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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

KENNETH NGUYEN, on behalf of the
State of California, as a private attorney
general, and as an individual, on behalf of
himself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 22CV394401

[Consolidated with Case No. 22CV394403]

**DECLARATION OF NORMAN BLUMENTHAL
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT,
ATTORNEYS' FEES, COSTS AND SERVICE
AWARD**

Hearing Date: September 25, 2024

Hearing Time: 1:30 p.m.

[Hearing scheduled by Order dated June 11, 2024]

Judge: Hon. Theodore C. Zayner

Dept.: 19

Action Filed: February 15, 2022

Trial Date: Not set

1 I, NORMAN B. BLUMENTHAL, declare as follows:

2 1. I am the managing partner of the law firm of Blumenthal Nordrehaug Bhowmik De
3 Blouw LLP, counsel of record for Kenneth Nguyen ("Plaintiff") in this matter. As such, I am fully familiar
4 with the facts, pleadings and history of this matter. The following facts are within my own personal
5 knowledge, and if called as a witness, I could testify competently to the matters stated herein. This
6 declaration is being submitted in support to the Plaintiff's motion for final approval of the class settlement,
7 including attorneys' fees, costs and service award.

8 2. Over the course of the litigation, a number of attorneys in my firm have worked on this
9 matter. Their credentials are reflected in the Blumenthal Nordrehaug Bhowmik De Blouw LLP firm
10 resume, a true and correct copy of which is attached hereto as Exhibit #1. Some of the major cases our
11 firm has undertaken are also set forth in Exhibit #1. The bulk of the attorneys involved in this matter at
12 Blumenthal Nordrehaug Bhowmik De Blouw LLP have had substantial class litigation experience in the
13 areas of employment class actions, unfair business practices and other complex litigation. The attorneys
14 at my firm have extensive experience in cases involving labor code violations and overtime claims. Class
15 Counsel has litigated similar overtime cases against other employers on behalf of employees, including
16 cases against Sharp Healthcare, Walmart, Legoland, Cigna, HealthNet, See's Candies, Securitas, Okta,
17 Advanced Home Health, El Pollo Loco, Total Renal, Panda Express, Walt Disney Resorts, Pharmaca,
18 Nortek Security, California Fine Wine, Solarcity, Walgreens, Space Exploration, Union Bank, Verizon,
19 Apple, Wells Fargo, Kaiser, Universal Protection Services, and California State Automobile Association.
20 Class Counsel have been approved as experienced class counsel during contested motions in state and
21 federal courts throughout California. It is this level of experience which enabled the firm to undertake the
22 instant matter and to successfully combat the resources of the defendants and their capable and
23 experienced counsel. Class Counsel have participated in every aspect of the settlement discussions and
24 have concluded the settlement is fair, adequate and reasonable and in the best interests of the Class.

25
26 3. Summary of the Proposed Settlement.

27 (a) A true and correct copy of the Class Action and PAGA Settlement Agreement (the
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1 “Agreement”) between the parties is attached hereto as Exhibit #2. Plaintiff and Defendant Port Plastics,
2 Inc. (“Defendant”) reached a full and final settlement of the above-captioned action, which is embodied
3 in the Agreement filed concurrently with the Court. As consideration for this Settlement, the Gross
4 Settlement Amount is Three Hundred Fifty Thousand Dollars (\$350,000) (the "Gross Settlement
5 Amount"). (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the
6 following elements: (1) payment of the Individual Class Payments to the Participating Class Members; (2)
7 Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Administration Expenses
8 Payment; (4) the Class Representative Service Payment to the Plaintiff; and (5) the PAGA Penalties
9 payment. (Agreement at ¶ 1.22.)

10 (b) The Gross Settlement Amount does not include Defendant's share of payroll taxes. (Agreement
11 at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no reversion to Defendant. (Agreement at
12 ¶ 3.1.)

13 (c) Within fifteen (15) days of the Effective Date, Defendant shall deposit the Gross Settlement
14 Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual Class Payments to
15 Participating Class Members along with the other Court-approved distributions shall be made by the
16 Administrator within fourteen (14) days after Defendant funds the Gross Settlement Amount. (Agreement
17 at ¶ 5.1.)

18 (d) The amount remaining in the Gross Settlement Amount after the deduction of Court-approved
19 amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class Representative Service
20 Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the
21 Administration Expenses Payment (called the “Net Settlement Amount”) shall be allocated to Class
22 Members as their Individual Class Payments. (Agreement at ¶¶ 1.28 and 3.2.) From the Net Settlement
23 Amount, the Individual Class Payment for each Participating Class Member will be calculated by (a)
24 dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class
25 Members during the Class Period and (b) multiplying the result by each Participating Class Member's
26 Workweeks. (Agreement at ¶ 3.2(e).) Workweeks will be based on Defendant’s records, however, Class
27 Members will have the right to challenge the number of Workweeks.

1 (e) Class Members could opt-out of the Settlement by following the directions in the Class Notice.
2 (Agreement at ¶ 8.5, Ex. A.) All Class Members who did not "opt out" will be deemed Participating Class
3 Members who will be bound by the Settlement and will be entitled to receive an Individual Class Payment.
4 (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including those who submit an opt-out request, will
5 still be paid their allocation of the PAGA Penalties and will remain subject to the release of the Released
6 PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the
7 Class Notice advised the Class Members of their right to object to the Settlement and/or dispute their
8 Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

9 (f) A Participating Class Member must cash his or her Individual Class Payment check within 180
10 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will be
11 voided and any funds represented by such checks sent to the California Controller's Unclaimed Property
12 Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements
13 of C.C.P. § 384(b). (Agreement at ¶ 5.4.)

14 (g) ILYM Group was appointed by the Court as the Administrator for the Settlement. (Agreement
15 at ¶ 1.2.) The Administrator will be paid for settlement administration in an amount not to exceed \$5,500.
16 (Agreement at ¶ 3.2(c).)

17 (h) Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum
18 not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment. (Agreement
19 at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of Class Counsel
20 Litigation Expenses Payment in an amount not to exceed \$21,000. (Agreement at ¶ 3.2(b).) Subject to
21 Court approval, the Agreement provides for a payment of no more than \$10,000 to the Plaintiff as the
22 Class Representative Service Payment. (Agreement at ¶ 3.2(a).) In support of this separate motion for
23 attorneys' fees, reimbursement of expenses and service awards, Class Counsel is providing evidentiary
24 support, for these requests, including lodestar.

25 (i) Subject to Court approval, the PAGA Penalties will be paid from the Gross Settlement Amount
26 for PAGA penalties under the California Private Attorneys General Act, Cal. Labor Code Section 2698,
27 *et seq.* ("PAGA"). The PAGA Penalties are \$15,000. (Agreement at ¶ 3.2(d).) Pursuant to the express
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requirements of Labor Code § 2699(i), the PAGA Payment shall be allocated as follows: 75% shall be allocated to the Labor Workforce Development Agency ("LWDA") as its share of the civil penalties and 25% allocated to the Individual PAGA Payments to be distributed to the Aggrieved Employees based on the number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompanying proof of service, the LWDA has been served with this motion and the Agreement.

(j) The Settlement is fair, adequate and reasonable to the class and should be finally approved for the same reasons the Court granted preliminary approval of the Settlement, agreeing that the settlement is "fair, adequate, and reasonable". (Preliminary Approval Order at 27:1-2.) In sum, the Settlement valued at \$350,000 is an excellent result for the Class. This result is particularly favorable in light of the fact that liability and class certification in this case were far from certain in light of the defenses asserted by Defendant. Given the complexities of this case, the defenses asserted, the uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed settlement is fair, reasonable and adequate, and should be finally approved.

4. Procedural status of the settlement - In accordance with the Preliminary Approval Order dated June 11, 2024 ("Preliminary Approval Order"), the approved Class Notice has been disseminated to the Class. The reaction of the Class unequivocally supports approval of the Settlement. On July 10, 2023, the Administrator mailed the Court-approved Class Notice to the Class Members, which provided each class member with the terms of the Settlement, including notice of the claims at issue and the financial terms of the settlement, including the attorneys' fees, costs, and service award that were being sought, how individual settlement awards would be calculated, and the specific, estimated payment amount to that individual. See Declaration of Makenna Snow ("Snow Decl."). In disseminating the notice, the Administrator followed the notice procedures authorized by the Court in its Preliminary Approval Order. To date, there have been no objections and no requests for exclusion. The Response Deadline is September 9, 2024, and therefore the final results will be detailed in the Declaration of Makenna Snow (the Administrator) to be filed in after the Response Deadline and in advance of the Final Approval Hearing.

1 5. Description of Plaintiffs' claims - The Action generally alleges that Plaintiffs and other
2 Class Members were not properly paid all overtime and minimum wages for hours worked, were not
3 provided meal and rest periods, were not timely paid earned wages, were not provided reimbursement for
4 required expenses, were not provided accurate itemized wage statements, were not paid all wages at the
5 time of termination. The Action seeks unpaid wages, penalties, attorney fees, litigation costs, and any
6 other equitable or legal relief allegedly due and owing to Plaintiffs and the other Class Members by virtue
7 of the foregoing claims.

8
9 6. Procedural History of the Litigation

10 (a) On December 9, 2021, Plaintiff filed with the LWDA and served on Defendant notices under
11 Labor Code section 2699.3 identifying the alleged Labor Code violations to recover civil penalties on
12 behalf of Aggrieved Employees for various Labor Code violations. On February 15, 2022, Plaintiff filed
13 a Representative Action Complaint against Defendant in the Superior Court of the State of California,
14 County of Santa Clara, asserting a single cause of action for violation of the Private Attorneys General
15 Act, Cal. Labor Code §§ 2698, et seq. ("PAGA"), Case No. 22CV394401 ("PAGA Action").

16 (b) On February 15, 2022, Plaintiff filed a class action Complaint against Defendant in the Superior
17 Court of the State of California, County of Santa Clara. This class action Complaint asserted claims
18 against Defendant for: (1) unfair competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (2)
19 failure to to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1; (3)
20 failure to pay overtime wages in violation of California Labor Code §§ 510, 1194 & 1198; (4) failure to
21 provide required meal periods in violation of Cal. Labor Code §§ 226.7 and 512; (5) failure to provide
22 required rest periods in violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to provide accurate
23 itemized wage statements in violation of California Labor Code § 226; (7) failure to reimburse employees
24 for required expenses in violation of California Labor Code § 2802; and, (8) failure to provide wages when
25 due in violation of California Labor Code §§ 201, 202 and 203.¹

26
27 ¹ Plaintiff also alleged individual claims on behalf of himself only for discrimination and retaliation
28 in violation of FEHA; and, wrongful termination in violation of public policy.

1 (c) On July 28, 2022, Plaintiff filed a Consolidated Class Action and Representative Action
2 Complaint in the Action which consolidated the claims alleged in both the PAGA Action and the Class
3 Action. This Consolidated Class Action and Representative Action Complaint is the operative complaint
4 in the Action (the “Operative Complaint”).

5 (d) Over the course of litigation, the Parties engaged in the investigation of the claims, including
6 informal discovery, and the production of documents, class data, and other information, allowing for the
7 full and complete analysis of liabilities and defenses to the claims in the Action. The information for
8 mediation obtained by Plaintiff included: (1) payroll and employment data; (2) information concerning the
9 composition of the Class; (3) Defendant’s wage and hour policies; (4) the employment files for the
10 Plaintiff; and, (5) samples of wage statements provided by Defendant. As such, Class Counsel received
11 the data and information for the Class, which was sufficient for Plaintiff to value the claims of the Class.

12 (e) Plaintiff and Defendant agreed to discuss resolution of the Action through a mediation. Prior
13 to mediation, the Parties engaged in the above investigation and the exchange of documents and
14 information in connection with the Action. On April 27, 2023, the Parties participated in an all-day
15 mediation presided over by Louis Marlin, a respected and experienced mediator of wage and hour class
16 actions. Following the mediation, each side, represented by its respective counsel, were able to agree to
17 settle the Action based upon a mediator's proposal which was memorialized in a memorandum of
18 understanding. The Parties then negotiated the final terms of the settlement as set forth in the Agreement.
19 At all times, the negotiations were arm's length and contentious.

20 (f) Although a settlement has been reached, Defendant denies any liability or wrongdoing of any
21 kind associated with the claims alleged in the Action and further denies that, for any purpose other than
22 settlement, the Action is appropriate for class and/or representative treatment. Defendant contends,
23 among other things, that it has complied at all times with the California Labor Code, applicable Wage
24 Order, and all other laws and regulations. Further, Defendant contends that class certification is
25 inappropriate for any reason other than for settlement. Plaintiff contends that Defendant violated
26 California wage and hour laws. Plaintiff further contends that the Action is appropriate for class
27 certification on the basis that the claims meet the requisites for class certification.

1 (g) Without admitting that class certification is proper, Defendant has stipulated that the above
2 Class may be certified for settlement purposes only. (Agreement at ¶ 2.8.) The Parties agree that
3 certification for settlement purposes is not an admission that class certification is proper. Further, the
4 Agreement is not admissible in this or any other proceeding as evidence that the Class could be certified
5 absent a settlement. Solely for purposes of settling the Action, the Parties stipulate and agree that the
6 requisites for establishing class certification with respect to the Class are satisfied.

7 (h) Class Counsel has conducted an investigation into the facts of the class action. Informal
8 discovery was obtained, which included the production of hundreds of pages of relevant documents. Class
9 Counsel engaged in a thorough review and analysis of the relevant documents and data. Accordingly, the
10 agreement to settle did not occur until Class Counsel possessed sufficient information to make an informed
11 judgment regarding the likelihood of success on the merits and the results that could be obtained through
12 further litigation. In addition, Class Counsel previously negotiated settlements with other employers in
13 actions involving nearly identical issues and analogous defenses. Based on the foregoing data and their
14 own independent investigation, evaluation and experience, Class Counsel believes that the settlement with
15 Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the best
16 interest of the Class in light of all known facts and circumstances, including the risk of significant delay,
17 defenses asserted by Defendant, and potential appellate issues.

18 19 7. History of Settlement Discussions

20 (a) This settlement is the result of extensive and hard-fought litigation as well as negotiations
21 before an experienced and well-respected mediator. Defendant has expressly denied and continues to deny
22 any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and Class
23 Counsel have determined that it is desirable and beneficial to the Class to resolve the Released Class
24 Claims of the Class in accordance with this Settlement. The release applicable to the Class is appropriately
25 tethered to allegations in the Action. Class Counsel are experienced and qualified to evaluate the class
26 claims, the defenses asserted, and the risks and benefits of trial and settlement, and Class Counsel are
27 particularly experienced in wage and hour employment class actions, as Class Counsel has previously
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1 litigated and certified similar claims against other employers.

2 (b) The Parties attended an arms-length mediation session with Louis Marlin, a respected jurist
3 and experienced mediator of wage and hour class actions, in order to reach this Settlement. In preparation
4 for the mediation, Defendant provided Class Counsel with payroll and employment data, along with and
5 other information regarding the Class Members, various internal documents, and other compensation and
6 employment-related materials. Class Counsel analyzed the data with the assistance of damages expert
7 Berger Consulting and prepared and submitted a mediation brief to the mediator. The final settlement
8 terms were negotiated and set forth in the Agreement now presented for this Court's approval.

9 (c) From May 2023 to November 2023, the settlement agreement and exhibits thereto were
10 negotiated, finalized and executed, and then presented by motion to this Court for preliminary approval.
11 Supplemental briefing was provided at the request of the Court. On June 11, 2024, the Court issued its
12 Order granting preliminary approved of the settlement as fair and reasonable to the Class.

13 (d) Plaintiff and Class Counsel believe that this settlement is fair, reasonable and adequate. In my
14 judgment as experienced Class Counsel, this Settlement should be finally approved.

15
16 8. The outcome of this case would have been uncertain and fraught with risks.

17 (a) Here, a number of defenses asserted by Defendant present serious threats to the claims of the
18 Plaintiff and the other Class Members. Defendant asserted that Defendant's practices complied with all
19 applicable Labor laws. Defendant argues that Class Members were paid for all time worked and that all
20 work time was properly recorded. Defendant contends that its meal and rest period policies fully complied
21 with California law and Defendant did not fail to provide the opportunity for legally required meal and rest
22 breaks. Defendant contends that there was no failure to pay for business expenses and any cell phone
23 usage was merely convenient and voluntary such that reimbursement was not legally required. Defendant
24 could argue that the Supreme Court decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012),
25 weakened Plaintiff's claims, on liability, value, and class certifiability as to the meal and rest period claims.
26 Defendant also argues that based on its facially lawful practices, Defendant acted in good faith and without
27 willfulness, which if accepted would negate the claims for waiting time penalties and/or inaccurate wage
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1 statements. If successful, Defendant's defenses could eliminate or substantially reduce any recovery to the
2 Class. While Plaintiff believes that these defenses could be overcome, Defendant maintains these defenses
3 have merit and therefore present a serious risk to recovery by the Class.

4 (b) There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
5 to obtain a certified class and maintain the certified class through trial, and thereby not recover on behalf
6 of any employees other than himself. At the time of the mediation, Defendant forcefully opposed the
7 propriety of class certification, arguing that individual issues precluded class certification. Further, as
8 demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal.
9 4th 1 (2014), there are significant hurdles to overcome for a class-wide recovery even where the class has
10 been certified. While other cases have approved class certification in wage and hour claims, class
11 certification in this action was hotly disputed and the maintenance of a certified class through trial was by
12 no means a foregone conclusion.

13 (c) As demonstrated by the decision in *Duran*, the complexities and duration of further litigation
14 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event of
15 an adverse judgment. A post-judgment appeal by Defendant would have required many more years to
16 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
17 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
18 an uncertain result three or more years in the future. Plaintiff and Class Counsel recognize the risks,
19 expense and length of continuing to litigate and trying this Action against Defendant and then litigating
20 possible appeals which could take several years. Class Counsel also have taken into account the uncertain
21 outcome, the risk of litigation, especially in complex actions such as this one. Class Counsel are also
22 mindful of and recognize the inherent problems of proof under, and alleged defenses to, the claims asserted
23 in the Action. Moreover, post-trial motions and appeals would have been inevitable. Costs would have
24 mounted and recovery would have been delayed if not denied, thereby reducing the benefits of an ultimate
25 victory. Plaintiff and Class Counsel believe that the Settlement confers substantial benefits upon the Class.
26 Based upon their evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in
27 the Agreement is in the best interest of the Class Members.

(d) The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses to Plaintiffs' claims. As set forth in the Declaration of Kyle Nordrehaug and the Supplemental Declaration of Kyle Nordrehaug, filed in support of preliminary approval, which discussed the value of the class claims in detail, the Gross Settlement Amount compares favorably to the value of the claims. The calculations to compensate for the amount due for the Class at the time of the mediation were calculated by Class Counsel. As to the Class whose claims are at issue in this Action, Plaintiff analyzed the data and determine the potential unpaid wages for the employees. The maximum potential damages were calculated to be \$207,357 for the alleged unpaid wages due to off-the-clock work at 30 min per week, \$2,074,940 for alleged meal and rest period damages based upon an 80% potential violation rate for shifts worked, \$13,137 for alleged unreimbursed business expenses for personal cell phone usage at \$5 per month. As a result, the total damage valuation calculated by Class Counsel was that Defendant was subject to a maximum damage claim in the amount of \$2,295,434. As to potential penalties, Plaintiff calculated that potential waiting time penalties were a maximum of \$115,258, and potential maximum wage statement penalties were \$192,000.² Defendant vigorously disputed Plaintiff's calculations and exposure theories. Consequently, the Gross Settlement Amount of \$350,000 represents more than 15% of the maximum value of the alleged damages at issue in this case at the time this Settlement was negotiated.³ Importantly, the recent decision that good faith belief of compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the claims for waiting time and wage statement penalties, even if wages were owed to the Class. The above maximum calculations should then be adjusted in consideration for both the risk of class certification and the risk of establishing class-wide

² While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for meal or rest periods or other wages were owed given Defendant's position that Plaintiff and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith dispute as to whether and when the wages were due.").

³ Because the PAGA claim is not a class claim and primarily is paid to the State of California, Plaintiff did not included the PAGA claim in this discussion of the value of the class claims. The PAGA claim was addressed in the Motion for Preliminary Approval in the Declaration of Nordrehaug at ¶33.

1 liability on all claims. Given the amount of the settlement as compared to the potential value of claims in
2 this case and the defenses asserted by Defendant, this settlement is fair and reasonable.⁴ Clearly, the goal
3 of this litigation has been met.

4 (e) In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
5 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and substantial
6 defenses both to liability and to class certification. The maximum and average class member allocations
7 will be detailed in the forthcoming Declaration of Makenna Snow. Given the complexities of this case, the
8 defenses, along with the uncertainties of proof and appeal, the proposed Settlement is fair, reasonable and
9 adequate, and should be finally approved.

10 (f) It is impossible to predict with certainty whether, under the facts of this case, Plaintiff would
11 prevail against the Defendant's factual and legal defenses. While Plaintiffs and Class Counsel believe in
12 the merits of the claims, Defendant has asserted real and substantial defenses to these claims and to class
13 certification. Settlement in this case clearly benefits the Class when measuring the strengths of Plaintiffs'
14 case and the risk of establishing class wide liability and damages.

15
16 **ATTORNEYS' FEES, LITIGATION EXPENSES AND SERVICE AWARD**

17 9. **The Agreement For The Payment of Fees and Expenses Should Is Appropriate And Should**
18 **Be Enforced**

19 (a) Class Counsel successfully negotiated a class action settlement which provides for a
20 common fund settlement to be paid by Defendant Port Plastics, Inc. ("Defendant") to the Class in the
21 amount of Three Hundred Fifty Thousand Dollars (\$350,000) (the "Gross Settlement Amount").

22
23 ⁴ See *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 (N.D. Cal. 2007) (approving a
24 settlement where the settlement amount constituted approximately 25% of the estimated overtime
25 damages for the class); *Stovall-Gusman v. W.W. Granger, Inc.*, 2015 U.S. Dist. LEXIS 78671, at *12
26 (N.D. Cal. 2015) (granting final approval where "the proposed Total Settlement Amount represents
27 approximately 10% of what class might have been awarded had they succeeded at trial."); *Viceral v.*
28 *Mistras Grp., Inc.*, 2016 WL 5907869 (N.D. Cal. 2016) (approving wage and hour class action
settlement amounting to 8.1% of full value); *Ma v. Covidien Holding, Inc.*, 2014 WL 2472316, (C.D.
Cal. 2014) (approving wage and hour class action settlement worth "somewhere between 9% and 18%"
of maximum valuation).

1 (Agreement at ¶ 1.22.) As part of the settlement, the parties agreed to an award of attorneys' fees equal
2 to one-third (1/3) of the Gross Settlement Amount as the Class Counsel Fees Payment. (Agreement at
3 ¶ 3.2(b).) By this motion, Class Counsel respectfully requests approval of the Class Counsel Fees Payment
4 in an amount equal to one-third of the Gross Settlement Amount.

5 (b) In the class action context, that means "attempting to award the fee that informed
6 private bargaining, if it were truly possible, might have reached." Here, informed arms-length bargaining
7 between experienced counsel and Defendant resulted in Defendant negotiating the fee award to one-third
8 of the Gross Settlement Amount. Such bargaining is obviously the best measure of the market for fees.
9 Moreover, fee awards in common fund settlements as this one have resulted in a percentage of fees in an
10 equivalent percentage to the sum sought by Class Counsel herein, further reflecting the accurate market
11 value of the award requested.

12 (c) The requested fee award, agreed to by the parties as part of the Settlement, should be
13 approved. The requested fee award was bargained for during arms' length adversarial bargaining by
14 counsel for each of the parties as part of the Settlement.

15
16 10. The Class Counsel Fee Award Is Properly Calculated as a Percentage of the Total Value
17 Created for the Benefit of the Class

18 (a) As part of the settlement, the parties agreed to an award of attorneys' fees equal to
19 one-third of the Gross Settlement Amount of \$350,000, which equals \$116,666 for attorneys' fees. As
20 part of the Agreement, Defendant also agreed that Class Counsel will also be paid reasonable litigations
21 expenses incurred as per Class Counsel's billing statement in an amount not to exceed \$21,000. Finally,
22 Defendant also agreed that Plaintiff can be awarded a Class Representative Service Payment in the amount
23 of \$10,000, as his service award under the Agreement.

24 (b) In defining a reasonable fee, the Court should mimic the marketplace for cases
25 involving a significant contingent risk such as this one. Our legal system places unique reliance on private
26 litigants to enforce substantive provisions of employment law through class actions. Therefore, attorneys
27 providing these substantial benefits should be paid an award equal to the amount negotiated in private
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1 bargaining that takes place in the legal market place.

2 (c) There is a substantial difference between the risk assumed by attorneys being paid by
3 the hour and attorneys working on a contingent fee basis. The attorney being paid by the hour can go to
4 the bank with his fee. The attorney working on a contingent basis can only log hours while working
5 without pay towards a result that will hopefully entitle him to a marketplace contingent fee taking into
6 account the risk and other factors of the undertaking. Otherwise, the contingent fee attorney receives
7 nothing. In this case, the nature of the fee was wholly contingent. Class Counsel subjected themselves
8 to this contingent fee market risk in this all or nothing contingent fee case wherein the necessity and
9 financial burden of private enforcement makes the requested award appropriate. This case was litigated
10 on a contingent basis for more than a year, with all of the risk factors inherent in such an uncertain
11 undertaking. Indeed, I am aware of other similar cases where the court dismissed the class allegations or
12 denied class certification. Under such circumstances, courts have held that a risk multiplier must be
13 applied to the fee award.

14 (d) Here, the contingent nature of the fee award, both from the point of view of eventual
15 settlement and the point of view of establishing eligibility for an award, also warrant the requested fee
16 award. A number of difficult issues, the adverse resolution of any one of which could have doomed the
17 successful prosecution of the action, were present here. Attorneys' fees in this case were not only
18 contingent but risky, with a very real chance that Class Counsel would receive nothing at all for their
19 efforts, having devoted time and advanced costs. Class Counsel has previously invested in cases which
20 resulted in no recovery, and here Class Counsel is recovering a fee award that comparable to the multiplier
21 approved in other cases.

22 (e) At the time this case was brought, the result was far from certain as discussed above
23 at paragraphs 8(a) and 8(b).

24 (f) The Settlement was possible only because Class Counsel was able to convince
25 Defendant that Plaintiff could potentially prevail on the contested issues regarding liability, maintain class
26 certification, overcome difficulties in proof as to monetary relief and take the case to trial if need be. In
27 successfully navigating these hurdles Class Counsel displayed the necessary skills in both wage and hour
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1 and class action litigation. The high quality of the Class Counsel's work in this case was mandated by the
2 vigorous defense presented by counsel for Defendant. Over the more than a year of litigation, Class
3 Counsel was required to invest substantial time and resources in investigation, litigation, the determination
4 of potential damages and communicating with and responding to opposing counsel's and class members'
5 requests and inquiries.

6 (g) To represent the Class on a contingent fee basis, Class Counsel also had to forego
7 compensable hourly work on other cases to devote the necessary time and resources to this contingent
8 case. In so doing, Class Counsel gave up the hourly work that a firm can bank on for the risky contingent
9 fee work in this case which could potentially have paid nothing.

10 (h) Class Counsel were required to advance all costs in this litigation. Especially in this
11 type of litigation where the corporate defendant and their attorneys are well funded, this can prove to be
12 very expensive and risky. Accordingly, because the risk of advancing costs in this type of litigation can
13 be significant, it is therefore cost prohibitive to many attorneys. The financial burdens undertaken by
14 Plaintiff and Class Counsel in prosecuting this action on behalf of the Class were very substantial. Class
15 Counsel has previously litigated cases and advanced costs, but received no recovery. To date, Class
16 Counsel advanced more than \$12,000 in costs which could not have been recovered if this case had been
17 lost. The Plaintiff also undertook the risk of liability for Defendant's costs had this case not succeeded,
18 as well as other potential negative financial ramifications from having sued Defendant on behalf of the
19 Class. Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel and on
20 Plaintiffs also support the requested awards.

21 (i) In a common fund settlement "[t]he lodestar method is merely a cross-check on the
22 reasonableness of a percentage figure". *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050, n.5 (9th Cir.
23 2002). In this case, the reasonableness of the requested attorneys' fee of one-third equal to \$200,000 is
24 also established by reference to Class Counsel's lodestar in this matter. The contemporaneous billing
25 records for Class Counsel evidence that through August 30, 2024, Class Counsel's total lodestar is
26 \$162,457.50, with significant additional fees still to be incurred to complete final approval and the
27 settlement process. The requested fee award is therefore less than Class Counsel's total lodestar,
28

1 representing a “negative multiplier” of 0.7, and there will be additional lodestar incurred by Class Counsel
2 to complete the settlement process and manage the settlement distribution and reports. Such a negative
3 multiplier is well below the range of positive multipliers approved in other cases such as *Laffitte* and
4 *Vizcaino*.⁵ As a result, this Court may conclude that the requested award is fair and reasonable and is
5 justified under California law.

6 (j) Counsel retained on a contingency fee basis, whether in private matters or in representative
7 litigation of this sort, is entitled to a premium beyond his standard, hourly, non-contingent fee schedule
8 in order to compensate for both the risks and the delay in payment for the simple fact that despite the most
9 vigorous and competent of efforts, success is never guaranteed. This is particularly true here where Class
10 Counsel has prosecuted this case on a contingency basis for over a year. Indeed, if counsel is not
11 adequately compensated for the risks inherent in difficult class actions, competent attorneys will be
12 discouraged from prosecuting similar cases.

13 11. On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles Superior
14 Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee award in a wage
15 and hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange County
16 Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-third award
17 in a wage and hour class settlement. On February 11, 2020, in *Singh v. Total Renal Care* (San Francisco
18 Superior Court Case No. CGC-16-550847) Judge Ethan Schulman awarded Class Counsel a one-third
19 award in a wage and hour class settlement. On April 15, 2021, in *Walker v. Brink's Global Services USA*
20 (Los Angeles County Superior Court Case No. BC564369) Judge Amy Hogue awarded Class Counsel
21 a one-third award in a wage and hour class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los
22

23 ⁵ See *Laffitte, supra*, 1 Cal. 5th at 487 (approving 1/3 fee award with multiplier of 2.03 to 2.13);
24 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002)(3.65 multiplier approved because of
25 substantial risk); *Pellegrino v. Robert Half Intern., Inc.*, 182 Cal.App.4th 278 (2010) (in class actions
26 reasonable multipliers of 2.0 to 4.0 are often applied and affirming 1.75 multiplier); *Wershba v. Apple*
27 *Computer*, 91 Cal. App. 4th 224, 255 (2001) ("multipliers can range from 2 to 4 or even higher."); *In*
28 *re Sutter Health Uninsured Pricing Cases*, 171 Cal.App.4th 495, 512 (2009) (affirming multiplier of 2.52
as “fair and reasonable”); *Chavez v. Netflix, Inc.*, 162 Cal.App.4th 43, 66 (2008) (affirming multiplier
of 2.53 as well within the approved range of 2 to 4); *Taylor v. Fedex Freight, Inc.*, 2016 U.S. Dist.
LEXIS 142202 (E.D. Cal. 2016) (30% fee justified by 2.26 multiplier).

1 Angeles Superior Court Case No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third
2 fee award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour Cases*
3 (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a one-third fee
4 award in a wage and hour class settlement. On November 17, 2021, in *Leon v. Sierra Aluminum*
5 *Company* (San Bernardino Superior Court Case No. CIVDS2010856) Judge David Cohn awarded a
6 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies Wage and*
7 *Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third
8 fee award in a wage and hour class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San
9 Francisco Superior Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award
10 in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los
11 Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee
12 award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management LLC*,
13 (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger awarded a one-
14 third fee award in a wage and hour class action settlement. On August 10, 2022, in *Spears, et al. v. Health*
15 *Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge
16 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement. On
17 September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-
18 588225), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action
19 settlement. On November 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court,
20 Case No. JCCP5139), Judge Keri Katz awarded a one-third fee award in a wage and hour class action
21 settlement. On February 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior
22 Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour
23 class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior
24 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage
25 and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County
26 Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage
27 and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino
28

1 County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in
2 a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento
3 County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award
4 in a wage and hour class settlement. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County
5 Superior Court Case No. CIVDS2023061) Judge Hoseph T. Ortiz awarded a one-third fee award in a
6 wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County
7 Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage
8 and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's Candies* (San Mateo
9 County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner approved a one-third fee award
10 in a wage and hour class settlement.

11 12. The contemporaneous billing records for Class Counsel evidence that through August 30,
12 2024, Class Counsel's total lodestar is \$_____, with significant additional fees still to be
13 incurred to complete final approval and the settlement process. The requested fee award is therefore less
14 than Class Counsel's total lodestar, representing a negative multiplier of 0.7, and there will be additional
15 lodestar incurred by Class Counsel to complete the settlement process and manage the settlement
16 distribution and reports. From October 2021 to August 30, 2024, my firm worked on this matter for over
17 213 hours, with hourly rates for attorneys ranging from \$450 to \$995, resulting in a total incurred lodestar
18 for my firm in the amount of \$162,457.50. A detailed breakdown of the total fees and the services
19 performed by the firm on this case is attached hereto as Exhibits #3 and 4.⁶ In addition, Class Counsel will
20 be performing significant additional work that is not included in this lodestar amount, including finalizing
21 the final approval motion, attending the hearing on final approval, and monitoring completion of the
22 settlement process. I expect this additional work will result in \$10,000 to \$20,000 in additional lodestar
23 for my firm. The rates charged by my firm are in line with the prevailing rates of attorneys in the local
24 legal community for similar work and, if this were a commercial matter, these are the charges that would
25 be made and presented to the client. My firm's hourly rates are based upon the Laffey Matrix with the
26 _____

27 ⁶ My firm switched billing systems in June 2022, so Exhibit #3 contains the billing for inception to
28 June 2022, and Exhibit #4 contains the billing from June 2022 to August 30, 2024.

1 appropriate 2% increase adjustment for Southern California. A true and correct copy of the current Laffey
2 Matrix is attached hereto as Exhibit #5. These hourly rates have been approved by Court's throughout
3 California, including the Courts in the Superior Court of California. In fact, on August 1, 2018, District
4 Judge Andre Birotte Jr. explicitly found that Class Counsel's "rates generally appear reasonable and 'in
5 line with those prevailing in the [relevant] community'—the Central District of California". Finally, the
6 reasonableness of Class Counsel's hourly rates is further confirmed by comparing such rates with the rates
7 of comparable counsel practicing complex and class litigation as detailed in the National Law Journal
8 Billing Survey. See e.g. *Zest IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS
9 167563 (S.D. Cal. 2014) (finding that "Mayer Brown's \$775 average billing rate for partners" and "Mayer
10 Brown's \$543 average associate billing rate" are reasonable rates when compared within 21 other firms
11 practicing in the Southern District of California.) This survey is useful to show that Class Counsel's rates
12 are in line with the comparable rates of the defense counsel that opposes these types of class claims, such
13 as Mayer Brown noted above who is defense counsel in cases currently being prosecuted by Class
14 Counsel. In another example, Sheppard Mullin Richter & Hampton, who is opposing counsel in many
15 cases prosecuted by Class Counsel, had historical rates as high as \$875 for partners and \$535 for
16 associates. Similarly, Paul Hastings, another opposing counsel in these types of cases, in past year
17 charged between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the rates charged
18 by Class Counsel for comparable work are less than these examples, and are therefore undoubtedly
19 reasonable. Therefore, the requested fee award as a percentage of the fund is supported by the currently
20 lodestar. This is comparable to the multiplier approved in other cases. The requested award is therefore
21 reasonable viewed by the Lodestar/Multiplier cross-check.

22 23 Litigation Expenses

24 13. The Agreement provides at paragraph 3.2(b), that Class Counsel may seek a "a Class
25 Counsel Litigation Expense of no more than \$21,000". Class Counsel requests reimbursement for
26 incurred litigation expenses and costs in the amount of \$12,638.21 based upon counsel's billing records
27 which evidence total expenses of \$12,638.21. These litigation expenses include the expenses incurred for
28

1 filing fees, mediation expenses, expert fees (Berger Consulting Group), attorney service charges (Knox,
2 One Legal), Lexis charges, and delivery expenses, all of which are costs normally billed to and paid by the
3 client.⁷ The details of the litigation expenses incurred are set forth in Exhibits #3 and 4 hereto.⁸ These
4 costs were reasonably incurred in the prosecution of the Action.

5
6 Service Awards

7 14. For his service as the only class representative, Plaintiff should be awarded the agreed
8 service award of \$10,000, in accordance with the Agreement for his time, risk and effort expended on
9 behalf of the Class. (Agreement at ¶ 3.2(a).) Defendant has agreed to this payment and there have been
10 no objections to the requested service award. The previously submitted Declaration of the Plaintiff in
11 support of this request is attached hereto as Exhibit #6. As the sole representative of the Class, Plaintiff
12 performed his duty to the Class admirably and without exception. Plaintiff worked extensively with Class
13 Counsel during the course of the litigation, responding to numerous requests, searching for documents,
14 working with counsel, and reviewing the settlement documentation. The Declaration of the Plaintiff details
15 the involvement, stress and risks he undertook as a result of this Action. Plaintiff also assumed the serious
16 risk that he might possibly be liable for costs and fees to Defendant, as well as the reputational risk of
17 being “blacklisted” by other future employers for having filed a class action on behalf of fellow former
18 employees. Without the Plaintiff’s participation, cooperation and information, no other employees would
19 be receiving any benefit. The payment of service awards to successful class representatives is appropriate
20 and the amount of \$10,000 is well within the currently awarded range for similar settlements. The
21 requested award is also reasonable by reference to the amounts that other California courts have found

22
23
24 ⁷ Nontaxable costs are properly awarded where authorized by the parties’ agreement. *Stetson*, 821
25 F.3d at 1165. Accordingly, “[e]xpenses such as reimbursement for travel, meals, lodging, photocopying,
26 long-distance telephone calls, computer legal research, postage, courier service, mediation, exhibits,
documents scanning, and visual equipment are typically recoverable.” *Rutti v. Lojack Corp., Inc.*, 2012
WL 3151077, at *12 (C.D. Cal. 2012).

27 ⁸ My firm switched billing systems in June 2022, so Exhibit #3 contains the billing for inception to
28 June 2022, and Exhibit #4 contains the billing from June 2022 to August 30, 2024

1 to be reasonable in wage and hour class action settlements: *Mathein v. Pier 1 Imps.*, 2018 U.S. Dist.
2 LEXIS 71386, 168 Lab. Cas. (CCH) P36,620 (E.D. Cal. 2018) (approving two service awards of \$12,500
3 each); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (approving \$10,000
4 service award where class member recovery was \$375); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D.
5 245, 268 (N.D. Cal. 2015) (approving \$10,000 award); *Ontiveros v. Zamora*, 303 F.R.D. 356, 366 (E.D.
6 Cal. 2014) (reducing \$20,000 award to \$15,000 where the plaintiff brought a class claim in lieu of bringing
7 an individual action); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 at *51-*52 (N.D. Cal.
8 2007) (awarding \$25,000 service award in overtime wage class action); *Zamora v. Balboa Life &*
9 *Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013) (awarding
10 \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx) (C.D.
11 Cal. Mar. 17, 2011) (awarding \$14,767 service award); *Magee v. American Residential Services, LLC*,
12 Case No. BC423798, Los Angeles County Superior Court (Apr. 21, 2011) (awarding \$15,000 service
13 award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
14 Superior Court (June 24, 2010) (awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case
15 No. BC438654, L.A. County Superior Court (Dec. 12, 2012) (awarding \$10,000 service awards to three
16 named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles
17 County Superior Court (Mar. 21, 2011) (awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores,*
18 *Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11, 2010) (awarding \$10,000
19 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County
20 Superior Court (Oct. 3, 2013) (awarding \$10,000 service award); *Ethridge v. Universal Health Services,*
21 *Inc.*, Case No. BC391958, Los Angeles County Superior Court (May 27, 2011) (awarding \$10,000 service
22 award); *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County
23 Superior Court (Mar. 27, 2012) (awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case
24 No. BC422934, Los Angeles County Superior Court (July 2, 2012) (awarding \$10,000 service award);
25 *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court,
26 (Aug. 19, 2011) (awarding \$10,000 service award together with additional compensation for their general
27 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court (Jan. 29,

2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The Industrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

15. The requested service award is also reasonable in light of the reputational risk that Plaintiff assumed in bringing this action against her former employer. Plaintiff put his future employment prospects at risk by becoming a class representative as the fact that he filed a lawsuit "is searchable on the internet and may become known to prospective employers when evaluating" him for employment. *Guippone v.*

1 *BH S&B Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct. 28, 2011). Employers
2 routinely screen employee candidates to determine whether they have ever filed a suit against other
3 employers, allowing them to screen out the litigious candidates. An entire industry exists that allows
4 employers to run extensive background searches on potential employees. Companies who provide these
5 services specifically highlight the fact that their services allows employers to weed out litigious
6 employment candidates. Reliable Plant outlines ways that employers can "get a sense of whether a
7 prospective employee is likely to sue" the employer, through background checks and other means, to
8 screen out these employees.⁹ Onicra Credit Rating Agency states: "Background screening has become
9 a necessity in today's litigious society." Back Track Screening also represents: "In today's litigious
10 culture, employers simply cannot afford to hire employees who will put their company at risk."¹⁰
11 PreciseHire also offers employment screening and similarly warns: "with today's business climate being
12 extremely competitive and highly litigious, conducting pre employment background checks has become
13 a necessity."¹¹

14 16. As a result, Class Counsel respectfully requests approval of the application for award of
15 the Class Counsel Fees Payment equal to one-third (1/3) of the common fund, an award of litigation
16 expenses in the amount of \$12,638.21, and approval of the requested service award to the Plaintiff. 100%
17 of the attorneys' fees awarded will be paid to Blumenthal Nordrehaug Bhowmik De Blouw LLP.

18
19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and correct. Executed this 30th day of August, 2024, at San Diego, California.

21
22 /s/ Norman Blumenthal
23 NORMAN B. BLUMENTHAL

24
25 ⁹ www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees.

26 ¹⁰ <http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf>.

27 ¹¹ [https://precisehireblog.wordpress.com/2013/11/21/pre-employment-background-checks-](https://precisehireblog.wordpress.com/2013/11/21/pre-employment-background-checks-have-become-a-business-necessity/)
28 [have-become-a-business-necessity/](https://precisehireblog.wordpress.com/2013/11/21/pre-employment-background-checks-have-become-a-business-necessity/).

EXHIBIT #1

Blumenthal Nordrehaug Bhowmik De Blouw LLP

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FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

Educated: University of California, Irvine; California Western School of Law

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua*

Sponte Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

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Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lešević v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL, Azima v. CSI Medical Group, – Santa Clara County Superior Court, Case No. 19CV345450; Porrás v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v.

Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

EXHIBIT #2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Kenneth Nguyen (“Plaintiff”) and defendant Port Plastics, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Kenneth Nguyen v. Port Plastics, Inc.*, Case No. 22CV394401, initiated on February 15, 2022 and subsequently consolidated with the case captioned *Kenneth Nguyen v. Port Plastics, Inc.*, Case No. 22CV394403, now pending in Superior Court of the State of California, County of Santa Clara.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “Aggrieved Employees” means all individuals who worked for Defendant Port Plastics, Inc. in California who were classified as non-exempt and/or hourly paid employees and who worked at any time during the PAGA Period.
- 1.5. “Class” means all individuals who are employed by or previously were employed by Defendant Port Plastics, Inc. in California who were classified as non-exempt and/or hourly paid employees and who worked at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 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 Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement

compliance procedures, and related litigation expenses billed in connection with the Action.

- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, Facebook, or other available contact methods as determined by the Administrator.
- 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.13. “Class Period” means the period of time from February 15, 2018 through the earlier of the date of an order approving Plaintiff’s motion for preliminary approval, or August 1, 2023 unless modified by agreement of the parties in accordance with the terms of Paragraph 9 below.
- 1.14. “Class Representative” means the named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.15. “Class Representative Service Payment” means the service payment made to the Plaintiff as Class Representative in order to compensate for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiff.
- 1.16. “Court” means the Superior Court of California, County of Santa Clara.

- 1.17. “Defendant” means Port Plastics, Inc.
- 1.18. “Defense Counsel means Thomas M. McInerney and Paul M. Smith of Ogletree, Deakins, Nash, Smoak & Stewart P.C
- 1.19. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.20. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.21. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.22. “Gross Settlement Amount” means Three Hundred Fifty Thousand Dollars (\$350,000) which is the total amount to be paid by Defendant as provided by this Agreement unless modified in accordance with the terms of Paragraph 9.. 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 Litigation 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 PAGA Pay Periods worked during the PAGA Period.
- 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval

substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.

- 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: (a) Individual PAGA Payments; (b) the LWDA PAGA Payment; (c) Class Representative Service Payment; (d) Class Counsel Fees Payment; (e) Class Counsel Litigation Expenses Payment; and (f) the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.29. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 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 of time from December 9, 2020 through the earlier of the date of an order approving Plaintiff’s motion for preliminary approval, or August 1, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s December 9, 2020 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties of \$15,000 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$3,750) and the 75% to LWDA (\$11,250) 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.
- 1.36. “Plaintiff” means Kenneth Nguyen, the named plaintiff in the Action.
- 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.

- 1.38. “Released Class Claims” means all class claims pled or which reasonably could have been pled based on the factual allegations contained in the Operative Complaint which occurred during the Class Period, expressly excluding Plaintiff’s individual claims alleged in the Operative Complaint (e.g., Discrimination and Retaliation in Violation of the Fair Employment and Housing Act; Wrongful Termination in Violation of Public Policy). 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 (“FEHA”), unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.
- 1.39. “Released PAGA Claims” means all PAGA claims pled or which reasonably could have been pled based on the factual allegations contained in the Operative Complaint and Plaintiff’s December 9, 2021 Letter to the Labor and Workforce Development Agency which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims (except as to Released Class Claims), claims for wrongful termination, discrimination, unemployment insurance, disability and worker’s compensation, and claims outside of the PAGA Period.
- 1.40. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.
- 1.41. “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.
- 1.42. “Response Deadline” means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her Objection to the Settlement. Class Members to whom Class 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.
- 1.43. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.44. “Workweek” means any week (Monday to Sunday) during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

- 2.1. On February 15, 2022, Plaintiff filed a Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Santa Clara, asserting a single cause of action for violation of the Private Attorneys General Act, Cal. Labor Code §§ 2698, et seq. ("PAGA"), Case No. 22CV394401 (hereinafter "Action" or "PAGA Action").
- 2.2. On February 15, 2022, Plaintiff commenced a Class Action by filing a Complaint against Defendant in the Superior Court of the State of California, County of Santa Clara, Case No. 22CV394403. Plaintiff's Complaint asserted claims that Defendant:
- (a) Violated California Business and Professions Code § 17200 et seq.;
 - (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197, and 1197.1;
 - (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
 - (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - (f) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
 - (g) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802;
 - (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203;
 - (i) Discrimination and retaliation in violation of FEHA; and,
 - (j) Wrongful termination in violation of public policy.
- 2.3. On July 28, 2022, Plaintiff filed a Consolidated Class Action and Representative Action Complaint in the Action which consolidated the claims alleged in both the PAGA Action and the Class Action.
- 2.4. The Consolidated Class Action and Representative Action Complaint is the operative complaint in the Action (the "Operative Complaint").
- 2.5. 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.
- 2.6. On April 27, 2023, the Parties participated in an all-day mediation presided over by Louis Marlin, 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 based upon a mediator's proposal 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.

- 2.7. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.9. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$350,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class

Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be \$116,666, and a Class Counsel Litigation Expenses Payment of not more than \$21,000. Defendant will not oppose requests for these payments provided payments do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$5,500 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$5,500, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$15,000 to be paid from the Gross Settlement Amount, with 75% (\$11,250) allocated to the LWDA PAGA Payment and 25% (\$3,750) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume

full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records, Defendant represented that as of the time of mediation, the Class consisted of approximately 69 Class Members who collectively worked a total of 10,510 Workweeks ("Mediation Estimate") through April 27, 2023, and approximately 49 Aggrieved Employees who worked a total of 2,241 PAGA Pay Periods.
- 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any

extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

- 4.3. Funding of the Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 15 days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date", which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.
- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check, the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator

shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

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

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

6. RELEASE OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will release claims against all Released Parties as follows:

6.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, to any of Plaintiff's individual claims alleged in the Operative Complaint (e.g. Discrimination and Retaliation and Wrongful Termination), or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

(a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release,

and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

6.2. Release by Participating Class Members. 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 the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA 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 the Released PAGA Claims.

7. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s procedures and instructions.

7.1. 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 Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from 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; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

7.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval and will use

their best efforts to complete such filing within 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, Apex Class Action LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 8.2. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 8.4. Notice to Class Members.

- (a) No later than five (5) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice [with Spanish translation, if applicable] substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than 7 days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members’ written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include said persons as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later. The designation of such persons as Class Members will necessitate the Administrator’s recalculation of the Individual Class Payment and Individual PAGA Payment (if applicable) for all Class Members, which may result in a different payment from the estimated amounts provided in the Class Notice. The Administrator is not required to notify Class Members of this change in advance of issuing the Individual Class Payment and/or Individual PAGA Payment.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline and clearly indicate the Class Member's desire to be excluded from the Class Settlement.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.
- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the

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

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.8. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise, including but not limited to all of the following:

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Order Granting Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment, the Order Granting Final Approval and the

Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee

identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided figures as to the estimated class size at mediation, as set forth in paragraph 4.1 above. In the event that the actual number of Workweeks set forth in paragraph 4.1 above increases by more than 10% above the 10,510 Workweeks Mediation Estimate (i.e., the actual Workweeks exceeds 11,561), Defendant may: (a) increase the Gross Settlement Amount proportionally by the same percentage of Workweeks that exceeds 10%, (b) shorten the Class Period (but not the PAGA Period) to stay within the 10% cushion, or (c) increase the Gross Settlement Amount proportionally by the same percentage of Workweeks through a shortened Class Period as agreed upon by the parties. For example, under option (c), if the total Workweeks through December 31, 2022 is 15% above the Mediation Estimate, Defendant may elect to increase the Gross Settlement Amount by 5% to secure the release of claims through December 31, 2022 in lieu of securing the release August 1, 2023. The parties agree however, that any release shortening the Class Period shall have no effect on the PAGA Period.
- 10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Administration Expenses incurred as of the date Defendant makes this election to withdraw, which amount shall not exceed the Administration Expenses Payment. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
- 11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for

Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in good faith, to resolve any disagreements (if any) concerning the Motion for Final Approval.

11.1. 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 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2. 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 a Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. 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 under C.C.P. section 664.6 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.

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

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. 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.

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

13. ADDITIONAL PROVISIONS

- 13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff and the Class:

Norman B. Blumenthal
Kyle R. Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232

E-Mail(s): norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Thomas M. McInerney
Paul M. Smith
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111
Tel.: 415-442-4810
Fax: 415-442-4870
E-mail(s): tmm@ogletree.com
paul.smith@ogletree.com

- 13.18. 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.
- 13.19. 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 and pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation on April 27, 2023 until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.
- 13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: Nov 8, 2023

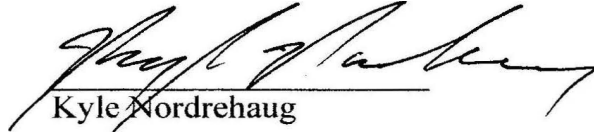
kenneth Nguyen
kenneth Nguyen (Nov 8, 2023 13:56 PST)
Plaintiff Kenneth Nguyen

Dated: 10-4-23



Chris Chotard, CFO [name]
For Defendant Port Plastics, Inc.

Dated: 11/8/23



Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 10/9/23



Thomas A. McInerney
Paul M. Smith
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
Attorney for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

EXHIBIT “A”

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

*Nguyen v. Port Plastics, Inc., Superior Court of the State of California,
(County of Santa Clara, Case No. 22CV394401)*

*The Superior Court for the State of California authorized this Notice.
READ IT CAREFULLY!*

It is not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Port Plastics, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Kenneth Nguyen (“Plaintiff”) and seeks payment of (1) wages and other relief for the Class of all individuals who are employed by or previously were employed by Defendant Port Plastics, Inc. in California who were classified as non-exempt and/or hourly paid employees and who worked at any time during the Class Period which is February 15, 2018 through August 1, 2023 (“Class Members”), and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all individuals who worked for Defendant Port Plastics, Inc. in California who were classified as non-exempt and/or hourly paid employees and who worked at any time during the PAGA Period which is December 9, 2020 through August 1, 2023 (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payment payments to Class Members, and (2) a PAGA Settlement requiring Defendant to fund the PAGA Penalties to pay penalties to the California Labor and Workforce Development Agency (“LWDA”) and to Aggrieved Employees.

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

The above estimates are based on Defendant’s records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay periods** during the PAGA Period. If you believe that you worked more workweeks and/or pay periods during either period, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

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. You will be deemed to have carefully read and understood this Notice. 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 Defendant to make payments under the Settlement and in exchange requires Class Members to give up their rights to assert certain claims against Defendant.

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

- (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or a share of the PAGA Penalties. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims against Defendant as described in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion. If you opt-out of the Settlement, you will not receive an Individual Class Payment, however you will preserve your right to personally pursue Class Period wage claims against Defendant. If you are an Aggrieved Employee, you remain eligible for a share of the PAGA Penalties. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Class Claims). Additional information is set forth below.
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Response Deadline is ____.	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. If you request exclusion, you will receive no money from the Class Settlement and you will not be bound by the Class Settlement. 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 7 of this Notice.

	However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by the Response Deadline (_____)	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 8 of this Notice.
You Can Participate in the Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Santa Clara County Superior Court, located at 191 North First Street, San Jose, CA 95113, in Department 3 before Judge Patricia M. Lucas. This hearing may change as explained below in Section 9. You may also be able to appear at this hearing via telephone or video conferencing software via the court’s website. You do not 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 using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice.
You Can Challenge the Calculation of Your Workweeks / Pay Periods Written Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment and your share of the PAGA Penalties (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 of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of Santa Clara (the “Court”), has been reached between Plaintiff and Defendant and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

All individuals who are employed by or previously were employed by Defendant Port Plastics, Inc. in California who were classified as non-exempt and/or hourly paid employees and who worked at any time during the Class Period.

The “Class Period” is February 15, 2018 through August 1, 2023.

2. What is this class action lawsuit about?

On February 15, 2022, Plaintiff filed a Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Santa Clara, asserting a single cause of action for violation of the Private Attorneys General Act, Cal. Labor Code §§ 2698, et seq. (“PAGA”), Case No. 22CV394401 (hereinafter “Action” or “PAGA Action”).

On February 15, 2022, Plaintiff filed a class action complaint against Defendant in the Superior Court of the State of California, County of Santa Clara Case No. 22CV394403 (hereinafter “Class Action”). Plaintiff asserted the following class claims against Defendant: unfair competition, failure to pay minimum wages, failure to pay overtime wages, failure to provide required meal periods and unpaid premiums, failure to provide required rest periods and unpaid premiums, failure to provide accurate itemized wage statements, failure to reimburse employees for required expenses, and failure to pay wages when due.

On July 28, 2022, Plaintiff filed a Consolidated Class Action and Representative Action Complaint in the Action which consolidated the claims alleged in both the PAGA Action and the Class Action. The Consolidated Class Action and Representative Action Complaint is the operative complaint in the Action (the “Operative Complaint”).

Defendant denies that it has done anything wrong and disputes all the claims in the Action. Specifically, Defendant contends that Plaintiff and the Class Members were, at all times, properly compensated for wages under California law; that Plaintiff and the Class Members were provided with meal and rest periods in compliance with California law; that Defendant did not fail to pay to Class Members any wages allegedly due at the time of their termination; that Defendant did not fail to reimburse Class Members for required expenses; that Defendant complied with California wage statement requirements; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; that Defendant is not liable for any of the penalties sought or that could be sought in the Action; and that this Action cannot be maintained as a class or representative action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm Blumenthal Nordrehaug Bhowmik De Blouw LLP

to serve as Class Counsel.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with the business operations of Defendant, the Parties concluded that it is in their best interests and the interests of the Class to settle the Action now on the terms summarized in this Class Notice. The Settlement was reached after mediation and arm's-length negotiations between the Parties. The Plaintiff and Class Counsel think the settlement is in the best interest of all Class Members.

Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, who expressly denies all liability.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendant has agreed to pay an "all in" amount of **Three Hundred Fifty Thousand Dollars (\$350,000) (the "Gross Settlement Amount") to fund the settlement of the Action.** The Gross Settlement Amount includes all payments of Individual Class Payments to Class Members, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, the Administration Expenses Payment, and the PAGA Penalties for civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Defendant shall fully fund the Gross Settlement Amount no later than 15 days after the Effective Date. The Effective Date is the date the Judgment is entered, unless there are objections or an appeal, in which case the Effective Date is the date the Judgment is final and no longer subject to appeal. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.

Court Approved Deductions from Gross Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Gross Settlement Amount before payments of Individual Class Payments are made to Class Members who do not request exclusion ("Participating Class Members"). At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:

- **Administration Expenses Payment.** Payment to the Administrator, estimated not to exceed \$5,500, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- **Attorneys' Fees and Costs.** Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Gross Settlement Amount, which presently equals \$116,666, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$21,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated

are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.

- Class Representative Service Payment. A Class Representative Service Payment in an amount not more than \$10,000 to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate for services on behalf of the Class in initiating and prosecuting the Action, and for the risks Plaintiff undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Penalties. A payment of \$15,000 relating to Plaintiff's claim under PAGA, \$11,250 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$3,750 will be distributed to the Aggrieved Employees as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$3,750) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period (December 9, 2020 through August 1, 2023).

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

Calculation of Payments to Class Members. After all payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Penalties, and the Administration Expenses Payment are deducted from the Gross Settlement Amount, the remaining portion, the "Net Settlement Amount", shall be distributed as Individual Class Payments to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$_____. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day. The number of Workweeks will be based on Defendant's records, however, Class Members may challenge the number of Workweeks as explained below.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty Percent (20%) of each Participating Class Member's Individual Class

Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating Class Member’s Individual Class Payment is in settlement of claims for alleged non-wages, expense reimbursement, interest and penalties (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering Judgment.

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 Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Need to Promptly Cash Payment Checks. The front of every check issued 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 funds represented by such checks remitted to the California Controller's Unclaimed Property Fund in the name of the individual who failed to cash their check.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full finding of the Gross Settlement Amount by Defendant, 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 the Released Class Claims. The “Released Class Claims” are all class claims pled or which reasonably could have been pled based on the factual allegations contained in the Operative Complaint which occurred during the Class Period, expressly excluding Plaintiff’s individual claims alleged in the Operative Complaint (e.g., Discrimination and Retaliation in Violation of the Fair Employment and Housing Act; Wrongful Termination in Violation of Public Policy). 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 (“FEHA”), unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or any other

Released Party about the Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in the Actions will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date and upon full funding of the Gross Settlement Amount by Defendant, all Aggrieved Employees and the LWDA 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 the Released PAGA Claims. The "Released PAGA Claims" are all PAGA claims pled or which reasonably could have been pled based on the factual allegations contained in the Operative Complaint and Plaintiff's December 9, 2021 Letter to the Labor and Workforce Development Agency which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims (except as to Released Class Claims), claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its former and present directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and subsidiaries.

5. How much will my payment be?

Defendant's records reflect that you worked <<____>> Workweeks during the Class Period (February 15, 2018 through August 1, 2023).

Based on this information, your estimated Individual Class Payment from the Net Settlement Amount is <<____>>.

[Defendant's records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (December 9, 2020 through August 1, 2023). Based on this information, your estimated Individual PAGA Payment is <<____>>.]

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the Response Deadline, which is _____ [sixty (60) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. The address for the Administrator is _____ . You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Administrator. The Administrator is: ILYM Group _____ (800) _____.

The Court will hold a Final Approval Hearing on _____ at _____ to decide whether to approve the Settlement and fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to Plaintiff. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment from the Settlement, and you will not be bound by its terms, which means you will retain the right to sue Defendant for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion.

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Nguyen v. Port Plastics, Inc.* lawsuit. The request to opt-out should state the Class Member's full name. Please include the name and number of the case, which is *Nguyen v. Port Plastics, Inc.*, Case No. 22CV394401. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

The address for the Administrator is _____. Written requests for exclusion that are postmarked after _____, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. 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 Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiff will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and for Attorneys' Fees, Litigation Expenses and Service Award stating (a) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (b) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Nguyen v. Port Plastics, Inc.* or on the via the Case Information Portal for the California Superior Court for the County of Santa Clara (<https://cmportal.sccourt.org/Portal>) and entering the Case No. 22CV394401.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and for Attorneys' 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 Response Deadline for sending written objections to the Administrator is _____** [sixty (60) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. 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, *Nguyen v. Port Plastics, Inc.*, Case No. 22CV394401, and include your name. The Administrator's contact information is as follows:

Administrator:

Name of Company: ILYM Group

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

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. You also have the option to appear at the hearing remotely through the Court's procedure at https://www.scsccourt.org/general_info/news_media/courtAppearances.shtml. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik DeBlouw LLP
2255 Calle Clara
La Jolla, CA 92037
Tel.: (858) 551-1223
Fax: (858) 551-1232
E-Mail: kyle@bamlawca.com

COUNSEL FOR DEFENDANT:

Thomas M. McInerney
Paul M. Smith
Ogletree, Deakins, Nash, Smoak & Stewart P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 3 of the Superior Court of California, County of Santa Clara County Superior Court, located at 191 North First Street, San Jose, CA 95113, before Judge Patricia M. Lucas. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to Plaintiff. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

The judge overseeing this case encourages remote appearances. (As of August 15, 2022, the Court's remote platform is Microsoft Teams.) Class members who wish to appear remotely should contact class counsel at least three days before the hearing if possible. Instructions for appearing remotely are provided at https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members may appear remotely using the Microsoft Teams link for Department 3 (Afternoon Session) or by calling the toll free conference call number for Department 3. Any class member who wishes to appear in person should check in at Court Services (1st floor, Downtown Superior Courthouse, 191 N. 1st St., San Jose) and wait for a sheriff's deputy to escort him or her to the courtroom for the hearing.

It is possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Nguyen v. Port Plastics, Inc.* In addition, hearing dates are posted on the Internet via the Case Query page for the California Superior Court for the County of Santa Clara (<https://www.sfsuperiorcourt.org/>) and entering the Case No. 22CV394401.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Nguyen v. Port Plastics, Inc.* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Nguyen v. Port Plastics, Inc.* You may get more details by examining the Court's file on the Internet via the Case Information Portal for the California Superior Court for the County of Santa Clara (<https://cmpportal.scsccourt.org/Portal>) and entering the Case No. 22CV394401. If you wish to view the Court files in person, you should go to the Clerk's Office located at 191 North First Street, San Jose, CA 95113.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

KENNETH NGUYEN, on behalf of the State
of California, as a private attorney general, and
as an individual, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiff,

v.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **22CV394401**
[Consolidated with Case No. 22CV394403]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Patricia M. Lucas
Dept.: 3

Action Filed: February 15, 2022
Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter came before the Honorable Patricia M. Lucas of the Superior Court of the State
2 of California, in and for the County Santa Clara, on _____[DATE], for the motion by
3 Plaintiff Kenneth Nguyen (“Plaintiff”) for preliminary approval of the class settlement with
4 Defendant Port Plastics, Inc. (“Defendant”). The Court, having considered the briefs, argument of
5 counsel and all matters presented to the Court and good cause appearing, hereby GRANTS
6 Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

7 **IT IS HEREBY ORDERED:**

8 1. The Court preliminarily approves the Class Action and PAGA Settlement
9 Agreement (“Agreement”) submitted as Exhibit #1 to the Declaration of Kyle Nordrehaug in
10 Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement. This
11 preliminary approval is based on the Court’s determination that the Settlement set forth in the
12 Agreement is within the range of possible final approval, pursuant to the provisions of section 382
13 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

14 2. This Order incorporates by reference the definitions in the Agreement, and all
15 terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

16 3. The Gross Settlement Amount is Three Hundred Fifty Thousand Dollars
17 (\$350,000). It appears to the Court on a preliminary basis that the settlement amount and terms
18 are fair, adequate and reasonable as to all potential Class Members when balanced against the
19 probable outcome of further litigation and the significant risks relating to certification, liability and
20 damages issues. It further appears that investigation and research have been conducted such that
21 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
22 to the Court that settlement at this time will avoid substantial additional costs by all Parties, as
23 well as avoid the delay and risks that would be presented by the further prosecution of the Action.
24 It further appears that the Agreement has been reached as the result of serious and non-collusive,
25 arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,
26 adequate, and reasonable when balanced against the probable outcome of further litigation and the
27 significant risks relating to certification, liability, and damages issues.

1 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
2 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed Twenty-One
3 Thousand Dollars (\$21,000), and a proposed Class Representative Service Payment to the Plaintiff
4 in an amount not to exceed Ten Thousand Dollars (\$10,000). The Court will not approve the
5 amount of attorneys' fees and litigation expenses, nor the amount of any service award, until the
6 Final Approval Hearing. Plaintiff will be required to present evidence supporting these requests
7 prior to final approval.

8 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to
9 certification of a class for settlement purposes only. This stipulation will not be deemed
10 admissible in this or any other proceeding should this Settlement not become final. For settlement
11 purposes only, the Court conditionally certifies the following Class: "all individuals who are
12 employed by or previously were employed by Defendant Port Plastics, Inc. in California who were
13 classified as non-exempt and/or hourly paid employees and who worked at any time during the
14 Class Period." The Class Period is February 15, 2018 through August 1, 2023.

15 6. The Court concludes that, for settlement purposes only, the Class meets the
16 requirements for certification under section 382 of the California Code of Civil Procedure in that:
17 (a) the Class is ascertainable and so numerous that joinder of all members of the Class is
18 impracticable; (b) common questions of law and fact predominate, and there is a well-defined
19 community of interest amongst the members of the Class with respect to the subject matter of the
20 litigation; (c) the claims of the Plaintiff are typical of the claims of the members of the Class;
21 (d) the Plaintiff can fairly and adequately protect the interests of the members of the Class; (e) a
22 class action is superior to other available methods for the efficient resolution of this controversy;
23 and (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an
24 adequate representative of the Class.

25 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
26 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug and Aparajit Bhowmik
27 of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class.

1 8. The Court hereby approves, as to form and content, the Court Approved Notice of
2 Class Action Settlement and Hearing Date for Final Court Approval (“Class Notice”), submitted
3 as Exhibit A to the Agreement. The Court finds that the Class Notice appears to fully and
4 accurately inform the Class of all material elements of the proposed Settlement, of the Class
5 Members’ right to be excluded from the Class by submitting a written opt-out request, and of each
6 Class Member’s right and opportunity to object to the Settlement. The Court further finds that the
7 distribution of the Class Notice substantially in the manner and form set forth in the Agreement
8 and this Order meets the requirements of due process, is the best notice practicable under the
9 circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The
10 Court orders the mailing of the Class Notice by first class mail, pursuant to the terms set forth in
11 the Agreement. If a Class Notice Packet is returned because of an incorrect address, the
12 Settlement Administrator will promptly search for a more current address for the Class Member
13 and re-mail the Class Notice Packet to the Class Member.

14 9. The Court hereby appoints ILYM Group, Inc. as Administrator for the Settlement.
15 No later than fifteen (15) calendar days after issuance of this Order, Defendant shall provide to the
16 Administrator an electronic spreadsheet with the Class Data. This information will otherwise
17 remain confidential and will not be disclosed to anyone, except as required to applicable taxing
18 authorities, to carry out the procedures in the Agreement, or pursuant to Defendant’s express
19 written authorization or by order of the Court. The Administrator will perform address updates
20 and verifications as necessary prior to the mailing of the Class Notice. Using best efforts to mail it
21 as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class
22 Data spreadsheet, the Administrator will mail the Class Notice Packet to all Class Members via
23 first-class U.S. Mail.

24 10. The Court hereby preliminarily approves the proposed procedure for exclusion
25 from the Settlement. Any Class Member may individually choose to opt-out of and be excluded
26 from the Class as provided in the Class Notice by following the instructions set forth in the Class
27 Notice. All requests for exclusion must be sent to the Administrator and postmarked by no later
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1 than the Response Deadline, which is sixty (60) calendar days after the Administrator initially
2 mails the Class Notice Packets to the Class Members. If the Class Notice Packet is re-mailed, this
3 Response Deadline will be extended an additional fourteen (14) calendar days. Any person who
4 chooses to opt-out of and be excluded from the Class will not be entitled to any recovery under the
5 Settlement and will not be bound by the Settlement or have any right to object, appeal or comment
6 thereon. Aggrieved Employees shall be sent their Individual PAGA Payment and will be subject to
7 the release of the Released PAGA Claims regardless of whether they opt-out of the Class. Class
8 Members who have not requested exclusion shall be bound by all determinations of the Court, the
9 Agreement, and the Judgment. A request for exclusion applies only to the individual submitting
10 the request for exclusion, and any attempt to effect an opt-out on behalf of any other individual or
11 individuals (including a group, class, or subclass of individuals) is not permitted and will be
12 deemed invalid.

13 11. Any Class Member who has not opted-out may appear at the Final Approval
14 Hearing and may object or express the Class Member's views regarding the Settlement and may
15 present evidence and file briefs or other papers that may be proper and relevant to the issues to be
16 heard and determined by the Court as provided in the Class Notice. Class Members will have
17 until the Response Deadline set forth in the Class Notice to submit their written objections to the
18 Administrator in accordance with the instructions in the Class Notice. If the Class Notice is re-
19 mailed, the Response Deadline will be extended an additional fourteen (14) calendar days.
20 Alternatively, Class Members may appear at the Final Approval Hearing to make an oral
21 objection.

22 12. A Final Approval Hearing shall be held before this Court on _____
23 _____ at _____ in Department 3 at the of the Santa Clara County Superior Court to
24 determine all necessary matters concerning the Settlement, including: whether the proposed
25 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
26 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
27 Order and Judgment should be entered herein; whether the plan of allocation contained in the
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1 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
2 finally approve attorneys' fees and costs, the service awards, and the expenses of the
3 Administrator. The motion for final approval of the class settlement and for an award of
4 attorneys' fees, costs and service award shall be filed with the Court and served on all counsel no
5 later than sixteen (16) court days before the hearing and shall be heard at the Final Approval
6 Hearing.

7 13. Neither the Settlement nor any exhibit, document, or instrument delivered
8 thereunder shall be construed as a concession or admission by Defendant in any way that the
9 claims asserted have any merit or that this Action was properly brought as a class or representative
10 action, and shall not be used as evidence of, or used against Defendant as, an admission or
11 indication in any way, including with respect to any claim of any liability, wrongdoing, fault or
12 omission by Defendant or with respect to the truth of any allegation asserted by any person.
13 Whether or not the Settlement is finally approved, neither the Agreement, nor any exhibit,
14 document, statement, proceeding or conduct related to the Settlement or Agreement, nor any
15 reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as,
16 received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not
17 limited to, evidence of a presumption, concession, indication or admission by Defendant of any
18 liability, fault, wrongdoing, omission, concession or damage.

19 14. In the event the Settlement does not become effective in accordance with the terms
20 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
21 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
22 and the Parties shall revert to their respective positions as of before entering into the Agreement,
23 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
24 including all available defenses and affirmative defenses, and arguments that no claim in the
25 Action could be certified as a class action and/or managed as a representative action. In such an
26 event, the Court's orders regarding the Settlement, including this Order, shall not be used or
27 referred to in litigation or otherwise for any purpose.

1 15. The Court reserves the right to adjourn or continue the date of the Final Approval
2 Hearing and all dates provided for in the Agreement without further notice to Class Members and
3 retains jurisdiction to consider all further applications arising out of or connected with the
4 proposed Settlement.

5 16. The Action is stayed and all trial and related pre-trial dates are vacated, subject to
6 further orders of the Court at the Final Approval Hearing.

7 **IT IS SO ORDERED.**

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9 Dated: _____

HON. PATRICIA M. LUCAS
JUDGE, SUPERIOR COURT OF CALIFORNIA

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PRELIMINARY APPROVAL ORDER

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA

KENNETH NGUYEN, on behalf of the State
of California, as a private attorney general, and
as an individual, on behalf of himself and on
behalf of all persons similarly situated,

Plaintiff,

v.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: 22CV394401

[Consolidated with Case No. 22CV394403]

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Patricia M. Lucas
Dept.: 3

Action Filed: February 15, 2022
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Kenneth Nguyen (“Plaintiff”) for an order finally approving the
2 class action settlement of this action between Plaintiff and Defendant Port Plastics, Inc.
3 (“Defendant”) came on for hearing on _____ before the Honorable Patricia M. Lucas.

4 The motion is GRANTED, as set forth below.

5 **I.**

6 **FINDINGS**

7 Based on the oral and written argument and evidence presented in connection with the
8 motion, the Court makes the following findings:

9 1. All terms used herein shall have the same meaning as defined in the Class Action
10 and PAGA Settlement Agreement (the “Agreement”).

11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the California Superior Court for the County of Santa Clara, and over all Parties to this litigation,
13 including the Class.

14 3. Based on a review of the papers submitted by Plaintiff and a review of the
15 applicable law, the Court finds that the Gross Settlement Amount of Three Hundred Fifty
16 Thousand Dollars (\$350,000) and the terms set forth in the Agreement are fair, reasonable, and
17 adequate.

18 4. The Court further finds that the Settlement was the result of arm’s length
19 negotiations conducted after Class Counsel had adequately investigated the claims and became
20 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
21 Settlement, the significant risks relating to certification, liability, and damages issues, and the
22 assistance of an experienced mediator in the settlement process, among other factors, support the
23 Court’s conclusion that the Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

25 5. On _____, the Court granted preliminary approval of the Agreement. At
26 this same time, the Court approved conditional certification of the Class for settlement purposes
27 only. The Court also approved the form and method of the Class Notice, appointed Plaintiff as the
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1 Class Representative, appointed Norman B. Blumenthal, Kyle R. Nordrehaug and Aparajit
2 Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class,
3 and appointed ILYM Group as the Administrator.

4 **Notice to the Class**

5 6. In compliance with the Preliminary Approval Order, the Class Notice Packet was
6 mailed by first class mail to members of the Class at their last known addresses on or about
7 _____. Mailing of the Class Notice to their last known addresses was the best notice
8 practicable under the circumstances and was reasonably calculated to communicate actual notice
9 of the litigation and the proposed settlement to the Class. The Class Notice given to the Class
10 Members fully and accurately informed the Class Members of all material elements of the
11 proposed Settlement and of their opportunity to object to or comment thereon or to seek exclusion
12 from the Settlement; was valid, due, and sufficient notice to all Class Members; and complied
13 fully with the laws of the State of California, the United States Constitution, due process and other
14 applicable law. The Class Notice fairly and adequately described the Settlement and provided
15 Class Members adequate instructions and a variety of means to obtain additional information.

16 7. The Response Deadline for opting out of the Class or submitting written objections
17 to the Settlement was _____, which Response Deadline was extended by 14 days in the
18 event of a re-mailing. There was an adequate interval between notice and the deadline to permit
19 Class Members to choose what to do and act on their decision. A full opportunity has been
20 afforded to the Class Members to participate in this hearing, and all Class Members and other
21 persons wishing to be heard have been heard. Class Members also have had a full and fair
22 opportunity to exclude themselves from the proposed Settlement and Class. Accordingly, the
23 Court determines that all Class Members who did not timely and properly submit a request for
24 exclusion in accordance with the Agreement are bound by the Settlement and this Final Approval
25 Order and Judgment.

1 **Fairness Of Settlement**

2 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
3 48 Cal.App.4th 1794, 1801 (1996).

4 a. The settlement was reached through arm's-length bargaining between the
5 parties during an all-day mediation before Louis Marlin, a respected and experienced mediator of
6 wage and hour class actions. There has been no collusion between the parties in reaching the
7 proposed settlement.

8 b. Plaintiff's investigation and discovery have been sufficient to allow the
9 Court and counsel to act intelligently.

10 c. Counsel for both Parties are experienced in similar employment class action
11 litigation. All counsel recommended approval of the Agreement.

12 d. [There were no objectors/the percentage of objectors and requests for
13 exclusion is small. ____ objections were received. _____ requests for exclusion were
14 received].

15 9. The consideration to be given to the Class Members under the terms of the
16 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
17 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
18 Members' claims, given the uncertainties and significant risks of the litigation and the delays
19 which would ensue from continued prosecution of the action.

20 10. The Agreement is approved as fair, adequate and reasonable and in the best
21 interests of the Class Members.

22 **Attorneys' Fees and Costs**

23 11. A Class Counsel Fees Payment award of \$_____, and Class Counsel
24 Litigation Expenses Payment award of \$_____ are reasonable, in light of the
25 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
26 achieved by Class Counsel. The requested award has been supported by Class Counsel's lodestar
27 and billing statement.

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FINAL APPROVAL ORDER AND JUDGMENT

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Administration Expenses Payment

13. The Administrator shall calculate and administer the payment to be made to the Participating Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the Class Representative Service Payment to the Plaintiff, distribute the PAGA Penalties, issue any required tax reporting forms, calculate withholdings and perform the other remaining duties set forth in the Agreement. The Administrator has documented \$_____ for the Administration Expenses Payment, and this amount is reasonable in light of the work performed by the Administrator.

13. The Administrator shall calculate and administer the payment to be made to the Participating Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the Class Representative Service Payment to the Plaintiff, distribute the PAGA Penalties, issue any required tax reporting forms, calculate withholdings and perform the other remaining duties set forth in the Agreement. The Administrator has documented \$_____ for the Administration Expenses Payment, and this amount is reasonable in light of the work performed by the Administrator.

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FINAL APPROVAL ORDER AND JUDGMENT

1 II.
2 ORDERS

3 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

4 15. The certification of the Class for the purposes of settlement is confirmed. The Class
5 is defined as follows:

6 All individuals who are employed by or previously were employed by Defendant
7 Port Plastics, Inc. in California who were classified as non-exempt and/or hourly
8 paid employees and who worked at any time during the Class Period (February 15,
9 2018 through August 1, 2023).

10 16. All persons who meet the foregoing definition are members of the Class, except
11 for those individuals who timely submitted a valid request for exclusion ("opt out") from the
12 Class. [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

13 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
14 best interest of the Class. Defendant shall fully fund the Gross Settlement Amount, and also fund
15 the amounts necessary to fully pay Defendant's share of payroll taxes in accordance with the
16 Agreement, by transmitting the funds to the Administrator no later than 15 days after the Effective
17 Date.

18 18. Class Counsel are awarded Class Counsel Fees Payment in the amount of \$_____
19 _____ and Class Counsel Litigation Expenses Payment in the amount of \$_____.
20 Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant,
21 Plaintiff or members of the Class.

22 19. The payment of the Class Representative Service Payment in the amount of \$
23 _____ to the Plaintiff is approved.

24 20. The payment of \$_____ to the Administrator as the Administration
25 Expenses Payment is approved.

26 21. The PAGA Penalties are approved and shall be allocated as set forth in the
27 Agreement.

28 FINAL APPROVAL ORDER AND JUDGMENT

1 22. A Participating Class Member must cash his or her Individual Class Payment check
2 within 180 days after the issuance of the checks. An Aggrieved Employee must cash his or her
3 Individual PAGA Payment check within 180 days after the issuance of the checks. If such checks
4 are not cashed within 120 days after the initial mailing of the checks, the Administrator will also
5 send the affected Participating Class Member and/or Aggrieved Employee a reminder notice
6 informing him or her that unless the check is cashed in the next 60 days, it will expire and become
7 non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the
8 check remains uncashed by the expiration of the 180 day period, the funds from such uncashed
9 checks shall be paid to the California Controller's Unclaimed Property Fund in the name of the
10 individual who failed to cash their check.

11 23. The Agreement and this Settlement are not an admission by Defendant, nor is this
12 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
13 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
14 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
15 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
16 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
17 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
18 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
19 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding
20 these restrictions, Defendant may file in the Action or in any other proceeding this Final Approval
21 Order and Judgment, the Agreement, or any other papers and records on file in the Action as
22 evidence of the Settlement to support a defense of res judicata, collateral estoppel, release, or other
23 theory of claim or issue preclusion or similar defense as to the Released Class Claims and the
24 Released PAGA Claims.

25 24. Notice of entry of this Final Approval Order and Judgment shall be given to all
26 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
27 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
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1 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
2 to individual Class Members.

3 25. If the Agreement does not become final and effective in accordance with the terms
4 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
5 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
6 revert to their respective positions as of before entering into the Agreement, and expressly reserve
7 their respective rights regarding the prosecution and defense of this Action, including all available
8 defenses and affirmative defenses, and arguments that any claim in the Action could not be
9 certified as a class action and/or managed as a representative action.

10
11 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

12 26. The Court hereby enters final judgment in this case in accordance with the terms of
13 the Settlement, the Preliminary Approval Order, and this Final Approval Order and Judgment.

14 27. Except as set forth in the Agreement and this Final Approval Order and Judgment,
15 Plaintiff, and all members of the Class, shall take nothing in the Action.

16 28. Pursuant to California Code of Civil Procedure section 664.6, and without affecting
17 the finality of this Judgment in any way, the Court shall retain jurisdiction to construe, interpret,
18 implement and enforce the Agreement, to hear and resolve any contested challenge to a claim for
19 settlement benefits, and to supervise and adjudicate any dispute arising from or in connection with
20 the distribution of settlement benefits.

21 29. The Parties are authorized to agree to and to adopt such amendments, modifications
22 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
23 Final Approval Order and Judgment and do not limit the rights of the Parties or Class Members
24 under the Agreement, subject to Court approval.

25 30. Each party shall bear its own attorneys' fees and costs, except as otherwise
26 provided in the Agreement and in this Final Approval Order and Judgment.

1 31. As of the Effective Date and upon full funding of the Gross Settlement Amount and
2 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
3 Defendant, all Participating Class Members, on behalf of themselves and their respective former
4 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
5 release Released Parties from the Released Class Claims. The “Released Class Claims” are all
6 class claims pled or which reasonably could have been pled based on the factual allegations
7 contained in the Operative Complaint which occurred during the Class Period, expressly excluding
8 Plaintiff’s individual claims alleged in the Operative Complaint (e.g., Discrimination and
9 Retaliation in Violation of the Fair Employment and Housing Act; Wrongful Termination in
10 Violation of Public Policy). Except as expressly set forth in this Agreement, Participating Class
11 Members do not release any other claims, including claims for vested benefits, wrongful
12 termination, violations of the Fair Employment and Housing Act (“FEHA”), unemployment
13 insurance, disability, social security, workers’ compensation, or claims based on facts occurring
14 outside the Class Period. The “Released Parties” are Defendant and each of its former and present
15 directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and
16 subsidiaries.

17 32. As of the Effective Date and upon full funding of the Gross Settlement Amount and
18 all employer payroll taxes owed on the Wage Portion of the Individual Class Payments by
19 Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of
20 themselves and their respective former and present representatives, agents, attorneys, heirs,
21 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
22 The “Released PAGA Claims” are all PAGA claims pled or which reasonably could have been
23 pled based on the factual allegations contained in the Operative Complaint and Plaintiff’s
24 December 9, 2021 Letter to the Labor and Workforce Development Agency which occurred
25 during the PAGA Period. The Released PAGA Claims do not include other PAGA claims,
26 underlying wage and hour claims (except as to Released Class Claims), claims for wrongful
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1 termination, discrimination, unemployment insurance, disability and worker's compensation, and
2 claims outside of the PAGA Period.

3 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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5 Dated: _____

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HON. PATRICIA M. LUCAS
JUDGE, SUPERIOR COURT OF CALIFORNIA

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FINAL APPROVAL ORDER AND JUDGMENT

EXHIBIT #3

BLUMENTHAL NORDREHAUG

BHOWMIK DE BLOUW LLP
2255 CALLE CLARA
LA JOLLA, CA 92037
(858) 551-1223

AUGUST 30, 2024

KENNETH NGUYEN

RE: PORT PLASTICS INC
FILE NUMBER: CA2545.001

ATTORNEY FEES

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
10/20/21	ND	REVIEW AND ANALYZE ORIGINAL INTAKE NOTES. LEGAL RESEARCH REGARDING PENDING LITIGATION IN STATE AND FEDERAL COURT. ANALYZE DEFENDANT'S BUSINESS OPERATIONS IN CA AND POTENTIAL CLASS SIZE. CONFERENCE WITH PLAINTIFF REGARDING STATUS.	4.10	850	3,485.00
10/25/21	ND	REVIEW EMAILS AND DOCUMENTS FROM PLAINTIFF REGARDING DISCRIMINATION AND RETALIATION CLAIMS. LEGAL RESEARCH REGARDING DFEH CLAIMS AND RECENT COURT OPINIONS AND POTENTIAL DAMAGES. ANALYZE PUNITIVE DAMAGES CLAIM.	3.90	850	3,315.00
11/05/21	ND	REVIEW ENTIRE EMPLOYMENT FILE FOR LEGAL CLAIMS. REVIEW ALL PAY STATEMENTS FOR 226(A) AND OVERTIME VIOLATIONS. LEGAL RESEARCH REGARDING THE SAME. CONFERENCE WITH PLAINTIFF REGARDING FACTS FOR COMPLAINT AND ORIGINS OF PAY CODES ON PAY STUBS.	4.50	850	3,825.00
11/15/21	ND	REVIEW FACTS AND LAW. DRAFT ORIGINAL COMPLAINT.	4.60	850	3,910.00
12/02/21	ND	RESPOND TO CLIENT REGARDING STATUS. DRAFT COMPLAINT.	3.20	850	2,720.00

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
12/06/21	ND	CONFERENCE WITH PLAINTIFF TO DISCUSS REVISIONS TO COMPLAINT. REVIEW AND REVISE COMPLAINT. SEND TO PLAINTIFF FOR APPROVAL TO FILE.	2.50	850	2,125.00
12/07/21	ND	REVIEW CASE FILE AND DOCUMENTS. DRAFT INTERNAL CASE NOTES MEMO DETAILING CLAIMS.	2.00	850	1,700.00
12/09/21	ND	REVIEW AND RESEARCH PAGA CLAIMS. DRAFT PAGA NOTICE. UPLOAD TO LWDA WEBSITE. STATUS UPDATE TO PLAINTIFF.	2.10	850	1,785.00
01/07/22	SB	REVIEW COMPLAINT FOR FILING, ANALYZE, ADVISE ND	2.80	450	1,260.00
01/12/22	SB	REVISE COMPLAINT FOR FILING, ADVISE ND	2.80	450	1,260.00
01/15/22	ND	REVIEW 204 LATE PAYMENT OF WAGE CLAIMS. ANALYZE SICK PAY CLAIMS. LEGAL RESEARCH REGARDING PREVIOUS SETTLEMENTS AND COURT OPINIONS FOR THESE CLAIMS. STATUS UPDATE TO PLAINTIFF.	2.40	850	2,040.00
02/01/22	ND	REVIEW AND ANALYZE DFEH CLAIMS. DISCUSS WITH PLAINTIFF. DRAFT AND OBTAIN RIGHT TO SUE LETTER FROM DFEH.	1.80	850	1,530.00
02/13/22	RE	REVIEW CASE NOTES & DAMAGE ANALYSIS	0.50	675	337.50
02/13/22	RE	REVIEW & ANALYZE EMPLOYMENT FILE DOCUMENTS/1198.5 RESPONSE	2.00	675	1,350.00
02/14/22	RE	REVIEW, EDIT & FINALIZE CLASS ACTION COMPLAINT DRAFT	2.50	675	1,687.50
02/15/22	RE	DRAFT PAGA ONLY REPRESENTATIVE ACTION COMPLAINT	3.75	675	2,531.25
02/15/22	RE	REVIEW & FINALIZE CLASS ACTION COMPLAINT PACKAGE; FILE IN SANTA CLARA SUP. CT.	0.75	675	506.25

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
02/15/22	RE	[PAGA] DRAFT SUMMONS AND CIVIL CASE COVER SHEET	0.50	675	337.50
02/15/22	RE	[PAGA] REVIEW & FINALIZE PAGA ONLY REPRESENTATIVE ACTION COMPLAINT PACKAGE; FILE IN SANTA CLARA SUP. CT.	0.70	675	472.50
02/15/22	ND	REVIEW AND ANALYZE PAGA NOTICE. REVIEW AND REVISE PAGA ONLY COMPLAINT. DISCUSS WITH R. EHMANN. STATUS UPDATE TO PLAINTIFF.	1.80	850	1,530.00
02/16/22	RE	[CLASS] REVIEW COURT-RETURNED DOCUMENTS; REVIEW DOCKET; MEMO TO FIRM RE DEPARTMENT/JUDICIAL ASSIGNMENT AND STATUS OF INITIAL CASE MANAGEMENT CONFERENCE	0.50	675	337.50
02/16/22	RE	[PAGA] REVIEW COURT-RETURNED DOCUMENTS; REVIEW DOCKET; MEMO TO FIRM RE DEPARTMENT/JUDICIAL ASSIGNMENT AND STATUS OF INITIAL CASE MANAGEMENT CONFERENCE	0.50	675	337.50
02/16/22	RE	UPLOAD PAGA ONLY COMPLAINT TO LWDA WEBSITE; SAVE CONFIRMATION FOR FUTURE VERIFICATION OF NOTICE TO LWDA	0.40	675	270.00
03/07/22	RE	REVIEW DOCKET; REVIEW ORDER DEEMING CASE COMPLEX RE PAGA ONLY ACTION; DRAFT NOTICE OF PAYING COMPLEX FEE; EMAIL TO KNOX TO PAY FEE AND FILE NOTICE	0.60	675	405.00
03/30/22	RE	PREPARE INITIAL DOCUMENTS FOR SERVICE OF PROCESS; IDENTIFY REGISTERED AGENT; SEND OUT FOR SERVICE VIA KNOX RE CLASS ACTION	0.80	675	540.00
03/30/22	RE	PREPARE INITIAL DOCUMENTS FOR SERVICE OF PROCESS; IDENTIFY REGISTERED AGENT; SEND OUT FOR SERVICE VIA KNOX RE PAGA ONLY ACTION	0.60	675	405.00

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
04/13/22	RE	FILE PROOF OF OF SERVICE OF SUMMONS RE CLASS ACTION; CONFER W TEAM RE POST-SERVICE WRITTEN DISCOVERY	0.50	675	337.50
04/13/22	RE	FILE PROOF OF OF SERVICE OF SUMMONS RE PAGA ONLY ACTION; CONFER W TEAM RE POST-SERVICE WRITTEN DISCOVERY	0.50	675	337.50
06/14/22 15	VR	REVIEW COURT'S ORDERS AND DOCKET; REVIEW COMPLAINTS AND DOCUMENTS; CORRESPONDENCE TO DEF	1.30	750	975.00

TOTAL BILLED HOURS

NICK DEBLOUW	32.90 hr @ 850.00	\$ 27,965.00
RICO EHMANN	15.10 hr @ 675.00	\$ 10,192.50
SCOTT BLUMENTHAL	5.60 hr @ 450.00	\$ 2,520.00
VICTORIA RIVAPALACIO	1.30 hr @ 750.00	\$ 975.00

TOTAL PROFESSIONAL SERVICES

54.90

\$ 41,652.50

COSTS ADVANCED

12/09/21	PAGA FILING FEE	75.00
02/16/22	ONELEGAL/COURT FILING FEE	1,495.66
02/16/22	ONELEGAL/COURT FILING FEE	466.16
03/31/22	KNOX ATTORNEY SERVICES	1,131.75
04/13/22	ONELEGAL/FILING FEE	18.76
04/13/22	ONELEGAL/FILING FEE	18.76
04/14/22	ONELEGAL/FILING FEE	41.44
04/14/22	ONELEGAL/FILING FEE	41.44
04/30/22	MESSENGER - KNOX	58.75
04/30/22	MESSENGER - KNOX	<u>121.75</u>
	TOTAL COSTS ADVANCED	<u>\$ 3,469.47</u>

EXHIBIT #4

Blumenthal Nordrehaug Bhowmik DeBlouw LLP

2255 CALLE CLARA
LA JOLLA, CA - California 92037-3107

INVOICE

Invoice # 1
Date: 08/30/2024
Due On: 09/29/2024

Kenneth Nguyen
209 South Cragmont Ave
San Jose, CA 95127

CA2545

Port Plastics

Services

Type	Date	Notes	Quantity	Rate	Total
Service	06/16/2022	Review and Analyze: complaint and court's orders; review case notes; prep for conference of counsel	1.30	\$750.00	\$975.00
Service	06/17/2022	Draft: draft joint statement; review court's orders; telephone conference with Def	2.50	\$750.00	\$1,875.00
Service	06/20/2022	Draft: draft joint CMC statement; correspondence to Def; review court's orders, complaint, and case notes	2.30	\$750.00	\$1,725.00
Service	06/24/2022	Review and Revise: review and revise CMC statement; review correspondence from Def; finalize	0.80	\$750.00	\$600.00
Service	06/29/2022	court appearance at CMC; review court's orders and docket; review CMC statement, complaint and case notes; advise AGR	1.50	\$750.00	\$1,125.00
Service	06/29/2022	Review file and extract pertinent documents; draft summary of status for VR for coverage.	0.60	\$550.00	\$330.00
Service	07/06/2022	Review/analyze attorney's email re mediation and mediators complaining about expense. Draft/send response. Analyze value of claims.	2.00	\$895.00	\$1,790.00
Service	07/12/2022	Multiple correspondence regarding drafting and serving discovery; review file for claims.	0.80	\$550.00	\$440.00
Service	07/12/2022	Update set 1 of disco shells re consolidated cases	2.00	\$250.00	\$500.00
Service	07/19/2022	Begin drafting discovery requests.	0.80	\$550.00	\$440.00

Service	07/27/2022	Review file and orders for status of amended complaint; draft multiple correspondence with RE regarding the same.	0.50	\$550.00	\$275.00
Service	07/27/2022	Teleconference with RE regarding consolidated complaint.	0.60	\$550.00	\$330.00
Service	07/27/2022	Confer w AR re consolidated complaint; review file; draft consolidated complaint; forward draft to AR for review before filing deadline	2.00	\$675.00	\$1,350.00
Service	07/29/2022	Review docket for status of filing FAC for uploading to LWDA; draft correspondence regarding the same.	0.50	\$550.00	\$275.00
Service	08/02/2022	Review and outline documents; create exhibit book.	1.50	\$550.00	\$825.00
Service	08/02/2022	Draft mediation data request; submit to AB for review.	1.00	\$550.00	\$550.00
Service	08/02/2022	Review complaint/claims/docs/approve mediation data request.	2.00	\$895.00	\$1,790.00
Service	08/29/2022	Review/analyze defendant's answer and claimed defenses.	1.00	\$895.00	\$895.00
Service	10/13/2022	Review and analyze Court Order re Joint CMS; Email to Opposing Counsel re: meet and confer.	0.40	\$750.00	\$300.00
Service	10/14/2022	Email from P. Smith re: draft of Joint CMS.	0.20	\$750.00	\$150.00
Service	10/14/2022	Email from N. Witt re: electronic service agreement.	0.20	\$750.00	\$150.00
Service	10/14/2022	Revise and finalize Joint Case Management Statement; Email to P. Smith re: filed and served Joint Further Case Management Statement.	1.30	\$750.00	\$975.00
Service	10/17/2022	Review and analyze Notice of Rescheduling CMC.	0.20	\$750.00	\$150.00
Service	10/19/2022	Receipt and review Notice of Rescheduling Case Management Conference.	0.20	\$750.00	\$150.00
Service	10/27/2022	Telephone call from P. Smith re: continuance of mediation.	0.30	\$750.00	\$225.00
Service	10/27/2022	Email from/to P. Smith re: continuance of mediation with Lou Marlin.	0.30	\$750.00	\$225.00
Service	11/10/2022	Draft revised mediation data request; submit to opposing counsel.	0.60	\$550.00	\$330.00
Service	11/10/2022	Email form B. Kyung re: meet and confer re: CMC.	0.20	\$750.00	\$150.00
Service	11/14/2022	Draft Stipulation to Stay Pending Mediation.	0.60	\$750.00	\$450.00
Service	11/14/2022	Email to P. Smith re: Draft Stipulation to Stay Pending Mediation.	0.30	\$750.00	\$225.00
Service	11/14/2022	Email from P. Smith re: revisions to Draft Stipulation to Stay Pending Mediation.	0.30	\$750.00	\$225.00

Service	11/14/2022	Revise and finalize Stipulation to Stay Pending Mediation.	0.40	\$750.00	\$300.00
Service	12/22/2022	Review file for status of mediation data; follow up correspondence with opposing counsel regarding mediation preparation.	0.30	\$550.00	\$165.00
Service	01/16/2023	Draft Amended Stipulation to Stay Pending Mediation.	0.40	\$750.00	\$300.00
Service	01/16/2023	Email to P. Smith re: Amended Stipulation to Stay Pending Mediation.	0.30	\$750.00	\$225.00
Service	01/17/2023	Calendar reminder to bates stamp for mediation once received	0.20	\$250.00	\$50.00
Service	01/23/2023	Review and analyze Order Staying Action.	0.20	\$750.00	\$150.00
Service	01/23/2023	Follow up re stip to stay signed? Yes	0.20	\$250.00	\$50.00
Service	01/30/2023	Draft and serve mediation data request.	0.70	\$550.00	\$385.00
Service	02/14/2023	Email from P. Smith re: request for conference call.	0.20	\$750.00	\$150.00
Service	02/17/2023	Review documents produced in advance of mediation; draft summary for teleconference. 0	0.50	\$550.00	\$275.00
Service	02/21/2023	Review and outline documents produced and correspondence file in advance of teleconference with opposing counsel; draft summary.	0.60	\$550.00	\$330.00
Service	03/02/2023	Multiple correspondence with opposing counsel regarding mediation data.	0.30	\$550.00	\$165.00
Service	03/06/2023	Review mediation data request and file in preparation for teleconference with opposing counsel.	0.70	\$550.00	\$385.00
Service	03/06/2023	Teleconference with opposing counsel regarding mediation; draft and circulate summary.	1.20	\$550.00	\$660.00
Service	03/06/2023	Calendar reminder to schedule court reporter	0.20	\$250.00	\$50.00
Service	03/14/2023	Multiple correspondence with ND regarding status; review correspondence file regarding meet and confer efforts.	0.40	\$550.00	\$220.00
Service	04/01/2023	Analyze discovery to date. Review and analyze data produced for mediation purposes. Review PAGA website and unicourt for related case filings. Legal research regarding class certification of meal and rest break claims. Analyze payroll data. Status update to Plaintiff. Prepare for mediation.	5.10	\$850.00	\$4,335.00
Service	04/03/2023	Research previous settlements with similar claims and workweeks for mediation valuation. Review class and PAGA demographics. Analyze Defendant's wage and hour policy documents. Draft MOU for mediation.	4.40	\$850.00	\$3,740.00
Service	04/10/2023	Review and analyze pay stubs exemplars for wage	3.90	\$850.00	\$3,315.00

		statement and regular rate violations. Legal research regarding the same. Review PAGA claims for warehouse employees including temperature claims and new warehouse quota laws.			
Service	04/13/2023	Conference with Plaintiff to discuss facts and claims for mediation brief. Discuss settlement authority for individual claims. Begin drafting mediation brief.	6.20	\$850.00	\$5,270.00
Service	04/18/2023	Speak with client in advance of mediation, analyze claims, advise AJB	2.60	\$450.00	\$1,170.00
Service	04/18/2023	Legal research regarding 1102.5 and racial discrimination claims. Analyze off the clock work tasks. Status update to Plaintiff.	2.00	\$850.00	\$1,700.00
Service	04/20/2023	Draft mediation brief. Compile all exhibits thereto. Discuss claims and damages with expert. Review and analyze expert damage and penalty report. Prep for mediation.	6.30	\$850.00	\$5,355.00
Service	04/24/2023	Prepare for mediation, review and analyze mediation brief, advise AJB	2.60	\$450.00	\$1,170.00
Service	04/25/2023	Multiple correspondence with ND regarding mediation.	0.30	\$550.00	\$165.00
Service	04/25/2023	Review docs, analyze re settlement issues, advise AJ.	1.50	\$995.00	\$1,492.50
Service	04/26/2023	Prepare for mediation, review and analyze mediation brief, advise AJB	2.80	\$450.00	\$1,260.00
Service	04/27/2023	Review docs re settlement issues, advise ND.	1.00	\$995.00	\$995.00
Service	04/27/2023	Attend mediation	8.00	\$450.00	\$3,600.00
Service	04/27/2023	Text AJ re mediation reminder	0.20	\$250.00	\$50.00
Service	04/27/2023	Prepare for and attend mediation with Lou Marlin.	8.70	\$850.00	\$7,395.00
Service	05/02/2023	Review and analyze Defendant's revisions to MOU. Discuss with partners and defense counsel. Analyze mediation notes.	1.40	\$850.00	\$1,190.00
Service	05/08/2023	Review MOU; legal research on release issues; advise ND	0.50	\$950.00	\$475.00
Service	05/08/2023	told CTL case Settled (MOU in file), added to settlement agreement spreadsheet, CTL to FwNDB re drafting S't G	0.20	\$250.00	\$50.00
Service	05/09/2023	Review file for status; follow up correspondence with ND regarding the same.	0.30	\$550.00	\$165.00
Service	05/09/2023	Draft joint statement; submit to opposing counsel for review.	1.00	\$550.00	\$550.00
Service	05/09/2023	Revise, finalize, file and serve joint statement.	0.60	\$550.00	\$330.00

Service	05/12/2023	Email to M. Sutherland re: request ILYM bid for class administration.	0.30	\$750.00	\$225.00
Service	05/12/2023	Review and analyze MOU terms. Send to Plaintiff for signature. Conference with Plaintiff to discuss terms and total settlement amounts. Follow up for signature.	1.00	\$850.00	\$850.00
Service	05/17/2023	Email from M. Sutherland r: ILYM bid re: class administration; review and analyze ILYM bid.	0.30	\$750.00	\$225.00
Service	05/24/2023	Draft Long Form Settlement Agreement.	3.60	\$750.00	\$2,700.00
Service	05/24/2023	Draft draft and revise Individual Settlement Agreement.	2.60	\$750.00	\$1,950.00
Service	05/25/2023	Draft and revise Individual Settlement Agreement.	1.50	\$750.00	\$1,125.00
Service	05/25/2023	Revise Long Form Settlement Agreement.	1.50	\$750.00	\$1,125.00
Service	05/25/2023	Run fees and costs	0.30	\$250.00	\$75.00
Service	05/26/2023	add date MOU signed to spreadsheet, confirm already on CTL's st Gs spreadsheet	0.20	\$250.00	\$50.00
Service	06/07/2023	Email from P. Smith re: meet and confer re: settlement agreement revisions.	0.20	\$750.00	\$150.00
Service	07/10/2023	Telephone call to P. Smith re: follow-upon individual and long form settlement agreement.	0.30	\$750.00	\$225.00
Service	07/10/2023	Email to P. Smith re: follow-upon individual and long form settlement agreement and request for conference call.	0.20	\$750.00	\$150.00
Service	07/11/2023	Email from Paul Smith regarding Defendant's review of draft settlement agreement.	0.10	\$675.00	\$67.50
Service	07/17/2023	Email from/to P. Smith re: meet and confer re: settlement agreements.	0.30	\$750.00	\$225.00
Service	07/18/2023	Email from P. Smith re: meet and confer re: settlement agreements and conference call to discuss same.	0.30	\$750.00	\$225.00
Service	08/01/2023	Email to T. McInerney re: meet and confer and status of settlement agreements.	0.60	\$750.00	\$450.00
Service	08/02/2023	Review emails; review estimates; advise Def counsel re administration	0.40	\$950.00	\$380.00
Service	08/02/2023	Email form M. Sutherland re: estimate of administration.	0.20	\$750.00	\$150.00
Service	08/02/2023	Email Paul Smith re: revisions to Long Form Settlement Agreement; Review and analyze revisions to Long Form Settlement Agreement and Individual Settlement Agreement.	0.90	\$750.00	\$675.00
Service	08/03/2023	Review Defendant revisions to draft Agreement; identify remaining issues; memo to CL re Agreement issues	1.00	\$950.00	\$950.00

Service	08/16/2023	Review, analyze and revise Long Form Settlement Agreement and Individual Settlement Agreement; Email to P. Smith re: outstanding issues; Discuss with Kyle re: same.	1.60	\$750.00	\$1,200.00
Service	09/01/2023	Email from/to P. Smith re: revisions to settlement agreement.	0.30	\$750.00	\$225.00
Service	09/11/2023	Email from P. Smith re: revisions to the settlement agreement.	0.20	\$750.00	\$150.00
Service	09/11/2023	Telephone all to P. Smith re: revisions to the settlement agreement; Email to P. Smith memorializing conversation.	0.40	\$750.00	\$300.00
Service	09/21/2023	Review and analyze Defendant's revisions to settlement agreement; Discuss with Kyle re same; Email from P. Smith re: revisions to settlement agreement.	0.60	\$750.00	\$450.00
Service	10/04/2023	Multiple correspondence with opposing counsel regarding settlement agreement.	0.40	\$550.00	\$220.00
Service	10/09/2023	Review final agreement; prepare agreement for execution; email Def; memo to staff	1.00	\$950.00	\$950.00
Service	11/07/2023	Email from P. Smith re: meet and confer re signatures on settlement agreement.	0.20	\$750.00	\$150.00
Service	11/07/2023	Draft Exhibit A to Agreement; review status of settlement; emails to staff; email Def	2.00	\$950.00	\$1,900.00
Service	11/08/2023	Review and analyze settlement agreement terms for conformity with MOU terms. Review exhibits thereto. Send agreement to Plaintiff for signature. Call with Plaintiff to discuss terms and process of settlement approval.	1.30	\$850.00	\$1,105.00
Service	11/09/2023	Draft exhibits to agreement; email Defendant; prepare fully executed Agreement and send to the Defendant	1.75	\$950.00	\$1,662.50
Service	11/10/2023	Telephone call to P. Smith re: meet and confer re; individual settlement agreement.	0.30	\$750.00	\$225.00
Service	11/10/2023	Email to P. Smith re: meet and confer re; individual settlement agreement.	0.20	\$750.00	\$150.00
Service	11/10/2023	Telephone call to J. Brown meet and confer re; individual settlement agreement signature and class action settlement agreement revisions.	0.40	\$750.00	\$300.00
Service	11/10/2023	Email to J. Brown meet and confer re; individual settlement agreement signature and class action settlement agreement revisions and request for conference call.	0.30	\$750.00	\$225.00
Service	11/13/2023	Review and analyze Individual Settlement Agreement; Emails to/from P. Smith re: defendants' revisions to	0.70	\$750.00	\$525.00

		same.			
Service	11/13/2023	Emails to/from P. Smith re: long form settlement agreement.	0.30	\$750.00	\$225.00
Service	11/14/2023	Review Def revisions to Exhibits; review final signed agreement; prepare final versions of the exhibits; email Def	0.90	\$950.00	\$855.00
Service	11/14/2023	Review status and Def email; check docket and schedule; memo to staff	0.40	\$950.00	\$380.00
Service	11/14/2023	Review court's guidelines and status of case and email complex case coordinator to reserve hearing date for MPA	0.30	\$250.00	\$75.00
Service	11/16/2023	Review and revise individual settlement agreement terms. Send to Plaintiff for signature. Call to discuss individual settlement terms and timing of payment.	0.70	\$850.00	\$595.00
Service	02/12/2024	draft motion for preliminary approval; memo to ND re issues to address	2.00	\$950.00	\$1,900.00
Service	02/15/2024	Draft motion for preliminary approval; revise and redline proposed order; memo to staff; email Defendant	4.00	\$950.00	\$3,800.00
Service	02/18/2024	Review file; draft declaration of Kenneth Nguyen re motion for preliminary approval/class rep service payment request; email to plaintiff re draft declaration	2.50	\$675.00	\$1,687.50
Service	02/20/2024	Review file; follow up w client via email re draft declaration re motion for preliminary approval	0.20	\$675.00	\$135.00
Service	02/20/2024	Draft declaration ISO motion; review and revise motion per Defendant comments	2.50	\$950.00	\$2,375.00
Service	02/22/2024	Follow up w client re declaration in support of preliminary approval motion/service award request	0.20	\$675.00	\$135.00
Service	02/23/2024	Review and revise motion and declaration; prepare final documents; file and serve motion; serve LWDA	2.00	\$950.00	\$1,900.00
Service	03/06/2024	Review draft exhibits to longform	0.30	\$750.00	\$225.00
Service	03/20/2024	Revise and finalize Joint Case Management Statement.	0.30	\$750.00	\$225.00
Service	03/20/2024	Review tentative and analysis of issues; review documents and prepare responses; memo to staff	0.50	\$950.00	\$475.00
Service	03/20/2024	Court appearance - prelim approval	0.60	\$950.00	\$570.00
Service	03/27/2024	Review issues from ruling; revise proposed class notice.	0.75	\$950.00	\$712.50
Service	04/18/2024	Work on supplemental issues to address; review redline class notice	0.50	\$950.00	\$475.00
Service	04/24/2024	Draft supplemental declaration; prepare exhibits; final	2.00	\$950.00	\$1,900.00

declaration and file and serve					
Service	04/30/2024	Correct filing and advise staff regarding correction	0.50	\$950.00	\$475.00
Service	04/30/2024	Receive and review email from R. Walker re supplemental declaration not filed, per minute order 3/20/24; review court's docket and download minute order; email to KN re status of filing	0.60	\$450.00	\$270.00
Service	04/30/2024	Email to and from R. Walker re declaration filed; R. Walker confirmed declaration received and process	0.50	\$450.00	\$225.00
Service	05/03/2024	[Class/PAGA] Review status of case, Confirm 5/8 Continued MPA hearing on calendar	0.10	\$250.00	\$25.00
Service	05/07/2024	Review status and tentative ruling; revise class notice; memo to Defendant.	0.75	\$950.00	\$712.50
Service	05/07/2024	Revise proposed order; emails with Def; prepare final documents; file and serve documents	0.75	\$950.00	\$712.50
Service	05/08/2024	Court appearance - motion; prepare for hearing; review documents; emails with Def; Tel. conf with Def	1.00	\$950.00	\$950.00
Service	05/24/2024	Telephone call to dep 19 clerk re proposed order. No answer, left voicemail.	0.20	\$250.00	\$50.00
Service	05/28/2024	Telephone call to dep 19 clerk re proposed order. No answer, left voicemail.	0.20	\$250.00	\$50.00
Service	05/29/2024	Email correspondence to Complex coordinator, R. Walker, re the filed proposed order.	0.20	\$250.00	\$50.00
Service	06/11/2024	Review order; prepare documents; memo to Admin; email with Def.	0.75	\$950.00	\$712.50
Service	07/02/2024	Prepare final stipulation; file and serve stip; review updated calculations from Admin and respond	1.00	\$950.00	\$950.00
Service	07/22/2024	Review and respond to class member inquiries. Analyze preliminary approval order. Status update to Plaintiff.	0.90	\$850.00	\$765.00
Service	07/25/2024	Receipt and review email from M. Snow re report on class settlement notices; Receipt and review same.	0.30	\$750.00	\$225.00
Service	08/14/2024	Receipt and review email from M. Snow re report of notices of settlement; review and analyze same.	0.20	\$750.00	\$150.00
Service	08/14/2024	Receipt and review email from K. Nava re report of notices of settlement; review and analyze same.	0.20	\$750.00	\$150.00
Service	08/23/2024	Review and revise motion for final approval; email draft motion to Defendant; memo to VR; review status and documents to correct issues with motion; update proposed order; update approval outline	2.50	\$950.00	\$2,375.00
Service	08/29/2024	Review MFA and populate table of contents/authorities.	1.50	\$250.00	\$375.00

Service	08/30/2024	Review and revise draft declaration; prepare and finalize exhibits; final declaration; review Admin draft declaration	1.50	\$950.00	\$1,425.00
Service	08/30/2024	Review and revise motion for final approval; update motion with final figures; prepare final motion; file and serve motion; serve LWDA	2.50	\$950.00	\$2,375.00
Services Subtotal				\$120,805.00	

Expenses

Type	Date	Notes	Quantity	Rate	Total
Expense	06/24/2022	CourtCall appearance fee.	1.00	\$94.00	\$94.00
Expense	06/24/2022	CourtCall appearance fee.	1.00	\$94.00	\$94.00
Expense	06/24/2022	filing via OneLegal	1.00	\$20.82	\$20.82
Expense	07/18/2022	Mediation Fees - Louis Marlin	1.00	\$7,000.00	\$7,000.00
Expense	07/28/2022	OneLegal filing fee.	1.00	\$20.82	\$20.82
Expense	10/14/2022	One Legal Filing - Case Management Statement.	1.00	\$18.76	\$18.76
Expense	11/14/2022	One Legal Filing -Stipulation and Order.	1.00	\$12.87	\$12.87
Expense	11/14/2022	One Legal Filing - Stipulation and Order.	1.00	\$39.43	\$39.43
Expense	01/17/2023	One Legal - Stipulation.	1.00	\$39.73	\$39.73
Expense	05/09/2023	OneLegal filing fee.	1.00	\$23.34	\$23.34
Expense	05/24/2023	Berger Consulting Fee.	1.00	\$360.00	\$360.00
Expense	02/26/2024	Filing fee - motion	1.00	\$83.13	\$83.13
Expense	02/29/2024	One legal filing charge	1.00	\$21.28	\$21.28
Expense	04/01/2024	LexisNexis	1.00	\$1,064.00	\$1,064.00
Expense	05/01/2024	One legal filing charge	1.00	\$51.48	\$51.48
Expense	05/01/2024	One legal filing charge	1.00	\$27.46	\$27.46
Expense	05/09/2024	One legal filing charge	1.00	\$27.46	\$27.46
Expense	05/15/2024	One Legal eService fee.	1.00	\$7.00	\$7.00
Expense	05/15/2024	One Legal eService fee.	1.00	\$5.00	\$5.00
Expense	06/03/2024	Lexis Nexis	1.00	\$49.00	\$49.00
Expense	07/03/2024	One legal filing charge	1.00	\$49.16	\$49.16
Expense	08/30/2024	Filing fee - motion	1.00	\$60.00	\$60.00

Expenses Subtotal \$9,168.74

Time Keeper	Quantity	Rate	Total
AJ Bhowmik	5.0	\$895.00	\$4,475.00
Norm Blumenthal	2.5	\$995.00	\$2,487.50
Scott Blumenthal	16.0	\$450.00	\$7,200.00
Nicholas De Blouw	41.9	\$850.00	\$35,615.00
Ricardo Ehmann	4.9	\$675.00	\$3,307.50
Jeffrey Herman	0.3	\$750.00	\$225.00
Randy Hy	0.1	\$675.00	\$67.50
Christine LeVu	25.3	\$750.00	\$18,975.00
Kyle Nordrehaug	34.05	\$950.00	\$32,347.50
Victoria Rivapalacio	8.4	\$750.00	\$6,300.00
Andrew Ronan	14.2	\$550.00	\$7,810.00
Adolfo Sanchez Contreras	1.1	\$450.00	\$495.00
Adolfo Sanchez Contreras	3.8	\$250.00	\$950.00
Yesenia Silva	2.2	\$250.00	\$550.00
Subtotal			\$129,973.74
Total			\$129,973.74

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
1	09/29/2024	\$129,973.74	\$0.00	\$129,973.74
Outstanding Balance				\$129,973.74
Total Amount Outstanding				\$129,973.74

Please make all amounts payable to: Blumenthal Nordrehaug Bhowmik DeBlouw LLP

Please pay within 30 days.

EXHIBIT #5

LAFFEY MATRIX

History

Case Law

Contact us

Home

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/23- 5/31/24	1.059295	\$239	\$437	\$538	\$777	\$878	\$1057
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375

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

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

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

EXHIBIT #6

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (SBN 068687)

Kyle R. Nordrehaug (SBN 205975)

Aparajit Bhowmik (SBN 248066)

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La Jolla, CA 92037

Telephone: (858) 551-1223

Facsimile: (858) 551-1232

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

KENNETH NGUYEN, on behalf of the State
of California, as a private attorney general,
and as an individual, on behalf of himself and
on behalf of all persons similarly situated,

Plaintiffs,

vs.

PORT PLASTICS, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 22CV394401

*[Consolidated with Case No.
22CV394403]*

**DECLARATION OF KENNETH
NGUYEN IN SUPPORT OF MOTION
FOR PRELIMINARY APPROVAL OF
CLASS SETTLEMENT**

Hearing Date: March 20, 2024

Hearing Time: 1:30 p.m.

Judge: Hon. Theodore C. Zayner
Dept.: 19

Action Filed: February 15, 2022

Trial Date: Not set

1 I, Kenneth Nguyen, declare as follows:

2 1. I am over the age of eighteen, a Plaintiff and a proposed Class Representative in the
3 above-entitled matter. I submit this declaration in support of the Motion for Preliminary
4 Approval of Class Settlement and in support of my application for a Class Representative
5 Service Payment.
6

7 2. I have personal knowledge of all the facts stated herein. I could and would competently
8 testify under oath to these facts in court if requested to do so.

9 3. I worked for defendant Port Plastics, Inc. ("Port Plastics") in California from January
10 of 2020 to March of 2020 and from June of 2020 to October 8, 2021 and during that time period
11 I was classified by Port Plastics as a non-exempt employee.
12

13 4. I retained my attorneys who are experienced in both class action and PAGA
14 representative action litigation and claims against employers for violations of the California
15 Labor Code. I have no personal relationship or family ties to my attorneys or any officer of the
16 Court. I am not aware of having any actual or potential conflicts of interest with another class
17 member in this case nor am I aware of having any actual or potential conflicts of interest with
18 ILYM Group, Inc., the settlement administrator. I am not aware of any other pending matter or
19 action asserting claims that will be extinguished or adversely affected by this settlement.
20

21 5. I decided to pursue this class action lawsuit and be a plaintiff/class representative
22 because I felt that my legal rights as an employee and others like me were violated. For
23 example, during some pay periods I was paid non-discretionary incentive pay such as bonuses
24 which were not included in my regular rate for purposes of calculating my correct overtime rate.
25 I was underpaid overtime as a result. I also regularly did not receive compliant meal and rest
26 breaks which were almost always late or short. I never received any meal or rest break penalty
27

1 payments for these violations. I was also not paid for all time that I worked. For example, prior
2 to clocking in for a shift, I would perform tasks such as moving boxes and other packages as
3 directed by management as a warehouse associate. I also performed the same work sometimes
4 while clocked out after my shift ended. Also, I was not paid for the expenses I incurred using
5 my personal cell phone for work-related issues such as receiving shift instructions or job site
6 information and also receiving texts and phone calls from my superiors.
7

8 6. I spoke to my attorneys several times and discussed how Port Plastics implemented
9 its company policies and procedures. I also assisted my attorneys in their investigation into my
10 claims by providing them documents and answering their questions. I reviewed the complaint
11 before it was filed and after it was filed I was given access to an electronic file sharing program
12 that alerted me via email when important documents were filed so that I could review them and
13 keep up with the developments in the case which I understood was one of my duties as a class
14 representative.
15

16 7. Even though this action is in the process of settling, I was and remain prepared to
17 perform all the duties of a class representative. I understand that as a class representative I have
18 assumed a fiduciary responsibility to prosecute this class action on behalf of the absent class
19 members. I have understood that as a fiduciary, I have a duty to prosecute this action for the
20 benefit of the class members and surrender any right to compromise the group action for an
21 individual gain.
22

23 8. I understood that being a plaintiff/class representative in this case meant that I
24 was seeking damages not only for myself but also other current and/or former non-exempt or
25 hourly employees working for Port Plastics in California who make up the class. I felt that these
26 individuals were not aware of their labor law rights and even if they were they would probably
27

1 be apprehensive about speaking up or even simply because of the time, effort and risk involved
2 in filing a class action lawsuit.

3 9. I understood that being a part of this lawsuit involved risks. For example, my
4 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
5 pay for all or part of the attorney fees and costs paid by Port Plastics to defend this lawsuit.
6 Also, I knew there was a risk that future employers, if they ever find out about this lawsuit, could
7 hold it against me or downgrade me as a potential hire. As the only named Plaintiff in this case
8 it would not be difficult for a future employer to become aware that I sued a former employer for
9 labor law violations. Ultimately I decided these risks were worth it and decided to fight for my
10 rights and the rights of others regardless of the risks, time and effort I spent on this case.
11

12 10. During the lawsuit I stayed in touch with my attorneys by phone and email. I also
13 kept up to date on important developments by reviewing court filings that were made available to
14 me electronically as I described above.
15

16 11. A mediation took place on April 27, 2023 with Louis Marlin, a well-respected and
17 experienced mediator of wage and hour class actions. After the mediation the parties were able
18 to reach an agreement to settle the action based on a mediator's proposal. I communicated with
19 my attorneys regarding the terms of the settlement which was reached between the parties and
20 understood that I was representing absent class members and therefore wanted the best possible
21 result to be obtained for the class members and I believe a very positive result was in fact
22 achieved via settlement.
23

24 12. I have been actively involved with this lawsuit performing the duties described above.
25 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
26 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
27

1 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
2 up until this point. I believe I have been diligent and have done what is expected of a named
3 plaintiff and a proposed class representative to date, and will continue to do so. I have and
4 always will maintain the best interest of the class members.
5

6 13. My attorneys explained to me that the settlement process involves a two-step
7 review by the Court to determine whether the settlement is fair before approving the settlement.
8 I know this process also involves notifying all class members of the settlement terms and of their
9 rights to make a claim for their settlement share, to opt out of the settlement or to object to the
10 settlement.

11 14. I believe I did the right thing by filing this case on behalf of the class members who,
12 subject to court approval, are in line to receive monetary payments as a result of this case and
13 settlement. This is money they may never have ever gotten if I did not pursue this action on their
14 behalf. I feel significant personal satisfaction to know that I played a role in the class members
15 being entitled to monetary payments as a result of the filing of this lawsuit. I also believe that
16 the requested Class Representative Service Payment of \$10,000 from the settlement is fair
17 compensation for the work I performed and the risks I undertook.
18

19 15. As part of the settlement it was necessary for me to sign a general release of claims I
20 may have against Port Plastics. I believe the Class Representative Service Payment I have
21 requested provides me with some compensation for this agreed release.
22

23 16. In light of all the time and effort I have spent on this case, the risk I undertook by
24 suing a former employer, the exposure to being responsible for paying the defendant's costs in
25 the event we did not win the case, the reputational risk that future employers may hold this
26 lawsuit against me, the general release and in light of the size of the settlement, I believe the
27

1 request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

4 Executed on Feb 23, 2024, at San Jose, CA
5 (city, state)

6 Ken Nguyen
7 Ken Nguyen (Feb 23, 2024 15:04 PST)

8 Kenneth Nguyen
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