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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN JOAQUIN

ROSALBA RODRIGUEZ individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

EL CONCILIO CALIFORNIA, a California
corporation; and DOES 1 through 10, inclusive,

Defendants

Case No.: STK-CV-UOE-2021-0012016

CLASS ACTION

[Hon. George J. Abdallah

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Complaint filed:

December 30, 2021

Trial date:

Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff ROSALBA RODRIGUEZ (“Plaintiff”) and Defendant EL CONCILIO CALIFORNIA (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Rosalba Rodriguez, individually, and on behalf of all others similarly situated, Plaintiff, vs. EL CONCILIO CALIFORNIA, a limited liability company; and DOES 1 through 10*, inclusive, Case No.: STK-CV-UOE-2021-0012016, initiated on December 30, 2021 and pending in Superior Court of the State of California, County of San Joaquin.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement, subject to Court approval.
- 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 all individuals who are or previously were employed by Defendant or its successors, affiliates, and subsidiaries, in California who were classified as hourly, nonexempt employees from September 4, 2021 to Preliminary Approval of this class and representative action settlement, or December 31, 2023, whichever is earlier.
- 1.5. “Class” means all individuals who are or previously were employed by Defendant or its successors, affiliates, and subsidiaries in California who were classified as hourly non-exempt employees during the Class Period.
- 1.6. “Class Counsel” means Moon & Yang, APC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the

1 Action, including their pre-filing investigation, their filing of the Action, all related
2 litigation activities, all Settlement work, all post-Settlement compliance procedures, and
3 related litigation expenses billed in connection with the Action.

4 1.8. "Class Data" means Class Member identifying information in Defendant's possession
5 including the Class Member's name, last-known mailing address, Social Security number,
6 and number of Class Period Workweeks and PAGA Pay Periods.

7 1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a
8 Participating Class Member or Non-Participating Class Member (including a Non-
9 Participating Class Member who qualifies as an Aggrieved Employee).

10 1.10. "Class Member Address Search" means the Administrator's investigation and search for
11 current Class Member mailing addresses using all reasonably available sources, methods
12 and means including, but not limited to, the National Change of Address database, skip
13 traces, and direct contact by the Administrator with Class Members.

14 1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION
15 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be
16 mailed to Class Members in English, in the form, without material variation, attached as
17 **Exhibit A** and incorporated by reference into this Agreement.

18 1.12. "Class Period" means the period from September 4, 2021, until Preliminary Approval of
19 this class and representative action settlement or December 31, 2023, whichever is earlier.

20 1.13. "Class Representative" means the named Plaintiff in the Operative Complaint in the
21 Action seeking Court approval to serve as a Class Representative.

22 1.14. "Class Representative Service Payment" means the payment to the Class Representative in
23 order to compensate for initiating the Action, performing work in support of the Action,
24 undertaking the risk of liability for Defendant's expenses, and for the general release of all
25 claims by the Plaintiff.

26 1.15. "Court" means the Superior Court of California, County of San Joaquin.

27 1.16. "Defendant" means named Defendant EL CONCILIO CALIFORNIA.

28 1.17. "Defense Counsel" means Lisa Blanco Jimenez of Neumiller & Beardslee.

1.18. "Effective Date" means the date by when both of the following have occurred: (a) the date the Court enters an Order finally approving the Resolution if no objections are asserted and no individual seeks to intervene in the matter; or (b) 65 days after the date of entry of the Order of the court finally approving the Resolution if any objections are asserted or any individual seeks to intervene in the matter but no appeal is filed; or (c) if a timely appeal is made, ten (10) business days after the final resolution of that appeal if the appeal is rejected or otherwise terminated, the Resolution is upheld, and the final approval order is no longer subject to further judicial review.

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 \$355,000.00 which is the total amount to be paid by Defendant as provided by this Agreement except for the employer's share of payroll taxes and 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 Payment, Class Counsel Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

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 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 § 2699(i).

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(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, Class Representative Service Payment, 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 Defendant for at least one day during the PAGA Period.

1.31. “PAGA Period” means the period from September 4, 2021 to Preliminary Approval of this class and representative action settlement, or December 31, 2023, whichever is earlier.

1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

1.33. “PAGA Notice” means Plaintiff’s December 29, 2021 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a), attached hereto as **Exhibit B**.

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 (\$10,000.00) and the 75% to LWDA (\$30,000.00) 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. “Plaintiff” means ROSALBA RODRIGUEZ, the named Plaintiff in the Action.

1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

- 1.38. "Proposed Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.
- 1.39. "Released Class Claims" means all class claims pled or that could have been pled, whether known or unknown, that reasonably arise out of the same set of operative facts or are reasonably related to the allegations contained in the Operative Complaints filed by Plaintiff which occurred during the Class Period (the "Operative Complaints"). Except as expressly set forth in 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 class claims based on facts occurring outside the Class Period.
- 1.40. "Released PAGA Claims" means all PAGA claims pled or that could have been pled, whether known or unknown, that occurred during the PAGA Period as to the Aggrieved Employees and that reasonably arise out of the same set of operative facts or are reasonably related to the allegations contained in the Operative Complaints filed by Plaintiff and the PAGA Notice sent by Plaintiff.
- 1.41. "Released Parties" means and includes: Defendant, and any predecessor, successor, subsidiary, parent, affiliated or related entity, and each of their employees, agents, representatives, insurers and reinsurers, attorneys, directors, and/or officers and/or any individual or entity which could be jointly liable with Defendant for the claims alleged.
- 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 written 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 Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1. On December 30, 2021, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to Indemnify Necessary Business Expenses (Cal. Lab. Code § 2802); (6) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200, *et seq.*). On February 24, 2022, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for violation of PAGA. The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant 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 § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3. On March 7, 2023, the Parties participated in an all-day mediation presided over by Kelly Knight, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

1 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, electronic time and pay
2 records, policy documents, and data about the class. Plaintiff's investigation was sufficient
3 to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48
4 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th
5 116, 129-130 (2008) ("*Dunk/Kullar*").

6 2.5. This Agreement represents a compromise and settlement of highly disputed claims.
7 Nothing in this Agreement is intended or will be construed as an admission by
8 Defendant that the claims in the Action by any of the Plaintiff, the Class or any
9 Aggrieved Employees have merit or that Defendant bears any liability to Plaintiff, the
10 Class or any Aggrieved Employees on those claims or any other claims, or as an
11 admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties
12 agree to certification of the Class for purposes of this Settlement only and Defendant
13 retains all objections to class certification other than for purposes of settlement. If for
14 any reason the settlement does not become effective, Defendant reserves the right to
15 contest certification of any class for any reason and reserve all available defenses to the
16 claims in the Action.

17
18 **3. MONETARY TERMS.**

19 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below,
20 Defendant's maximum total payment under the Settlement, including all attorney's fees
21 and costs, the Service Payment to the named Plaintiff, the costs of settlement
22 administration, the PAGA Allocation, and any other payments provided by this Settlement,
23 is \$355,000.00, subject to the Escalator Clause and except that, to the extent that any
24 portions of the Settlement Class Payments constitute wages, Defendant will be separately
25 responsible for any employer payroll taxes required by law, including the employer FICA,
26 FUTA, and SDI contributions. Defendant has no obligation to pay the Gross Settlement
27 Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this
28 Agreement. The Administrator will disburse the entire Gross Settlement Amount without

1 asking or requiring Participating Class Members or Aggrieved Employees to submit any
2 claim as a condition of payment. No portion of the Gross Settlement Amount will revert to
3 Defendant.

4 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
5 following payments from the Gross Settlement Amount, in the amounts specified by the
6 Court in the Final Approval:

7 3.2.1. To Plaintiff: A Class Representative Service Payment to the Class Representative
8 of not more than \$7,500.00, in addition to any Individual Class Payment and any
9 Individual PAGA Payment the Class Representative is entitled to receive as a
10 Participating Class Member. Defendant takes no position on Plaintiff's request for
11 a Class Representative Service Payment provided it does not exceed this amount.
12 This Settlement is not contingent on the approval of the Class Representative
13 Service Payment. As part of the motion for Class Counsel Fees Payment and Class
14 Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
15 Representative Service Payment no later than 16 court days prior to the Final
16 Approval Hearing. If the Court approves the Class Representative Service
17 Payment less than the amount requested, the Administrator will retain the
18 remainder in the Net Settlement Amount. The Administrator will pay the Class
19 Representative Service Payment using IRS Form 1099. Plaintiff assumes full
20 responsibility and liability for employee taxes owed on the Class Representative
21 Service Payment.

22 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 1/3%,
23 which is currently estimated to be \$118,333.33, and a Class Counsel Litigation
24 Expenses Payment of not more than \$15,000.00. Defendant takes no position on
25 the request provided that it does not exceed these amounts. Plaintiff and/or Class
26 Counsel will file a motion for Class Counsel Fees Payment and Class Litigation
27 Expenses Payment no later than 16 court days prior to the Final Approval Hearing.
28 If the Court approves a Class Counsel Fees Payment and/or a Class Counsel

1 Litigation Expenses Payment less than the amounts requested, the Administrator
2 will allocate the remainder to the Net Settlement Amount. Released Parties shall
3 have no liability to Class Counsel or any other Plaintiff Counsel arising from any
4 claim to any portion any Class Counsel Fee Payment and/or Class Counsel
5 Litigation Expenses Payment. This Settlement is not contingent on the award of
6 Class Counsel Fees Payment or Class Counsel Litigation Expenses Payment.
7 Nothing in this Section or Agreement limits the rights of Class Counsel to appeal
8 any decision by the Court regarding Class Counsel Fees Payment or Class Counsel
9 Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees
10 Payment and Class Counsel Expenses Payment using one or more IRS 1099
11 Forms. Class Counsel assumes full responsibility and liability for taxes owed on
12 the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
13 Payment and holds Defendant harmless, and indemnifies Defendant, from any
14 dispute or controversy regarding any division or sharing of any of these Payments.

15 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
16 \$20,000.00 except for a showing of good cause and as approved by the Court. The
17 Parties agree that the actual Administration Expenses Payment shall not exceed
18 that Court-approved figure unless the Court approves a request for additional
19 Administration Expenses Payment. To the extent the Administration Expenses are
20 less or the Court approves payment less than \$20,000.00, the Administrator will
21 retain the remainder in the Net Settlement Amount.

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

26 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
27 Class Member's Individual Class Payment will be allocated to settlement
28 of wage claims (the "Wage Portion"). The Wage Portions are subject to tax

1 withholding and will be reported on an IRS W-2 Form. The remaining
2 80% of each Participating Class Member's Individual Class Payment will
3 be allocated to settlement of claims for interest and penalties (the "Non-
4 Wage Portion"). The Administrator will report the Non-Wage Portions on
5 IRS 1099 Forms. Participating Class Members assume full responsibility
6 and liability for any employee taxes owed on their Individual Class
7 Payment.

8 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
9 Class Payments. Non-Participating Class Members will not receive any
10 Individual Class Payments. Their Workweeks will not be used to calculate
11 payments to Participating Class Members.

12 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
13 \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00)
14 allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the
15 Individual PAGA Payments.

16 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
17 dividing the amount of the Aggrieved Employees' 25% share of PAGA
18 Penalties (\$10,000.00) by the total number of PAGA Period Pay Periods
19 worked by all Aggrieved Employees during the PAGA Period and (b)
20 multiplying the result by each Aggrieved Employee's PAGA Period Pay
21 Periods. The Administrator will report the Individual PAGA Payments on
22 IRS 1099 Forms. Aggrieved Employees assume full responsibility and
23 liability for any taxes owed on their Individual PAGA Payment.

24 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,
25 the Administrator will allocate the remainder to the Net Settlement
26 Amount.

1 **4. SETTLEMENT FUNDING AND PAYMENTS.**

2 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
3 kept in the ordinary course of business, Defendant estimates that, between September 4,
4 2021 and March 8, 2023, there were approximately 403 Class Members who collectively
5 worked approximately 16,044 total Workweeks, and approximately 403 Aggrieved
6 Employees who worked a total of approximately 7,882 PAGA Pay Periods.

7 4.2. Class Data. No later than 30 days after the Court grants Preliminary Approval of the
8 Settlement, Defendant shall provide to the Settlement Administrator a class database
9 containing the following information for each Class Member: (1) name; (2) last known
10 address; (3) social security number; (4) number of Workweeks; and (5) number of PAGA
11 Pay Periods. This database shall be based on Defendant's payroll and other business
12 records and shall be provided in a reasonable format to the Settlement Administrator.
13 Defendant agrees to consult with the Settlement Administrator prior to the production date
14 to ensure that the format will be acceptable to the Administrator. To protect Class
15 Members' privacy rights, the Administrator must maintain the Class Data in confidence,
16 use the Class Data only for purposes of this Settlement and for no other purpose, and
17 restrict access to the Class Data to Administrator employees who need access to the Class
18 Data to effect and perform under this Agreement.

19 4.3. Funding of Gross Settlement Amount. Defendant shall pay the amount allocated for
20 Administration Expenses Payment within thirty (30) days of Preliminary Approval or the
21 establishment of the Qualified Settlement Fund ("QSF"), whichever is later. Defendant
22 shall pay the balance of the Gross Settlement Amount to the QSF within sixty (60) days of
23 the Effective Date. In the event that final approval is not granted (or is granted and then
24 reversed on appeal) and no final judgment is entered, any amounts paid by Defendant for
25 Administration Expenses Payment but not used by the Administrator shall be returned to
26 Defendant. The Administrator will calculate the amount for the employer's share of taxes
27 and Defendant will pay that amount to a separate account maintained by the Administrator
28 within thirty (30) days of receiving the calculation from the Administrator.

1 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the
2 Gross Settlement Amount, the Administrator will mail checks for all Individual Class
3 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
4 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
5 Litigation Expenses Payment, and the Class Representative Service Payment.
6 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
7 Payment and the Class Representative Service Payment shall not precede disbursement of
8 Individual Class Payments and Individual PAGA Payments.

9 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
10 Individual PAGA Payments and send them to the Class Members via First Class
11 U.S. Mail, postage prepaid. The face of each check shall prominently state the
12 date (not less than 180 days after the date of mailing) when the check will be
13 voided. The Administrator will cancel all checks not cashed by the void date. The
14 Administrator will send checks for Individual Settlement Payments to all
15 Participating Class Members to the most updated address available to the
16 Administrator (including addresses updated in accordance with Section 7.4). The
17 Administrator will send checks for Individual PAGA Payments to all Aggrieved
18 Employees including Non-Participating Class Members who qualify as Aggrieved
19 Employees to the most updated address available to the Administrator (including
20 addresses updated in accordance with Section 7.4). The Administrator may send
21 Participating Class Members a single check combining the Individual Class
22 Payment and the Individual PAGA Payment. If a Participating Class Member's or
23 Aggrieved Employee's check is not cashed within 120 days after the last mailing to
24 the affected individual, the Administrator will also send the individual a notice
25 informing him or her that unless the check is cashed by the void date, it will expire
26 and become non-negotiable, and offer to replace the check if it was lost or
27 misplaced but not cashed.

28 4.4.2. The Administrator must conduct a Class Member Address Search for all other

1 Class Members whose checks are returned undelivered without USPS forwarding
2 address. Within 7 days of receiving a returned check the Administrator must re-
3 mail checks to the USPS forwarding address provided or to an address ascertained
4 through the Class Member Address Search. The Administrator need not take
5 further steps to deliver checks to Class Members whose re-mailed checks are
6 returned as undelivered. The Administrator shall promptly send a replacement
7 check to any Class Member whose original check was lost or misplaced, requested
8 by the Class Member prior to the void date.

9 4.4.3. For any Class Member whose Individual Class Payment check or Individual
10 PAGA Payment check is uncashed and cancelled after the void date, the
11 Administrator shall transmit the funds represented by such checks to the California
12 Controller's Unclaimed Property Fund in the name of the Class Member thereby
13 leaving no "unpaid residue" subject to the requirements of California Code of Civil
14 Procedure § 384(b).

15 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
16 not obligate Defendant to confer any additional benefits or make any additional
17 payments to Class Members (such as 401(k) contributions or bonuses) beyond
18 those specified in this Agreement.

19
20 **5. RELEASES OF CLAIMS.**

21 Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all
22 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class
23 Members, and Class Counsel will release claims against all Released Parties as follows:

24 5.1. **Plaintiff's Releases.**

25 5.1.1. **Scope of Plaintiff Release.** Each Plaintiff and his or her respective former and
26 present spouses, representatives, agents, attorneys, heirs, administrators,
27 successors, and assigns generally, release and discharge Released Parties from all
28 claims, transactions, or occurrences, including, but not limited to: (a) all claims that

1 were, or reasonably could have been, alleged, based on the facts contained, in the
2 Operative Complaint and (b) all PAGA claims that were, or reasonably could have
3 been, alleged based on facts contained in the Operative Complaint and Plaintiff's
4 PAGA Notices. ("Plaintiff's Release.") Plaintiff Release does not extend to any
5 claims or actions to enforce this Agreement, or to any claims for vested benefits,
6 unemployment benefits, disability benefits, social security benefits, workers'
7 compensation benefits that arose at any time, or based on occurrences outside the
8 Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law
9 different from, or in addition to, the facts or law that Plaintiff now know or believe
10 to be true but agree, nonetheless, that Plaintiff's Release shall be and remain
11 effective in all respects, notwithstanding such different or additional facts or
12 Plaintiff's discovery of them.

13 5.1.2. Plaintiff's Waiver of Rights Under California Civil Code § 1542. For purposes of
14 Plaintiff's Release, Plaintiff expressly waive and relinquish the provisions, rights,
15 and benefits, if any, of Section 1542 of the California Civil Code, which reads:

16 **A general release does not extend to claims that the creditor or**
17 **releasing party does not know or suspect to exist in his or her favor**
18 **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.

19 5.2. Release by Participating Class Members Who Are Not Aggrieved Employees: All
20 Participating Class Members, on behalf of themselves and their respective former and
21 present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
22 release Released Parties from all claims that were alleged, or reasonably could have been
23 alleged, based on the Class Period facts stated in the Operative Complaint, including:

- 24 a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and
25 1197];
26 b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
27 c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
28 d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];

- e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
- f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
- g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];
- h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and

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 of PAGA Claims: All 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 attached here to **Exhibit B**.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to work together 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. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code § 2699(f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; insurance coverage for any

1 data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or
2 potential conflicts of interest with Class Members; and the nature and extent of any
3 financial relationship with Plaintiff, Defendant, Class Counsel or Defense Counsel; (v)
4 signed declaration from Plaintiff confirming willingness and competency to serve and
5 disclosing all facts relevant to any actual or potential conflicts of interest with Class
6 Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm
7 attesting to its competency to represent the Class Members; its timely transmission to the
8 LWDA of all necessary PAGA documents (initial notice of violations (Labor Code §
9 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this Agreement (Labor Code
10 § 2699(l)(2)); and, (vi) all facts relevant to any actual or potential conflict of interest with
11 Class Members and/or the Administrator.

12 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
13 for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 60
14 days after the full execution of this Agreement; obtaining a prompt hearing date for the
15 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the
16 Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's
17 Preliminary Approval to the Administrator.

18 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
19 Preliminary Approval and/or the supporting declarations and documents, Class Counsel
20 and Defense Counsel will expeditiously work together on behalf of the Parties by meeting
21 in person or by telephone, and in good faith, to resolve the disagreement. If the Court does
22 not grant Preliminary Approval or conditions Preliminary Approval on any material
23 change to this Agreement, Class Counsel and Defense Counsel will expeditiously work
24 together on behalf of the Parties by meeting in person or by telephone, and in good faith, to
25 modify the Agreement and otherwise satisfy the Court's concerns.

26 27 **7. SETTLEMENT ADMINISTRATION.**

28 7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve

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

7 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
8 Identification Number for purposes of calculating payroll tax withholdings and providing
9 reports to state and federal tax authorities.

10 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
11 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §
12 468B-1.

13 7.4. Notice to Class Members.

14 7.4.1. No later than seven (7) business days after receipt of the Class Data, the
15 Administrator shall notify Class Counsel that the list has been received and state
16 the number of Class Members, PAGA Members, Workweeks, and Pay Periods in
17 the Class Data.

18 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days
19 after receiving the Class Data, the Administrator will send to all Class Members
20 identified in the Class Data, via first-class United States Postal Service ("USPS")
21 mail, the Class Notice, substantially in the form attached to this Agreement as
22 **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar
23 amounts of any Individual Class Payment and/or Individual PAGA Payment
24 payable to the Class Member, and the number of Workweeks and PAGA Pay
25 Periods (if applicable) used to calculate these amounts. Before mailing Class
26 Notices, the Administrator shall update Class Member addresses using the National
27 Change of Address database.

28 7.4.3. Not later than three business days after the Administrator's receipt of any Class

1 Notice returned by the USPS as undelivered, the Administrator shall re-mail the
2 Class Notice using any forwarding address provided by the USPS. If the USPS
3 does not provide a forwarding address, the Administrator shall conduct a Class
4 Member Address Search, and re-mail the Class Notice to the most current address
5 obtained. The Administrator has no obligation to make further attempts to locate
6 or send Class Notice to Class Members whose Class Notice is returned by the
7 USPS a second time.

8 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
9 and/or Pay Periods, and Requests for Exclusion will be extended an additional 14
10 days beyond the 45 days otherwise provided in the Class Notice for all Class
11 Members whose notice is re-mailed. The Administrator will inform the Class
12 Member of the extended deadline with the re-mailed Class Notice.

13 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
14 discovers any persons who believe they should have been included in the Class
15 Data and should have received Class Notice, the Parties will expeditiously meet
16 and confer in person or by telephone, and in good faith, in an effort to agree on
17 whether to include them as Class Members. If the Parties agree, such persons will
18 be Class Members entitled to the same rights as other Class Members, and the
19 Administrator will send, via email or overnight delivery, a Class Notice requiring
20 them to exercise options under this Agreement not later than 14 days after receipt
21 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
24 must send the Administrator, by fax, email, or mail, a signed written Request for
25 Exclusion not later than 45 days after the Administrator mails the Class Notice
26 (plus an additional 14 days for Class Members whose Class Notice is re-mailed).
27 A Request for Exclusion is a letter from a Class Member that reasonably
28 communicates the Class Member's election to be excluded from the Settlement and

1 includes the Class Member's name, address and email address or telephone
2 number. To be valid, a Request for Exclusion must be timely faxed, emailed, or
3 postmarked by the Response Deadline.

4 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
5 fails to contain all the information specified in the Class Notice. The Administrator
6 shall accept any Request for Exclusion as valid if the Administrator can reasonably
7 ascertain the identity of the person as a Class Member and the Class Member's
8 desire to be excluded. The Administrator's determination shall be final and not
9 appealable or otherwise susceptible to challenge. If the Administrator has reason to
10 question the authenticity of a Request for Exclusion, the Administrator may
11 demand additional proof of the Class Member's identity. The Administrator's
12 determination of authenticity shall be final and not appealable or otherwise
13 susceptible to challenge.

14 7.5.3. Every Class Member who does not submit a timely and valid Request for
15 Exclusion is deemed to be a Participating Class Member under this Agreement,
16 entitled to all benefits and bound by all terms and conditions of the Settlement,
17 including the Participating Class Members' Release under Paragraph 5.2 of this
18 Agreement, regardless of whether the Participating Class Member actually receives
19 the Class Notice or objects to the Settlement.

20 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
21 Non-Participating Class Member and shall not receive an Individual Class
22 Payment or have the right to object to the class action components of the
23 Settlement. Because future PAGA claims are subject to claim preclusion upon
24 entry of the Judgment, Non-Participating Class Members who are Aggrieved
25 Employees are deemed to release the claims identified in Paragraph 5.3 of this
26 Agreement and are eligible for an Individual PAGA Payment.

27 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the
28 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose

1 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
2 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member
3 may challenge the allocation by communicating with the Administrator via fax, email or
4 mail. The Administrator must encourage the challenging Class Member to submit
5 supporting documentation. In the absence of any contrary documentation, the
6 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
7 correct so long as they are consistent with the Class Data. The Administrator's
8 determination of each Class Member's allocation of Workweeks and/or Pay Periods shall
9 be final and not appealable or otherwise susceptible to challenge. The Administrator shall
10 promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods
11 to Defense Counsel and Class Counsel and the Administrator's determination the
12 challenges.

13 7.7. Objections to Settlement.

14 7.7.1. Only Participating Class Members may object to the class action components of
15 the Settlement and/or this Agreement, including contesting the fairness of the
16 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
17 Counsel Litigation Expenses Payment and/or Class Representative Service
18 Payment.

19 7.7.2. Participating Class Members may send written objections to the Administrator, by
20 fax, email, or mail no later than the Response Deadline. A Participating Class
21 Member who elects to send a written objection to the Administrator must do so not
22 later than 45 days after the Administrator's mailing of the Class Notice (plus an
23 additional 14 days for Class Members whose Class Notice was re-mailed).

24 7.7.3. Non-Participating Class Members have no right to object to any of the class action
25 components of the Settlement. If a Class Member submits both a Request for
26 Exclusion and an objection, only the Request for Exclusion will be accepted and
27 the objection will be void.

28 7.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be

1 performed or observed by the Administrator contained in this Agreement or otherwise.

2 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish
3 and maintain and use an internet website to post information of interest to Class
4 Members including the date, time and location for the Final Approval Hearing and
5 copies of the Settlement Agreement, Motion for Preliminary Approval, the
6 Preliminary Approval Order, the Class Notice, the Motion for Final Approval, the
7 Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses
8 Payment and Class Representative Service Payment (if that Motion is distinct from
9 the Motion for Final Approval), the Final Approval Order and the Judgment. The
10 Administrator will also maintain and monitor an email address and a toll-free
11 telephone number to receive Class Member calls, faxes and emails.

12 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
13 promptly review on a rolling basis Requests for Exclusion to ascertain their
14 validity. Not later than five days after the expiration of the deadline for submitting
15 Requests for Exclusion, the Administrator shall email a list to Class Counsel and
16 Defense Counsel containing (a) the names and other identifying information of
17 Class Members who have timely submitted valid Requests for Exclusion
18 (“Exclusion List”); (b) the names and other identifying information of Class
19 Members who have submitted invalid Requests for Exclusion; (c) copies of all
20 Requests for Exclusion from Settlement submitted (whether valid or invalid).

21 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
22 reports to Class Counsel and Defense Counsel that, among other things, tally the
23 number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,
24 Requests for Exclusion (whether valid or invalid) received, objections received,
25 challenges to Workweeks and/or Pay Periods received and/or resolved, and checks
26 mailed for Individual Class Payments and Individual PAGA Payments (“Weekly
27 Report”). The Weekly Reports must include provide the Administrator’s
28 assessment of the validity of Requests for Exclusion and attach copies of all

1 Requests for Exclusion and objections received.

2 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
3 address and make final decisions consistent with the terms of this Agreement on all
4 Class Member challenges over the calculation of Workweeks and/or Pay Periods.
5 The Administrator's decision shall be final and not appealable or otherwise
6 susceptible to challenge.

7 7.8.5. Administrator's Declaration. Not later than 14 days before the date by which
8 Plaintiff are required to file the Motion for Final Approval of the Settlement, the
9 Administrator will provide to Class Counsel and Defense Counsel, a signed
10 declaration suitable for filing in Court attesting to its due diligence and compliance
11 with all of its obligations under this Agreement, including, but not limited to, its
12 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
13 of Class Notices, attempts to locate Class Members, the total number of Requests
14 for Exclusion from Settlement it received (both valid or invalid), the number of
15 written objections and attach the Exclusion List. The Administrator will
16 supplement its declaration as needed or requested by the Parties and/or the Court.
17 Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

18 7.8.6. Final Report by Settlement Administrator. Within 14 days after the Administrator
19 disburses all funds in the Gross Settlement Amount, the Administrator will provide
20 Class Counsel and Defense Counsel with a final report detailing its disbursements
21 by employee identification number only of all payments made under this
22 Agreement. At least 14 days before any deadline set by the Court, the
23 Administrator will prepare, and submit to Class Counsel and Defense Counsel, a
24 signed declaration suitable for filing in Court attesting to its disbursement of all
25 payments required under this Agreement. Class Counsel is responsible for filing
26 the Administrator's declaration in Court.

1 **8. ESCALATOR CLAUSE.**

2 In the event of an increase in workweeks of more than 20% from original estimate of 15,185 workweeks
3 worked by employees during the Class Period as of March 7, 2023, the settlement amount shall be
4 increased by 1% for each percent that the actual number of workweeks exceeds the 20% threshold (*i.e.*
5 should the escalator clause be triggered, the settlement amount shall be increased by 1% for each percent
6 that the actual number of workweeks exceeds 18,222 workweeks as of March 7, 2023, so if the total
7 number of workweeks exceeds 18,222 by 22%, the Gross Settlement Amount would be increased by 2% =
8 22% - 20%).
9

10 **9. DEFENDANT’S RIGHT TO WITHDRAW.**

11 If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of
12 all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The
13 Settlement Administrator shall provide Defense Counsel with the information necessary to effectuate this
14 provision on a regular basis, but no less frequently than on a monthly basis. The Parties agree that, if
15 Defendant withdraws, the Settlement shall be *void ab initio*, have no force or effect whatsoever, and that
16 neither Party will have any further obligation to perform under this Agreement; provided, however,
17 Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that
18 point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 10
19 calendar days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will
20 have no effect.
21

22 **10. MOTION FOR FINAL APPROVAL.**

23 Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a
24 motion for final approval of the Settlement that includes a request for approval of the PAGA settlement
25 under Labor Code § 2699(I), a Proposed Final Approval Order and a proposed Judgment (collectively
26 “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not
27 later than seven days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel
28 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 Representative Service Payment, 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, 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. Denial of Final Approval or Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. In the event that the Court does not grant final approval, or if the Court grants final approval and a 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. An order by the Court awarding Class Representative Service Payments or any payments to Class Counsel less than the amounts contemplated by this Agreement, or an appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

10.6. Effect on Effective Date. In the event that the Effective Date does not occur, this Agreement shall be deemed null, void and unenforceable, and each Party shall retain each of its respective rights as they existed as of the date of the mediation on March 7, 2023 and neither this Agreement, nor any of its accompanying Exhibits, nor any orders entered by the Court in connection with this Agreement, shall be admissible or used for any purpose in any subsequent proceedings in this Action or in any other judicial, arbitral, administrative, investigative, or other court tribunal, forum or proceeding.

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure § 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

1 claims. Nothing in this Agreement is intended or should be construed as an admission by
2 Defendant that any of the allegations in the Operative Complaint have merit or that
3 Defendant has any liability for any claims asserted; nor should it be intended or construed
4 as an admission by Plaintiff that Defendant's defenses in the Action have merit. The
5 Parties agree that class certification and representative treatment is for purposes of this
6 Settlement only. If, for any reason the Court does grant Preliminary Approval, Final
7 Approval or enter Judgment, Defendant reserves the right to contest certification of any
8 class for any reasons, and Defendant reserves all available defenses to the claims in the
9 Action, and Plaintiff reserve the right to move for class certification on any grounds
10 available and to contest Defendant's defenses. The Settlement, this Agreement and Parties'
11 willingness to settle the Action will have no bearing on, and will not be admissible in
12 connection with, any litigation (except for proceedings to enforce or effectuate the
13 Settlement and this Agreement).

14 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant, and
15 Defense Counsel separately agree that, until the Motion for Preliminary Approval of
16 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize,
17 or cause or permit another person to disclose, disseminate or publicize, any of the terms of
18 the Agreement directly or indirectly, specifically or generally, to any person, corporation,
19 association, government agency, or other entity except: (1) to the Parties' attorneys,
20 accountants, auditors, or spouses, all of whom will be instructed to keep this Agreement
21 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to
22 appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in
23 response to an inquiry or subpoena issued by a state or federal government agency. Each
24 Party agrees to immediately notify each other Party of any judicial or agency order,
25 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant, and
26 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
27 other communication, before the filing of the Motion for Preliminary Approval, any with
28 third party regarding this Agreement or the matters giving rise to this Agreement except to

1 respond only that “the matter was resolved,” or words to that effect. This paragraph does
2 not restrict Class Counsel’s communications with Class Members in accordance with Class
3 Counsel’s ethical obligations owed to Class Members.

4 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and
5 employees will not solicit any Class Member to opt out of or object to the Settlement, or
6 appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
7 Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s
8 ethical obligations owed to Class Members.

9 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
10 together with its attached exhibits shall constitute the entire agreement between the Parties
11 relating to the Settlement, superseding any and all prior or contemporaneous agreements,
12 understandings, representations, statements warranties, covenants, or inducements,
13 whether oral or written and whether by a Party or such Party’s legal counsel. No rights
14 under this Agreement may be waived except in writing and signed by the Party against
15 whom such waiver is to be enforced.

16 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
17 represent that they are authorized by Plaintiff and Defendant, respectively, to take all
18 appropriate action required or permitted to be taken by such Parties pursuant to this
19 Agreement to effectuate its terms, and to execute any other documents reasonably required
20 to effectuate the terms of this Agreement including any amendments to this Agreement.

21 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
22 best efforts, in good faith, to implement the Settlement by, among other things, modifying
23 the Settlement Agreement, submitting supplemental evidence and supplementing points
24 and authorities as requested by the Court. In the event the Parties are unable to agree upon
25 the form or content of any document necessary to implement the Settlement, or on any
26 modification of the Agreement that may become necessary to implement the Settlement,
27 the Parties will seek the assistance of mediator Michael Young, Esq., and/or the Court for
28 resolution.

- 1 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not
2 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
3 encumber to any person or entity and portion of any liability, claim, demand, action, cause
4 of action, or right released and discharged by the Party in this Settlement.
- 5 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant, nor Defense Counsel are
6 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be
7 relied upon as such within the meaning of United States Treasury Department Circular 230
8 (31 CFR Part 10, as amended) or otherwise.
- 9 12.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
10 modified, changed, or waived only by an express written instrument signed by all Parties
11 or their representatives, and approved by the Court. Notwithstanding the forgoing, the
12 Parties agree that any dates or deadlines contained in this Agreement may be modified by
13 the Court, or by agreement of the Parties without Court approval if the Parties agree and
14 good cause exist for such modification.
- 15 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the
16 benefit of, the successors of each of the Parties.
- 17 12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
18 governed by and interpreted according to the internal laws of the state of California,
19 without regard to conflict of law principles.
- 20 12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
21 this Agreement. This Agreement will not be construed against any Party on the basis that
22 the Party was the drafter or participated in the drafting.
- 23 12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
24 during Action and in this Agreement relating to the confidentiality of information shall
25 survive the execution of this Agreement.
- 26 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to
27 Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class
28 Counsel by Defendant in connection with the mediation, other settlement negotiations, or

1 in connection with the Settlement, may be used only with respect to this Settlement, and no
2 other purpose, and may not be used in any way that violates any existing contractual
3 agreement, statute, or rule of court. Not later than 90 days after the date when the Court
4 discharges the Administrator's obligation to provide a Declaration confirming the final pay
5 out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Class
6 Data received from Defendant.

7 12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
8 inserted for convenience of reference only and does not constitute a part of this
9 Agreement.

10 12.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be
11 to calendar days. In the event any date or deadline set forth in this Agreement falls on a
12 weekend or federal legal holiday, such date or deadline shall be on the first business day
13 thereafter.

14 12.17. Notice. All notices, demands or other communications between the Parties in connection
15 with this Agreement will be in writing and deemed to have been duly given as of the third
16 business day after mailing by United States mail, or the day sent by email or messenger,
17 addressed as follows:

18 To Plaintiff's Counsel:

19 Kane Moon
20 kane.moon@moonyanglaw.com
21 H. Scott Leviant
22 scott.leviant@moonyanglaw.com
23 Mariam Ghazaryan
24 mariam.ghazaryan@moonyanglaw.com
25 MOON & YANG, APC
26 1055 W. Seventh St., Suite 1880
27 Los Angeles, California 90017
28 Telephone: (213) 232-3128
Facsimile: (213) 232-3125

To Defendant's Counsel:

Lisa Blanco Jimenez
ljimenez@neumiller.com
NEUMILLER & BEARDSLEE
3121 W. March Lane, Suite 100
Stockton, California 95219

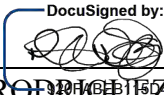
Telephone: 209-948-8200
Facsimile: 209-948-4910

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 California Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under California Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff & Class Representative:

Dated: June 6, 2023

By:  _____
ROSALBA RODRIGUEZ

Defendant:

Dated: June __, 2023

EL CONCILIO CALIFORNIA

By: _____
Print Name

Signature

Title

Telephone: 209-948-8200
Facsimile: 209-948-4910

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 California Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under California Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff & Class Representative:

Dated: June __, 2023

By: _____
ROSALBA RODRIGUEZ

Defendant:

Dated: June 9, 2023

EL CONCILIO CALIFORNIA

By: Jose R. Rodriguez
Print Name

[Signature]
Signature

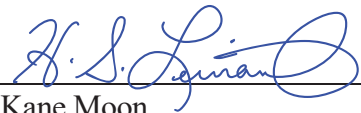
President & CEO

Title

Plaintiff's Counsel:

Dated: June 8, 2023

MOON & YANG, APC

By: 

Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff

Defendant's Counsel:

Dated: June __, 2023

NEUMILLER & BEARDSLEE

By: _____
Lisa Blanco Jimenez

Attorneys for Defendant EL CONCILIO
CALIFORNIA

1 **Plaintiff's Counsel:**

2 Dated: June __, 2023

MOON & YANG, APC

3
4 By: _____

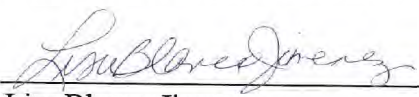
5 Kane Moon
6 H. Scott Leviant
7 Mariam Ghazaryan

8 Attorneys for Plaintiff

9 **Defendant's Counsel:**

10 Dated: June 9, 2023

NEUMILLER & BEARDSLEE

11 By:  _____

12 Lisa Blanco Jimenez

13 Attorneys for Defendant EL CONCILIO
14 CALIFORNIA

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

ROSALBA RODRIGUEZ vs. EL CONCILIO CALIFORNIA, Case No. STK-CV-UOE-2021-0012016

*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 a class action lawsuit ("Action") against defendant EL CONCILIO CALIFORNIA ("EL CONCILIO" or "Defendant") for alleged wage and hour violations. The Action was filed by former EL CONCILIO employee ROSALBA RODRIGUEZ ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of hourly employees ("Class Members") who worked for EL CONCILIO during the Class Period (September 4, 2021, until _____); and, (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly employees who worked for EL CONCILIO during the PAGA Period (September 4, 2021, to _____) ("Aggrieved Employees").

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

Based on Defendant's records, and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholdings) and your Individual PAGA Settlement Payment is estimated to be \$ [REDACTED]. 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 Settlement Payment, then according to Defendant's records you are not eligible for such a payment under the Settlement because you didn't work during the covered period.)

The above estimates are based on Defendant's records showing that you worked [REDACTED] workweeks during the Class Period, and you worked [REDACTED] pay periods during the PAGA Period. If you believe that you worked more workweeks or pay periods during any of the respective periods, 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 do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires EL CONCILIO to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against EL CONCILIO.

If you worked for EL CONCILIO 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 Settlement Class Payment and/or an Individual PAGA Settlement Payment. As a Settlement Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against EL CONCILIO.

(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 Settlement Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against EL CONCILIO, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Settlement Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

EL CONCILIO 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 Settlement 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 EL CONCILIO 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 [REDACTED]	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. EL CONCILIO 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 but not the PAGA Settlement Written Objections Must be Submitted by [REDACTED]	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [REDACTED] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. 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 or by telephone. 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 [REDACTED]	The amounts 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 EL CONCILIO's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED] See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former EL CONCILIO employee. The Action accuses EL CONCILIO of violating California labor laws by failing to pay overtime wages, minimum and straight time wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys: Moon & Yang, APC ("Class Counsel"), whose contact information is in Section 9 of this Notice.

EL CONCILIO strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws. EL CONCILIO is represented by attorneys: Neumiller & Beardslee, APC, whose contact information is in Section 9 of this Notice.

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

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

agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and EL CONCILIO 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, EL CONCILIO does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) EL CONCILIO 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. EL CONCILIO Will Pay \$355,000.00 as the Gross Settlement Amount (Gross Settlement). EL CONCILIO has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsels' attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, EL CONCILIO will fund the full Gross Settlement no later than 60 days after the Effective Date. The Effective Date will occur 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, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Up to \$118,333.33 (33 and 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$15,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$7,500.00 for the Class Representative Service Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive from the Gross Settlement other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Up to an estimated \$20,000.00 to the Administrator for services administering the Settlement.

D. \$40,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and EL CONCILIO are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. EL CONCILIO 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 Plaintiff and EL CONCILIO 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 Settlement Payments and Individual PAGA Settlement 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 forwarded to the State of California Controller's Unclaimed Property Fund in your name.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Settlement Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion

by the [REDACTED] Response Deadline. The Request for Exclusion should be a signed letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, last four digits of the Class Member's Social Security 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 Settlement Payments but will preserve their rights to personally pursue wage and hour claims against EL CONCILIO.

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 Settlement Payments and are required to give up their right to assert PAGA claims against EL CONCILIO based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and EL CONCILIO have agreed that, in either case, the Settlement will be void: EL CONCILIO will not pay any money and Class Members will not release any claims against EL CONCILIO.

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 and/or Pay Periods, 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 EL CONCILIO 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 another lawsuit against EL CONCILIO 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 Released Parties from all claims that were alleged, or reasonably could have been alleged, whether known or unknown, based on the Class Period facts stated in the Operative Complaint, including:

- a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
- b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
- c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
- d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
- e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802];
- f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
- g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];
- h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and

Except as set forth in Section 5.3 of [the] 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 EL CONCILIO has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against EL CONCILIO, 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 EL CONCILIO 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 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, whether known or unknown, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice attached to [the Agreement as] Exhibit B.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Settlement 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 Settlement Payments by (a) dividing \$10,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.
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 EL CONCILIO's records, are stated in the first page of this Notice. You have until [REDACTED] 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 EL CONCILIO's calculation of Workweeks and/or Pay Periods based on EL CONCILIO'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 Class Members) and EL CONCILIO's Counsel.

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) and all Class Members who qualify as Aggrieved Employees, whether they opt out or not. The single check will combine the Individual Class Settlement 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 who is eligible as an Aggrieved Employee).

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, address and email address or 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 and identify the Action in a way that is clear. You must make the request yourself or through a representative authorized to act for you. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED] or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

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

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for awards of Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. 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 and include your name, address and

email address or telephone number and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ in Department 10A of the San Joaquin Superior Court, located at 180 E Weber Ave., Stockton, CA 95202. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or by teleconference, by going to <https://www.sjcourts.org/divisions/civil/> for instructions on how to do so. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should contact Class Counsel to verify the date and time of the Final Approval Hearing if you are planning to attend the hearing or have your own lawyer attend.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything EL CONCILIO and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at _____. 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.sjcourts.org/case-management-search/> and selecting a Case Number search for the Action, and then entering a case type of CV, a filing year of 2021, and a case number of 12016, as instructed on the web form.

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

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Settlement Administrator:

Name of Company: ILYM Group, Inc.
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.

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.