish liability, the probability of appeal of a favorable judgment, it is clear that the settlement
12 amount of \$637,500 is within the "ballpark" of reasonableness, and preliminary settlement
13 approval is appropriate.

14 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

15 31. Class Counsel represent that Plaintiffs devoted a great deal of time and work
16 assisting counsel in the case, communicated with counsel very frequently for litigation and to
17 prepare for mediation, and was frequently in contact with Class Counsel during the mediation.
18 Plaintiffs' requested service awards are reasonable particularly in light of the substantial benefits
19 they generated for all class members.

20 32. Throughout this Litigation, Plaintiffs, who are former employees of Defendants,
21 have cooperated immensely with my office and have taken many actions to protect the interests of
22 the class. Plaintiffs provided valuable information regarding the "off-the-clock," meal period, and
23 rest period claims. Plaintiffs also informed my office of developments and information relevant
24 to this action, participated in decisions concerning this action, made himself available to answer
25 questions during the mediation, and provided my office with the names and contact information of
26

27 ³ The Net Settlement Amount is: \$637,500 minus \$212,500 for Class Counsel's attorneys' fees, minus
28 \$20,000.00 for Class Counsel's litigation expenses, minus \$15,000 in anticipated administration costs, minus \$15,000
for the PAGA payment to the LWDA, and minus \$30,000.00 for the combined class representative service awards to
Plaintiffs.

1 potential witnesses in this action. Before we filed this case, Plaintiff Hayes provided my office
2 with documents regarding the claims alleged in this action. The information and documentation
3 provided by Plaintiffs was instrumental in establishing the alleged wage and hour violations
4 alleged in this action, and the recovery provided for in the Settlement Agreement would have been
5 impossible to obtain without Plaintiffs' participation.

6 33. At the same time, Plaintiffs faced many risks in adding themselves as the class
7 representative in this matter. Plaintiffs faced actual risks with their future employment, as putting
8 themselves on public record in an employment lawsuit could also very well affect his likelihood
9 for future employment. Furthermore, as part of this Settlement, Plaintiffs are executing a general
10 release of all claims against Defendants.

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

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

1 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

2 36. The Settlement provides for attorneys' fees payable to Class Counsel in an amount
3 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$212,500, plus
4 actual costs and expenses not to exceed \$20,000.00. The proposed award of attorneys' fees to
5 Class Counsel in this case can be justified under either method – lodestar or percentage recovery.
6 Class Counsel, however, intend to base the proposed award of fees, costs and expenses on the
7 percentage method as many of the entries in the time records will have to be redacted to preserve
8 attorney-client and attorney work product privileges.

9 37. I am informed and believe that the fee and costs provision is reasonable. The fee
10 percentage requested is less than that charged by my office for most employment cases. My office
11 invested significant time and resources into the case, with payment deferred to the end of the case,
12 and then, of course, contingent on the outcome.

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

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

23 40. Because most individuals cannot afford to pay for representation in litigation on an
24 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
25 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
26 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
27 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
28 her case, we cannot afford to represent an individual employee on a contingency basis if, at the

1 end of our representation, all we are to receive is our regular hourly rate for services. It is essential
2 that we recover more than our regular hourly rate when we win if we are to remain in practice so
3 as to be able to continue representing other individuals in civil rights employment disputes.

4 EXPERIENCE AND QUALIFICATIONS

5 41. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
6 Report as one of the nation's Best Law Firms in 2022 and is comprised of over 60 attorneys and
7 over 300 employees. Wilshire Law Firm, PLC is actively and continuously practicing in
8 employment litigation, representing employees in both individual and class actions in both state
9 and federal courts throughout California.

10 42. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys
11 are experienced in litigating Labor Code violations in both individual, class action, and
12 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
13 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
14 and data privacy litigation.

15 43. I graduated from the University of California, Los Angeles's College Honors
16 Program in 2004 with Bachelor of Arts degrees in History and Japanese, magna cum laude and Phi
17 Beta Kappa. As an undergraduate, I also received a scholarship to study abroad for one year at
18 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
19 2008.

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

23 45. I have received numerous awards for my legal work. From 2017 to 2020, Super
24 Lawyers selected me as a "Southern California Rising Star," and in 2022 and 2023, I was selected
25 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
26 in 2023. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under 40"
27 attorney. I am also rated 10.0 ("Superb") by Avvo.com.

28 46. I am on the California Employment Lawyers Association ("CELA")'s Wage and

1 Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced
2 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
3 mentored young attorneys through CELA's mentorship program.

4 47. I am also a past member of the Consumer Attorneys of California ("CAOC"). In
5 2020, I was selected for a position on CAOC's Board of Directors. I am also a past member of
6 CAOC's Diversity Committee, and I helped assist the CAOC in defeating bills that harm
7 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
8 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
9 Labor Code § 226.

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

- 15 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
16 million in gross recovery to class members for each year since 2020, including over
17 \$37.5 million in 2022.
- 18 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
19 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
20 data breach class action holding that consumer plaintiffs adequately alleged injury
21 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 22 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case
23 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6
24 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional
25 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 26 d. To my knowledge, I am the only attorney to appear on each of the following Top
27 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
28 Labor & Employment Settlements, and Top 50 Class Action Settlements.

- 1 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
2 winning class certification on behalf of hundreds of thousands of consumers for
3 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
4 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 5 f. As lead counsel, I prevailed against Bank of America by: winning class certification
6 on behalf of thousands of employees for California Labor Code violations; defeating
7 appellate review of the court’s order certifying the class; defeating summary
8 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
9 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
10 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
11 2018)). The decision certifying the class in *Frausto* is also discussed in Class
12 Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call
13 Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed.
14 3d Art. 8.
- 15 g. I was the primary author of the class certification and expert briefs in *ABM*
16 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action
17 for over 40,000 class members for off-the-clock, meal period, split shift, and
18 reimbursement claims. *ABM Industries Overtime Cases* is the first published
19 California appellate authority to hold that an employer’s “auto-deduct policy for
20 meal breaks in light of the recordkeeping requirements for California employers is
21 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court
22 of Appeal also held that expert analysis of timekeeping records can also support the
23 predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the
24 case settled for \$140 million, making it one of the largest ever wage and hour class
25 action settlements for hourly-paid employees in California.

26
27 ⁴ As a California district court observed before the *ABM Industries Overtime* decision, “[t]he case law
28 regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb.
9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

- 1 h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d
2 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims
3 under the PAGA cannot be used to calculate the amount in controversy under the
4 Class Action Fairness Act (“CAFA”). This case is cited in several leading treatises
5 such as Wright & Miller’s Federal Practice & Procedure, and Newberg on Class
6 Actions. In October 2016, the U.S. Supreme Court denied review of a case that
7 primarily concerned Yocupicio. That effort was led by Theodore J. Boutrous, who
8 brought the cert petition, with amicus support from a brief authored by Andrew J.
9 Pincus.⁵ Considering that leading Supreme Court practitioners from the class action
10 defense bar were very motivated in undermining *Yocupicio* case, but failed, this
11 demonstrates the national importance of the *Yocupicio* decision.
- 12 i. On December 13, 2018, the United States District Court granted final approval of
13 the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services,*
14 *LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in
15 which I served as lead counsel. In doing so, the Court found: “Class Counsel’s
16 declarations show that the attorneys are experienced and successful litigators.” (*Id.*
17 at p. *10.)
- 18 j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a
19 reported decision permitting class-wide discovery even though the employer has a
20 lawful policy because “[t]he fact that a company has a policy of not violating the
21 law does not mean that the employees follow it, which is the issue here.” The court
22 also ordered defendant to pay for the cost of *Belaire-West* notice.
- 23 k. In 2013, I represented a whistleblower that reported that his former employer was
24 defrauding the State of California with the help of bribes to public employees. The
25 case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution
26 of State of California employees by the California Attorney General’s Office.

27
28 ⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

1 1. In 2013, I was part of a team of attorneys that obtained conditional certification for
2 over 2,000,000 class members in a federal labor law case for misclassification of
3 independent contractors that did crowdsourced work on the Internet, *Otey v.*
4 *CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the
5 following pro-plaintiff reported decisions:

6 i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an
7 unaccepted Rule 68 offer doesn't moot plaintiff's claims, and granting
8 plaintiff's motion to strike defendant's affirmative defenses based on
9 *Twombly/Iqbal*).

10 ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting
11 conditional collective certification).

12 iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the
13 magistrate judge's discovery ruling which held that "evidence of other
14 sources of income is irrelevant to the question of whether a plaintiff is an
15 employee within the meaning of the FLSA").

16 iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad
17 discovery because "an FLSA plaintiff is entitled to discovery from locations
18 where he never worked if he can provide some evidence to indicate
19 company-wide violations").

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

25 49. My current contingent billing rate of \$850.00 per hour is consistent with my practice
26 area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received,
27 legal market and accepted hourly rates:

28 a. In the December 8, 2008 article "Billable Hours Aren't the Only Game in Town

1 Anymore,” NATIONAL LAW JOURNAL, the following hourly billing rates were
2 reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of
3 wage and hour class actions that I opposed when litigating wage and hour class
4 actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd
5 Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435,
6 8th Year - \$455. I am a 14th year attorney and Senior Partner, with most of my
7 experience in class action litigation as a primary practice area. Having successfully
8 briefed and argued a published appeal in the Ninth Circuit Court of Appeals
9 involving CAFA and PAGA, having experience certifying large class actions
10 (including *ABM Industries Overtime Cases*, which was decided on appeal), and
11 having received numerous awards for my legal work, my hourly rate should be
12 adjusted upward.

- 13 b. On May 6, 2022 the Hon. Jay A. Garcia-Gregory of the United States District Court
14 in Puerto Rico approved my \$850 hourly rate when he granted final approval of the
15 class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.
16 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- 17 c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
18 approved my \$800 hourly rate when he granted final approval of the class action
19 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, Case No. 30-
20 2019-01066522-CU-OE-CXC.
- 21 d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District
22 Court granted final approval of the \$1,600,000 class action settlement in *Carlos*
23 *Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-
24 SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the
25 Court approved my then \$750 hourly rate after finding it was “reasonable, given the
26 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)
- 27 e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
28 Court approved my \$750 hourly rate when he granted final approval of the class

1 action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.
2 19STCV32396.

3 50. Benjamin H. Haber is a seventh-year Associate Attorney at Wilshire Law Firm. His
4 current hourly rate is \$650. He graduated from the University of California, Los Angeles, with a
5 Bachelor of Arts in Political Science, and received his Juris Doctor from the University of
6 California, Hastings College of the Law in 2016. During law school, he was a member of the
7 executive board for the Hastings Law Journal and student mediator at the San Francisco Superior
8 Court, Small Claims Division. He was admitted to practice law in the State of California in 2017.
9 Since graduating from law school, he has focused his legal work primarily on wage-and-hour
10 litigation and has helped obtain dozens of settlements on behalf of tens of thousands of workers in
11 California.

12 51. Daniel J. Kramer is a seventh-year Associate Attorney at Wilshire Law Firm,
13 PLC. His current contingent billing rate for this case is \$600 per hour, which is consistent with his
14 level of experience. He was admitted to practice law in the State of California and the Central,
15 Eastern, and Northern Districts of California. He graduated from Stanford University with a
16 Bachelor of Arts in History and Political Science, and received his Juris Doctor from Loyola Law
17 School, Los Angeles in 2016. During law school, he was a research editor for the Loyola of Los
18 Angeles International and Comparative Law Review. Before joining Wilshire Law Firm, he
19 practiced briefly at a firm that focused on municipal law and code enforcement and then moved to
20 a respected plaintiff-side firm to practice wage and hour class action litigation. He has several
21 years of work experience litigating wage and hour class actions.

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

24 Executed on October 19, 2023, at Los Angeles, California.

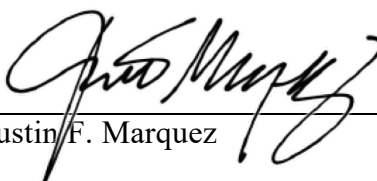
25
26
27
28

Justin F. Marquez

Exhibit 1

Min Jee Kim

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY <lwdadonotreply@dir.ca.gov>
Sent: Friday, October 1, 2021 3:31 PM
To: Min Jee Kim
Subject: Thank you for submission of your PAGA Case.

10/1/2021

LWDA Case No. LWDA-CM-847020-21
Law Firm : Wilshire Law Firm, PLC
Plaintiff Name : Daniel Hayes
Employer: Gonzales Park, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.
A. Ilyas Akbari, Esq.
Brad Stuckey, Esq.
Gail Richardson, Esq.
Justin F. Marquez, Esq.
Robert Dart, Esq.
Jon Teller, Esq.
Sutton A. Shapiro, Esq.
Daniel B. Miller, Esq.

Tae Kim, Esq.
Hazel Chang, Esq.
Daniel DeSantis, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Erik Harper, Esq.
Johnny Ogata, Esq.
Jennifer Reiz, Esq.

October 1, 2021

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Gonzales Park, LLC

495 Ryan Ave.
Chico, CA 95973
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2154 44

Dan Gonzales

Agent for Service of Process for:
Gonzales Park, LLC
495 Ryan Ave.
Chico, CA 95973
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2134 26

Project Fusion, LLC

495 Ryan Ave.
Chico, CA 95973
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2134 33

CT Corporation System

Agent for Service of Process for:
Project Fusion, LLC
330 N. Brand Blvd., Suite 700
Glendale, CA 91203
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2134 40

Re: ***Daniel Hayes v. Gonzales Park, LLC, et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Daniel Hayes ("Plaintiff") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers, Gonzales Park, LLC and Project Fusion, LLC ("Defendants"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiff and all of Defendants' Aggrieved Employees.

Plaintiff wishes to pursue this action on behalf of himself as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendants in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

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

Plaintiff's Employment with Defendants

Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including Butte County. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff Daniel Hayes is a California resident who worked for Defendants in Butte County, California as an hourly-paid, non-exempt employee from approximately October 2018 to approximately January 2019. Plaintiff regularly worked more than 8 hours per workday and/or more than 40 hours in a workweek. Throughout Plaintiff's employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to pay overtime and double time compensation, failed to provide Plaintiff with legally compliant meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to timely pay all final wages to Plaintiff when Defendants terminated his employment, failed to reimburse Plaintiff for all business related expenses or losses incurred during his employment, and failed to furnish accurate wage statements to Plaintiff. As discussed below, Plaintiff's experience working for Defendants were typical and illustrative.

Defendants Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

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

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

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

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendants required Plaintiff and the Aggrieved Employees to work "off-the-clock", uncompensated, by, for example, requiring Plaintiff and the Potential Aggrieved Employees to perform work before their work shifts began and after their work shifts ended.

Plaintiff and the Aggrieved Employees also sometimes worked unpaid during legally required meal periods. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees overtime wages when they worked more than 8 hours in a workday or more than 40 hours in a workweek. For example, Defendants required Plaintiff and the Aggrieved Employees to work “off-the-clock”, uncompensated, by, for example, requiring Plaintiff and the Potential Aggrieved Employees to perform work before their work shifts began and after their work shifts ended. Plaintiff and the Aggrieved Employees also sometimes worked unpaid during legally required meal periods. Some of that time should have been paid at the overtime or double time rates.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

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

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with their legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work and to work without taking a second legally compliant meal break after working ten hours per day, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. At all times relevant to Plaintiff’s employment for Defendants, Plaintiff was not informed of his right to, nor permitted to take, a second meal period when Plaintiff worked at least ten hours in a workday. Accordingly, Defendants’ policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages

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

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

Failure to Authorize and Permit Rest Periods

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

Throughout the statutory period, Defendants have wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period. Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

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

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

Failure to Pay All Earned Wages Twice Per Month

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

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

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

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

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

///

Failure to Timely Pay All Wages at Termination

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

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

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each

hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

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

Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

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

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, for cellphone usage, gas, and mileage, without reimbursement from Defendants. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

///

Action for Civil Penalties Under PAGA

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

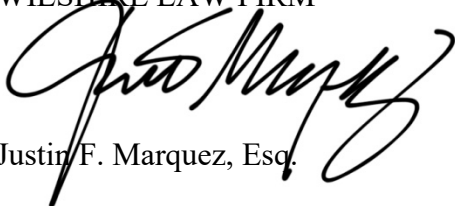
1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to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

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

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.

Exhibit 2

Min Jee Kim

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Tuesday, March 15, 2022 3:13 PM
To: Min Jee Kim
Subject: Thank you for your Amended PAGA Claim Notice Submission.

03/15/2022 03:12:02 PM

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

Item submitted: Amended PAGA Claim Notice

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.
A. Ilyas Akbari, Esq.
Justin F. Marquez, Esq.
Jon Teller, Esq.
Johnny Ogata, Esq.
Gail Richardson, Esq.
Christina Le, Esq.
Robert Dart, Esq.
Daniel B. Miller, Esq.

Tae Kim, Esq.
Hazel Chang, Esq.
Daniel DeSantis, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Benjamin Haber, Esq.
Rachel Vinson, Esq.
Ronghua Guan, Esq.
Arrash Fattahi, Esq.

March 15, 2022

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Nathan W. Austin, Esq.
Bailey A. McCabe, Esq.
Jackson Lewis P.C.
400 Capitol Mall, Suite 1600
Sacramento, California 95814
Attorneys for Gonzales Park, LLC and Project Fusion, LLC
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6372 2060 08

Re: ***Daniel Hayes, Courtney Melvin, and Audrey Migliaccio v. Gonzales Park, LLC, et al.***
Amended Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Daniel Hayes, Courtney Melvin, and Audrey Migliaccio ("Plaintiffs") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against their former employers, Gonzales Park, LLC and Project Fusion, LLC ("Defendants"). I am writing to amend the letter previously sent by Plaintiff Daniel Hayes on October 1, 2021 (LWDA-CM-847020-21). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiffs and all of Defendants' Aggrieved Employees.

Plaintiffs wish to pursue this action on behalf of themselves as an aggrieved employee, on behalf of the State of California, as well as on behalf of all other persons who worked for Defendants in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Plaintiffs and the Aggrieved Employees suffered the Labor Code violations described below.

Plaintiffs' Employment with Defendants

Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including Butte County. As such and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Plaintiff Daniel Hayes is a California resident who worked for Defendants in Butte County, California as an hourly-paid, non-exempt employee from approximately October 2018 to approximately January 2019. Plaintiff regularly worked more than 8 hours per workday and/or more than 40 hours in a workweek.

Plaintiff Courtney Melvin is a California resident who worked for Defendants in Butte County, California as an hourly-paid, non-exempt employee from approximately July 2016 to approximately July 2021. Plaintiff regularly worked more than 8 hours per workday and/or more than 40 hours in a workweek.

Plaintiff Audrey Migliaccio is a California resident who worked for Defendant in Butte County, California as an hourly-paid, non-exempt employee from approximately November 2019 to approximately February 2020. Plaintiff regularly worked more than 8 hours per workday and/or more than 40 hours in a workweek.

Throughout Plaintiffs' employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to pay overtime and double time compensation, failed to provide Plaintiffs with legally compliant meal periods, failed to authorize and permit Plaintiffs to take rest periods, failed to timely pay all final wages to Plaintiffs when Defendants terminated their employment, failed to reimburse Plaintiffs for all business related expenses or losses incurred during his employment, and failed to furnish accurate wage statements to Plaintiffs. As discussed below, Plaintiffs' experience working for Defendants was typical and illustrative.

Defendants Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

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

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

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

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiffs and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendants required Plaintiffs and the Aggrieved Employees to work “off-the-clock,” uncompensated, by, for example, requiring Plaintiffs and the Potential Aggrieved Employees to perform work before their work shifts began and after their work shifts ended. Plaintiffs and the Aggrieved Employees also sometimes worked unpaid during legally required meal periods. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiffs and the Aggrieved Employees worked.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiffs and the Aggrieved Employees overtime wages when they worked more than 8 hours in a workday or more than 40 hours in a workweek. For example, Defendants required Plaintiffs and the Aggrieved Employees to work “off-the-clock,” uncompensated, by, for example, requiring Plaintiffs and the Potential Aggrieved Employees to perform work before their work shifts began and after their work shifts ended. Plaintiffs and the Aggrieved Employees also sometimes worked unpaid during legally required meal periods. Some of that time should have been paid at the overtime or double time rates.

As a result, Defendants are liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

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

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiffs and the Aggrieved Employees with their legally compliant meal periods. Defendants regularly required Plaintiffs and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work and to work without taking a second legally compliant meal break after working ten hours per day, or without compensating Plaintiffs and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued

to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a meal period. At all times relevant to Plaintiffs' employment for Defendants, Plaintiffs were not informed of their right to, nor permitted to take, a second meal period when Plaintiffs worked at least ten hours in a workday. Accordingly, Defendants' policy and practice was not to provide meal periods to Plaintiffs and the Aggrieved Employees in compliance with California law.

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

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

Failure to Authorize and Permit Rest Periods

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

Throughout the statutory period, Defendants have wrongfully failed to authorize and permit Plaintiffs and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiffs and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiffs and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiffs and the Aggrieved Employees permission to take a rest period. Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiffs and the Aggrieved Employees to take rest periods in compliance with California law.

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

permitted to take.

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

Failure to Pay All Earned Wages Twice Per Month

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

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiffs and the Aggrieved Employees suffered damages in those amounts.

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

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

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

Defendants' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiffs and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiffs and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such

wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiffs and the Aggrieved Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

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

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

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,

provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

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

Throughout the statutory period, Defendants failed to furnish Plaintiffs and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

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

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiffs and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiffs and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, for cellphone usage, gas, and mileage, without reimbursement from Defendants. Plaintiffs and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiffs and the Aggrieved Employees for these employment-related expenses.

As a result, Defendants are liable to Plaintiffs and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiffs and the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiffs allege that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

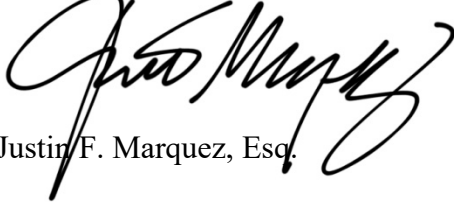
1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to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

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

Plaintiffs have placed Defendants on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



Justin F. Marquez, Esq.

Exhibit 3

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney Melvin (“Plaintiffs”) and defendants Gonzales Park, LLC and Project Fusion, LLC (“Gonzales Park”). The Agreement refers to Plaintiffs and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ consolidated lawsuit alleging wage and hour violations against Defendants captioned *Daniel Hayes, et al. v. Gonzales Park, LLC, et al.*, Case No. 21CV02456, initiated on September 30, 2021 and *Courtney Melvin v. Gonzales Park, LLC, et al.*, Case Number 22CV01119, initiated on May 27, 2022 both pending in Superior Court of the State of California, County of Butte. The Action was consolidated on February 22, 2023.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Gonzales Park in California and classified as an hourly paid, non-exempt employee who worked for Gonzales Park during the PAGA Period.
- 1.5. “Class” means all persons employed by Gonzales Park in California and classified as an hourly paid, non-exempt employee during the Class Period.
- 1.6. “Class Counsel” means Justin F. Marquez, Benjamin Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Gonzales Park’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

- 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period from September 30, 2017 to February 14, 2023.
- 1.13. “Class Representatives” means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.14. “Class Representatives’ Service Payments” means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.15. “Court” means the Superior Court of California, County of Butte.
- 1.16. “Gonzales Park” means named Defendants Gonzales Park, LLC and Project Fusion, LLC.
- 1.17. “Defense Counsel” means Nathan W. Austin and Evan McBride of Jackson Lewis P.C.
- 1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

- 1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.22. “Gross Settlement Amount” means \$637,500 which is the total amount Gonzales Park agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, the Class Representatives’ Service Payments, and the Administrator’s Expenses.
- 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Period Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.
- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, the Class Representatives’ Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Gonzales Park for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period from October 1, 2020 to February 14, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

- 1.33. “PAGA Notice” means Plaintiff Daniel Hayes’ October 1, 2021 letter to and the March 15, 2022 amended letter by Plaintiffs Daniel Hayes, Courtney Melvin and Audrey Migliaccio to Gonzales Park and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and the 75% to LWDA (\$15,000) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. “Plaintiffs” mean Daniel Hayes, Audrey Migliaccio, and Courtney Melvin, the named plaintiffs in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.38. “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.
- 1.41. “Released Parties” means: Gonzales Park, LLC, Project Fusion, LLC, Mad Engine Global, LLC and each of their former and present directors, officers, shareholders, agents, owners, members, attorneys, insurers, predecessors, successors, assigns, parents, subsidiaries, related parties and affiliates.
- 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.
- 1.43. “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.
- 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

- 1.45. “Workweek” means any week during which a Class Member worked for Gonzales Park for at least one day, during the Class Period.

2. RECITALS.

- 2.1. On September 30, 2021, Plaintiff Daniel Hayes commenced this Action by filing a Complaint alleging causes of action against Gonzales Park for violations under the Labor Code and Business and Professions Code for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify necessary business expenses; and (8) violation of California’s Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* On January 12, 2022, Plaintiff Daniel Hayes filed a First Amended Class Action Complaint adding Plaintiffs Audrey Migliaccio and Courtney Melvin as additional plaintiffs class representatives. On May 27, 2022, Plaintiff Melvin filed a separate action pursuant to the Private Attorneys General Act (“PAGA”) for civil penalties. On February 22, 2023, the two separate actions were consolidated and case number 21CV02456 was designated the lead case (“Consolidated Action”). The complaints from the Consolidated Action shall be defined as the Operative Complaint. Gonzales Park denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), PAGA Notice was submitted by Plaintiff Daniel Hayes on October 1, 2021 and Plaintiffs Daniel Hayes, Courtney Melvin and Audrey Migliaccio on March 15, 2022 to Gonzales Park and the LWDA.
- 2.3. On December 7, 2022, the Parties participated in an all-day mediation presided over by mediator Brandon McKelvey, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiffs obtained, through informal discovery, documents and information pertaining to their wage and hour claims, including, but not limited to, wage and hour policy and procedure documents, an adequate sampling of employee time and payroll records, and the exchanges of relevant data points pertaining to the Class and PAGA claims. Plaintiffs’ investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).
- 2.5. The Court has not granted class certification.
- 2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Gonzales Park promises to pay \$637,500 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Gonzales Park has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Gonzales Park.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To Plaintiffs: Service Payments to the Class Representatives of not more than \$10,000 each to Plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney Melvin (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as a Participating Class Member). Gonzales Park will not oppose Plaintiffs' request for the Class Representatives' Service Payments that does not exceed these amounts. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves the Class Representatives' Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representatives' Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Service Payments.
- 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than thirty three and one third (33 1/3%), which is estimated to be \$212,500 and a Class Counsel Litigation Expenses Payment of not more than \$20,000.00. Gonzales Park will not oppose requests for these payments provided that the requests do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel

Litigation Expenses Payment and holds Gonzales Park harmless, and indemnifies Gonzales Park, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$15,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$15,000, the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 75% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for all other forms of recovery [e.g., interest and penalties] (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will redistribute the amounts attributable to the pro rata shares of Non-Participating Class Members to Participating Class Members on a pro rata basis.

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000 to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement

Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, Gonzales Park estimates there are 657 Class Members who collectively worked a total of 61,491 Workweeks.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Gonzales Park will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement.
- 4.3. Funding of Gross Settlement Amount. No later than 30 days after the occurrence of Final Approval and the Effective Date, Gonzales Park shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Gonzales Park's share of payroll taxes by transmitting the funds to the Administrator.
- 4.4. Payments from the Gross Settlement Amount. No later than 14 days after Gonzales Park funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representatives' Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representatives' Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) (“Cy Pres Recipient”), Koinonia Family Services, P.O. Box 1403, 3731 Magnolia Street, Loomis, California 95650. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.

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

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

5.1 Plaintiffs’ Release. Plaintiffs and each of their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all claims, transactions, or occurrences including, but not limited to: (a) all claims related to Plaintiffs’ employment; (b) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (c) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Consolidated Action, Plaintiffs Courtney Melvin’s PAGA Notice, or ascertained during the Action and released under 5.2, below. (“Plaintiffs’ Release.”) Plaintiffs’ Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers’ compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

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

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

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

5.2 Release by Participating Class Members Who Are Not Aggrieved Employees:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and ascertained in the course of the Action during the Class Period, including but not limited to any and all claims for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify necessary business expenses; and (8) violation of California's Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Release by Non-Participating Class Members Who Are Aggrieved Employees:

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Consolidated Action, and the PAGA Notice and ascertained in the course of the Action, including any and all claims for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) failure to indemnify necessary business expenses.

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

6.1 Plaintiffs' Responsibilities. Plaintiffs will prepare, file and serve all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Class Counsel shall provide Defense Counsel a reasonable opportunity to review Plaintiffs' proposed submission for Preliminary Approval before filing.

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

7. SETTLEMENT ADMINISTRATION.

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

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

- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section 468B-1.
- 7.4 Notice to Class Members.
- 7.4.1 No later than five (5) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation, if applicable substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than three (3) business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notices to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks defined in section 7.6 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Gonzales Park or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a

Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

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

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

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

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The

Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

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

- 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.6 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its

disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Gonzales Park represents that there are no more than 61,491 workweeks worked by the Class Members during the Class Period. In the even the number of workweeks worked by the Class Members increases by more than 10%, or 6,149, then the Maximum Settlement Amount shall be increased proportionally by the workweeks worked in excess of 61,491 multiplied by the workweek value. The workweek value shall be calculated by dividing the Maximum Settlement Amount by the applicable number of workweeks. The Parties agree that the workweek value is approximately \$10.37 (\$637,500 / 61,491 workweeks). Thus, for example, should there be 68,000 workweeks in the Class Period, then the Maximum Settlement Amount shall be increased by \$67,498.33 ((68,000 workweeks – 61,491 workweeks) x (\$10.37 / workweek)).
9. **GONZALES PARK'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Gonzales Park may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Gonzales Park withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Gonzales Park will remain responsible for paying all Settlement Administration Expenses incurred to that point. Gonzales Park must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
 - 10.1 Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
 - 10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts

requested for the Class Representatives' Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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

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

12. ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Gonzales Park that any of the allegations in the Operative Complaint have

merit or that Gonzales Park has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Gonzales Park's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Gonzales Park reserves the right to contest certification of any class for any reasons, and Gonzales Park reserves all available defenses to the claims in the Consolidated Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Gonzales Park's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Gonzales Park and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Gonzales Park and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

12.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Gonzales Park, respectively, to

take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

- 12.6 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8 No Tax Advice. Neither Plaintiffs, Class Counsel, Gonzales Park nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 12.9 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 12.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 12.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 12.13 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 12.14 Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Gonzales Park in connection with the mediation, other settlement

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

- 12.15 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 12.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 12.17 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Justin F. Marquez, Esq.
Benjamin H. Haber, Esq.
Daniel J. Kramer, Esq.
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, CA 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989
justin@wilshirelawfirm.com
benjamin@wilshirelawfirm.com
dkramer@wilshirelawfirm.com

To Gonzales Park, LLC and Project Fusion, LLC:

Nathan W. Austin, Esq.
Evan McBride, Esq.
JACKSON LEWIS P.C.
400 Capitol Mall, Suite 1600
Sacramento, California 95814
Telephone: (916) 341-0414

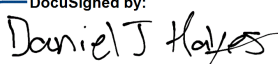
Facsimile: (916) 341-0141
nathan.austin@jacksonlewis.com
evan.mcbride@jacksonlewis.com

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

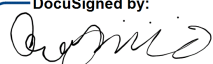
12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a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

On Behalf of Plaintiffs:

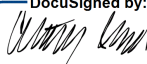
Dated: 10/17/2023, 2023

DocuSigned by:

57F57B4E9322499...
Daniel Hayes, Plaintiff

Dated: 10/19/2023, 2023

DocuSigned by:

GE3F9DG91F84DA...
Audrey Migliaccio, Plaintiff

Dated: 10/17/2023, 2023

DocuSigned by:

CFBA32EEA4E5433...
Courtney Melvin, Plaintiff

On Behalf of Defendant Gonzales Park, LLC.:

Dated: _____, 2023

Name:
Title:

On Behalf of Defendant Project Fusion, LLC.:

Dated: _____, 2023

Name:
Title:

Facsimile: (916) 341-0141
nathan.austin@jacksonlewis.com
evan.mcbride@jacksonlewis.com

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

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

On Behalf of Plaintiffs:

Dated: _____, 2023

Daniel Hayes, Plaintiff

Dated: _____, 2023

Audrey Migliaccio, Plaintiff

Dated: _____, 2023

Courtney Melvin, Plaintiff

On Behalf of Defendant Gonzales Park, LLC.:

Dated: October 17, 2023

Noah Steinsapir
Name: Noah Steinsapir
Title: Chief Legal Officer

On Behalf of Defendant Project Fusion, LLC.:

Dated: October 17, 2023

Noah Steinsapir
Name: Noah Steinsapir
Title: Chief Legal Officer

Exhibit A

EXHIBIT A

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

Daniel Hayes, et al. v. Gonzales Park, LLC, et al.

Courtney Melvin v. Gonzales Park, LLC, et al.

Case Nos. 21CV02456 and 22CV01119

***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 and representative action lawsuits (“Action”) against Gonzales Park, LLC and Project Fusion, LLC (“Gonzales Park”) for alleged wage and hour violations. The Action was filed by former Gonzales Park employees Daniel Hayes, Audrey Migliaccio, and Courtney Melvin (“Plaintiffs”) and seeks payment of back wages and other relief for a class of non-exempt, hourly-paid employees (“Class Members”) who worked for Gonzales Park in California during the Class Period (September 30, 2017 to February 14, 2023); and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all non-exempt, hourly-paid employees who worked for Gonzales Park in California during the PAGA Period (October 1, 2020 to February 14, 2023) (“Aggrieved Employees”).

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

Based on Gonzales Park’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$_____ (less withholding) and your Individual PAGA Payment is estimated to be \$_____**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Gonzales Park’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 Gonzales Park’s records showing that **you worked _____ workweeks** during the Class Period and **you worked _____ workweeks** during the PAGA 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 Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Gonzales Park to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Gonzales Park.

If you worked for Gonzales Park 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 Gonzales Park .
- (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 Gonzales Park, 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.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don’t Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Gonzales Park that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [date]	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Gonzales Park must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement	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

but not the PAGA Settlement Written Objections Must be Submitted by [date]	include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [date]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Gonzales Park's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former Gonzales Park employees. The Action accuses Gonzales Park of violating California labor laws by failing to pay minimum and overtime wages, failing to provide meal periods and rest breaks, failing to pay wages due upon termination, failing to provide accurate itemized wage statements, and failing to indemnify employees for expenditures. Based on the same claims, Plaintiff Courtney Melvin has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) ("PAGA"). Plaintiffs are represented by attorneys in the Action: Justin F. Marquez, Benjamin H. Haber, and Daniel J. Kramer of Wilshire Law Firm, PLC ("Class Counsel.").

Gonzales Park strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Gonzales Park or Plaintiffs is correct on the merits. In the meantime, Plaintiffs and Gonzales Park hired an experienced, neutral mediator in an effort to resolve the Action by negotiating to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to

jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and Gonzales Park 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, Gonzales Park does not admit any violations or concede the merit of any claims.

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

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

1. Gonzales Park Will Pay \$637,500 as the Gross Settlement Amount (Gross Settlement). Gonzales Park 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, the Class Representatives' Service Payments, Class Counsel's attorneys' fees and expenses, the Administrator's expenses, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Gonzales Park will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$212,500 (33 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000 each to Plaintiffs Daniel Hayes, Audrey Migliaccio, and Courtney Melvin for filing the Action, working with Class Counsel and representing the Class. The Class Representatives' Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$15,000 to the Administrator for services administering the Settlement.
 - D. Up to \$20,000 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. Plaintiffs and Gonzales Park are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages (“Wage Portion”) and 75% to penalties and interest (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Gonzales Park will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization, the Koinonia Family Services, P.O. Box 1403, 3731 Magnolia Street, Loomis, California 95650 (“Cy Pres Beneficiary”).
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by [date]. 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 Gonzales Park.

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 Gonzales Park based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and Gonzales Park have agreed that, in either case, the Settlement will be void: Gonzales Park will not pay any money and Class Members will not release any claims against Gonzales Park.
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 Gonzales Park has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Gonzales Park 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.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Gonzales Park and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates (the “Released Parties”) from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaints and ascertained in the course of the Action, including any and all claims for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify necessary business expenses; and (8) violation of California’s Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* Except as set forth in Section 5.3 of the Settlement Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Gonzales Park has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Gonzales Park, 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 Gonzales Park or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

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

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaints, and the PAGA Notice and ascertained in the course of the Action, including and any all claims for (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; and (7) failure to indemnify necessary business expenses.

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.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000 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.
3. 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 Gonzales Park's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 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 Gonzales Park's calculation of Workweeks and/or Pay Periods

based on Gonzales Park's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Gonzales Park's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 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 *Daniel Hayes, et al. v. Gonzales Park, LLC, et al.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Gonzales Park are asking the Court to approve. At least 16 days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as the Class Representatives' Service Awards. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost

to you. You can also view them on the Administrator's Website [need details] or the Court's website [need details].

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 Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [date].** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Daniel Hayes, et al. v. Gonzales Park, LLC, et al.*, and include your name, current address, telephone number, and approximate dates of employment for Gonzales Park 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 [date] at [time] in Department 1 of the Butte County Superior Court, located at 1775 Concord Avenue, Chico, California 95928. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) personally. Check the Court's website for the most current information (fresno.courts.ca.gov).

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [need details] 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 Gonzales Park and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [specify whose] website at [URL of website]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<https://www.fresno.courts.ca.gov/online-services/case-information>) and entering the Case Number for the Action, Case No. 21CV02456.

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

Class Counsel:

Justin F. Marquez

justin@wilshirelawfirm.com

Benjamin H. Haber

benjamin@wilshirelawfirm.com

Daniel J. Kramer

dkramer@wilshirelawfirm.com

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor

Los Angeles, CA 90010

Telephone: (213) 381-9988

Facsimile: (213) 381-9989

Settlement Administrator:

Name of Company:

Email Address:

Mailing Address:

Telephone:

Fax Number:

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 should consult the Unclaimed Property Fund website for instructions on how to retrieve the funds.

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 4

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Hayes v. Gonzales Park

Requesting Attorney:	Justin Marquez
E-Mail:	Justin@wilshirelawfirm.com
ILYM Contact:	Michael Sutherland
E-Mail:	msutherland@ilymgroup.com
Contact Number:	321.223.5067

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	700
Estimated Percentage of Undeliverable Mail	20%
NCOA	Yes
Certified Spanish Translations	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	3	\$450.00
Programming of Class Database	Hourly	\$175.00	3	\$525.00
				Subtotal
				\$975.00

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

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Staff Hours for Processing Opt-Outs, Disputes & Objections	Hourly	\$70.00	3	\$210.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Rate	\$95.00	1	\$95.00
Toll-Free Customer Service	Flat Rate	\$150.00	1	\$150.00
Certified Spanish Translation	Flat Rate	\$1,250.00	1	\$1,250.00
ILYM Group Static Website, Includes Hosting	Flat Rate	\$750.00	1	\$750.00
Weekly Reports	Flat Rate	\$750.00	1	Waived
				Subtotal
				\$3,595.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
----------	-----------	-----------	--------	--------

NOTIFICATION/MAILING

Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	700	\$1,050.00
USPS First Class Postage	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skiptrace Undeliverables)	Per Piece	\$2.00	140	\$280.00
Storage, Photocopies, Deliveries	Flat Fee	\$300.00	1	\$300.00

Subtotal \$2,050.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	5	\$750.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	5	\$625.00
Check Stub & Release - Print & Mail (including W2/1099)	Per Check	\$1.50	700	\$1,050.00
Check Mailing Postage	Per Piece	\$0.60	700	\$420.00
Re-Mails (Forward/Skiptrace Undeliverables)	Per Piece	\$2.00	70	\$140.00
Preparation of Taxes (Single State Filing)	Hourly	\$120.00	12	\$1,440.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

***Additional Bank fees may apply*

Subtotal \$5,925.00

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	5	\$500.00
Project Manager Final Reporting	Hourly	\$120.00	5	\$600.00
Processing Unclaimed Funds to State Contorller's Office	Flat Fee	\$750.00	1	\$750.00
Declarations	Hourly	\$125.00	3	\$375.00

Subtotal \$2,225.00

Total Case Estimate: \$14,770.00

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Hayes, et al. v. Gonzales Park, LLC, et al.
21CV02456

I, Min Jee Kim, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is minjee@wilshirelawfirm.com.

Nathan W. Austin (SBN 219672)
Nathan.austin@jacksonlewis.com
 Evan McBride (SBN 317393)
Evan.mcbride@jacksonlewis.com
 Nicole Grandy
Nicole.grandy@jacksonlewis.com
 Tami Martinelli
Tami.martinelli@jacksonlewis.com

Attorneys for Defendant

(X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.

Executed on **October 19, 2023** at Los Angeles, California.


Min Jee Kim