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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **IN AND FOR THE COUNTY OF SAN DIEGO**

14 GLORIA GUINILING, an individual, on
15 behalf of herself, on behalf of all persons
16 similarly situated,

17 Plaintiff,

18 vs.

19 ESCONDIDO MEDICAL INVESTORS
20 LIMITED PARTNERSHIP LIFE CARE
21 CENTER OF ESCONDIDO, a Limited
22 Partnership; and DOES 1 through 50,
23 inclusive,

24 Defendants.

Case No. 37-2022-00019520-CU-OE-CTL

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

Hearing Date: January 12, 2024

Hearing Time: 9:00 a.m.

[Hearing scheduled by Order dated August 18,
2023]

Judge: Hon. Matthew C. Braner
Dept.: 60

Action Filed: May 23, 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 Plaintiff Gloria Guiniling (“Plaintiff”) this matter. As such, I am fully
4 familiar with the facts, pleadings and history of this matter. The following facts are within my own
5 personal knowledge, and if called as a witness, I could testify competently to the matters stated herein.
6 This declaration is being submitted in support to the Plaintiff’s motion for final approval of the class
7 settlement, 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 Walmart, Sharp Healthcare, Cigna, HealthNet, See’s Candies, Securitas, Okta, Advanced
17 Home Health, El Pollo Loco, Total Renal, Panda Express, Walt Disney Resorts, Pharmaca, Nortek
18 Security, California Fine Wine, Solarcity, Walgreens, Space Exploration, Union Bank, Verizon, Apple,
19 Wells Fargo, Kaiser, Universal Protection Services, and California State Automobile Association. Class
20 Counsel have been approved as experienced class counsel during contested motions in state and federal
21 courts throughout California. It is this level of experience which enabled the firm to undertake the instant
22 matter and to successfully combat the resources of the defendants and their capable and experienced
23 counsel. Class Counsel have participated in every aspect of the settlement discussions and have
24 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
28 “Agreement”) between the parties is attached hereto as Exhibit #2. Plaintiff and Defendant Escondido

1 Medical Investors Limited Partnership Life Care Center of Escondido (“Defendant”) reached a full and
2 final settlement of the above-captioned action, which is embodied in the Agreement filed concurrently
3 with the Court. As consideration for this Settlement, the Gross Settlement Amount to be paid by
4 Defendant is Eight Hundred Fifty Thousand Dollars (\$850,000) (“Gross Settlement Amount”).
5 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the following
6 elements: (1) payment of the Individual Class Payments to the Participating Class Members; (2) Class
7 Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3) Administration Expenses
8 Payment; (4) the Class Representative Service Payment to 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.
11 (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be all-in with no reversion to Defendant.
12 (Agreement at ¶ 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 fully funds the Gross Settlement Amount.
17 (Agreement 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
24 (i) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating
25 Class Members during the Class Period and (b) multiplying the result by each Participating Class
26 Member’s Workweeks. (Agreement at ¶ 3.2(e).) Workweeks will be based on Defendant’s records;
27 however, Class Members will have the right to challenge the number of Workweeks.

28 (e) Class Members were sent the Court approved Class Notice using the procedure approved by

1 the Court by mailing the notice packets after updating class members' addresses using the National
2 Change of Address database and, for any notice packets returned as undeliverable, re-mailing such
3 notices to any forwarding address provided or updated address located. Declaration of Nick Castro
4 ("Castro Decl."). Class Members were permitted to exclude themselves or "opt out" if they did not want
5 to participate in the settlement. (Agreement at ¶ 8.5, Ex. A.) Castro Decl., Exh. A. To date, no Class
6 Members objected and no Class Members submitted a request for exclusion. Therefore, all Class
7 Members are deemed Participating Class Members and are bound by the Settlement and will be entitled
8 to receive a Settlement Share. (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including those who
9 submit an opt-out request, will still be paid their allocation of the PAGA Penalties and will remain
10 subject to the release of the PAGA Released Claims regardless of their request for exclusion.
11 (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice advised the Class Members of their right to
12 object to the Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

13 (f) A Participating Class Member must cash his or her Individual Class Payment check within
14 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within 180 days will
15 be voided and any funds represented by such checks to the California Controller's Unclaimed Property
16 Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements
17 of California Code of Civil Procedure Section 384 (b). (Agreement at ¶ 5.4.)

18 (g) ILYM Group was appointed by the Court as the Administrator for the Settlement. (Agreement
19 at ¶ 1.2) From the Gross Settlement Amount, the Administrator will be paid for settlement administration
20 in an amount not to exceed \$12,000. (Agreement at ¶ 3.2(c).) The final expenses for the settlement
21 administration are \$10,550 as set forth in the Castro Decl., ¶ 15.

22 (h) Subject to Court approval, the Agreement provides for Class Counsel to be awarded a sum
23 not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
24 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of Class
25 Counsel Litigation Expenses Payment in an amount not to exceed \$25,000. (Agreement at ¶ 3.2(b).)
26 Subject to Court approval, the Agreement provides for a payment of no more than \$10,000 to the Plaintiff
27 as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).) In support of this motion for
28 attorneys' fees, reimbursement of expenses and service awards, Class Counsel is providing evidentiary

1 support, for these requests, including lodestar.

2 (i) Subject to Court approval, Fifty Thousand Dollars (\$50,000) will be paid from the Gross
3 Settlement Amount for PAGA Penalties under the California Private Attorneys General Act, Cal. Labor
4 Code Section 2698, *et seq.* ("PAGA"). Pursuant to the express requirements of Labor Code § 2699(i),
5 the PAGA Penalties shall be allocated as follows: 75% (\$37,500) shall be allocated to the Labor
6 Workforce Development Agency ("LWDA") as its share of the civil penalties and 25% (\$12,500)
7 allocated to the Individual PAGA Payments to be distributed to the Aggrieved Employees based on the
8 number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompanying
9 proof of service, the LWDA has been served with this motion and the Agreement.

10 (j) The Settlement is fair, adequate and reasonable to the class and should be finally approved
11 for the same reasons the Court granted preliminary approval of the Settlement, agreeing that the
12 settlement is "fair, adequate, and reasonable". (Preliminary Approval Order at ¶ 3.) In sum, the
13 Settlement valued at \$850,000 is an excellent result for the Class. This result is particularly favorable
14 in light of the fact that liability and class certification in this case were far from certain in light of the
15 defenses asserted by Defendant. Given the complexities of this case, the defenses asserted, the
16 uncertainty of class certification, along with the uncertainties of proof at trial and appeal, the proposed
17 settlement is fair, reasonable and adequate, and should be finally approved.

18
19 4. Procedural status of the settlement - In accordance with the Preliminary Approval Order
20 dated August 18, 2023 ("Preliminary Approval Order"), the approved Class Notice has been disseminated
21 to the Class. The reaction of the Class unequivocally supports approval of the Settlement. September 19,
22 2023, the Administrator mailed the Court-approved Class Notice to the Class Members, which provided
23 each class member with the terms of the Settlement, including notice of the claims at issue and the
24 financial terms of the settlement, including the attorneys' fees, costs, and service award that were being
25 sought, how individual settlement awards would be calculated, and the specific, estimated payment
26 amount to that individual. See generally, Castro Decl. In disseminating the notice, the Administrator
27 followed the notice procedures authorized by the Court in its Preliminary Approval Order. Significantly,
28 there have been no objections and no requests for exclusion. Castro Decl. ¶¶ 11-12. As such, the entire

1 Class will participate in the Settlement and will be sent a settlement check. *See* Castro Decl. at ¶¶ 13-14.

2
3 5. Description of Plaintiff's claims - The Action generally alleges that Plaintiff and other
4 Class Members were not properly paid all overtime wages for hours worked and at the correct rate, were
5 not provided meal and rest periods or premium payment in lieu thereof, were not paid accrued used sick
6 pay at the correct rate, were not timely paid earned wages, were not provided reimbursement for required
7 expenses, were not provided accurate itemized wage statements, were not paid all wages at the time of
8 termination.

9
10 6. Procedural History of the Litigation

11 (a) On January 7, 2022, Plaintiff filed with the LWDA and served on Defendant a notice under
12 Labor Code section 2699.3 identifying the alleged Labor Code violations to recover civil penalties on
13 behalf of Aggrieved Employees for various Labor Code violations ("PAGA Notice"). A true and correct
14 copy of the PAGA Notice is attached hereto as Exhibit #3. On May 23, 2022, Plaintiff filed a separate
15 Representative Action Complaint against Defendant in the Superior Court of the State of California,
16 County of Los Angeles. (Plaintiff's "PAGA Action") Plaintiff's Complaint against Defendant alleged one
17 cause of action for Civil Penalties Pursuant to Labor Code §§ 2699, et seq. for violations of Labor Code
18 §§ 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1,
19 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the
20 applicable Wage Order(s).

21 (b) On May 23, 2022, Plaintiff filed a Class Action Complaint against Defendant in the Superior
22 Court of the State of California, County of San Diego (hereinafter the "Action"). This Class Action
23 Complaint asserted class claims against Defendant for: (1) unfair competition in violation of Cal. Bus
24 & Prof. Code §§ 17200, et seq.; (2) failure to pay minimum wages in violation of California Labor Code
25 §§ 1194, 1197 & 1197.1; (3) failure to pay overtime wages in violation of California Labor Code §§ 510,
26 1194 & 1198; (4) failure to provide required meal periods in violation of California Labor Code §§ 226.7
27 and 512; (5) failure to provide required rest periods in violation of Cal. Labor Code §§ 226.7 and 512;
28 (6) failure to reimburse employees for required expenses in violation of California Labor Code § 2802;

1 (7) failure to provide accurate itemized wage statements in violation of California Labor Code § 226; (8)
2 failure to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and (9)
3 failure to to pay sick wages in violation of §§ 201-204, 233 & 246. Plaintiff also alleged individual
4 claims for wrongful termination, harassment, and discrimination).

5 (c) As part of this Settlement, the Parties stipulated for Plaintiff to file a First Amended
6 Complaint in the Action that adds the claims and parties alleged in the PAGA Action, and thereafter
7 dismiss the separate PAGA Action without prejudice. Plaintiff's First Amended Complaint was filed on
8 June 15, 2023. The First Amended Complaint is the operative complaint in the Action (the "Operative
9 Complaint").

10 (d) Over the course of litigation, the Parties engaged in the investigation of the claims, including
11 production of documents, class data, and other information, allowing for the full and complete analysis
12 of liabilities and defenses to the claims in the Action. Plaintiffs obtained formal written discovery from
13 the Defendant. Plaintiff also performed extensive informal discovery, which included the production and
14 analysis documents. The information for mediation obtained by Plaintiff included: (1) data concerning
15 the class composition; (2) a sampling of payroll and time punch data covering more than 33,207 shifts
16 which is more than 25% of the shifts; (3) Defendant's wage and hour policies and job descriptions; (4)
17 the employment file for the Plaintiff; and, (5) samples of wage statements provided by Defendant. As
18 such, Class Counsel received the data and information for the Class, which was sufficient for Plaintiff's
19 expert to prepare the valuations of the claims for the Class.

20 (e) Class Counsel has extensive experience in litigating wage and hour class actions in
21 California. The Parties have vigorously litigated the Action since inception. During the course of
22 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and
23 Defendant have engaged in substantial research and investigation in connection with the Action. Class
24 Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action and
25 utilized an expert to perform an analysis of the data and valuation of the claims.

26 (f) Plaintiff and Defendant agreed to discuss resolution of the Action through a mediation. Prior
27 to mediation, the Parties engaged in the above investigation and the exchange of documents and
28 information in connection with the Action. On March 15, 2023, the Parties participated in an all-day

1 mediation presided over by Tripper Ortman, a respected and experienced mediator of wage and hour class
2 actions. Following the mediation, each side, represented by its respective counsel, were able to agree
3 to settle the Action based upon a mediator's proposal which was memorialized in a memorandum of
4 understanding. The Parties then negotiated the final terms of the settlement as set forth in the Agreement.
5 At all times, the negotiations were arm's length and contentious.

6 (g) Although a settlement has been reached, Defendant denies any liability or wrongdoing of
7 any kind associated with the claims alleged in the Actions and further deny that, for any purpose other
8 than settlement, the Action is appropriate for class and/or representative treatment. Defendant contends,
9 among other things, that it has properly compensated the Class Members on a salary basis and complied
10 at all times with the California Labor Code, applicable Wage Order, and all other laws and regulations.
11 Further, Defendant contends that class certification is inappropriate for any reason other than for
12 settlement. Plaintiff contends that Defendant violated California wage and hour laws. Plaintiff further
13 contends that the Action is appropriate for class certification on the basis that the claims meet the
14 requisites for class certification. Without admitting that class certification is proper, Defendant has
15 stipulated that the above Class may be certified for settlement purposes only. (Agreement at ¶ 2.10.) The
16 Parties agree that certification for settlement purposes is not an admission that class certification is
17 proper. Further, the Agreement is not admissible in this or any other proceeding as evidence that the
18 Class could be certified absent a settlement. Solely for purposes of settling the Action, the Parties
19 stipulate and agree that the requisites for establishing class certification with respect to the Class are
20 satisfied.

21 (h) Class Counsel has conducted a thorough investigation into the facts of the class action. Over
22 the course of over a year, Class Counsel diligently evaluated the Class Members' claims against
23 Defendant. Prior to the settlement negotiations, counsel for Defendant provided Class Counsel with
24 access to necessary information for the Class. In addition, Class Counsel previously negotiated
25 settlements with other employers in actions involving nearly identical issues and analogous defenses.
26 Based on the foregoing data and their own independent investigation, evaluation and experience, Class
27 Counsel believes that the settlement with Defendant on the terms set forth in the Agreement is fair,
28 reasonable, and adequate and is in the best interest of the Class in light of all known facts and

1 circumstances, including the risk of significant delay, defenses asserted by Defendant, and potential
2 appellate issues.

3
4 7. History of Settlement Discussions

5 (a) This Settlement is the result of extensive and hard-fought litigation as well as negotiations
6 before an experienced and well-respected mediator. Defendant has expressly denied and continue to
7 deny any wrongdoing or legal liability arising out of the conduct alleged in the Action. Plaintiff and
8 Class Counsel have determined that it is desirable and beneficial to the Class to resolve the Released
9 Class Claims in accordance with this Settlement. Class Counsel are experienced and qualified to evaluate
10 the class claims, the viability of the defenses asserted, and the risks and benefits of trial and settlement,
11 and Class Counsel are experienced in wage and hour class actions, as Class Counsel has previously
12 litigated and certified similar claims against other employers.

13 (b) The Parties attended an arms-length mediation session with Tripper Ortman, Esq., a respected
14 and experienced mediator of wage and hour class actions, in order to reach this Settlement. In
15 preparation for the mediation, Defendant provided Class Counsel with necessary information for the
16 members of the Class, including payroll data and data concerning the composition of the Class. Plaintiff
17 analyzed the data with the assistance of damages expert, Berger Consulting, and prepared and submitted
18 a mediation brief and damage valuation to the Mediator. Following this all-day mediation, the Parties
19 agreed to this Settlement, which was memorialized in the form of a Memorandum of Understanding.

20 (c) From April 2023 to July 2023, the settlement agreement and exhibits thereto were finalized
21 and executed, and then presented by motion to this Court for preliminary approval. On August 18, 2023,
22 the Court issued its Order granting preliminary approved of the settlement as fair and reasonable to the
23 Class.

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

26
27 8. The outcome of this case would have been uncertain and fraught with risks.

28 (a) Here, a number of defenses asserted by Defendant present serious threats to the claims of the

1 Plaintiff and the other Class Members. Defendant asserted that Defendant's practices complied with all
2 applicable Labor laws. Defendant argued that all work time was properly recorded and paid for and that
3 there was no unpaid wages. Defendant contends that its meal and rest period policies fully complied with
4 California law and Defendant did not fail to provide the opportunity for legally required meal and rest
5 breaks. As to expense reimbursement, Defendant contended that it did not fail to provide reimbursement
6 for necessary business expenses and that claimed cellphone expenses were incurred voluntarily and/or
7 for the convenience of employees and is therefore not required reimbursement. Defendant argued that
8 the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin Corp. v. Superior*
9 *Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64 Cal.App.5th 85 (2021),
10 weakened Plaintiff's claims, on liability, value, and class certifiability as to the meal and rest period
11 claims. Defendant also argues that based on its facially lawful practices, it acted in good faith and
12 without willfulness, which if accepted would negate the claims for waiting time penalties and/or
13 inaccurate wage statements. If successful, Defendant's defenses could eliminate or substantially reduce
14 any recovery to the Class. While Plaintiff believes that these defenses could be overcome, Defendant
15 maintains these defenses have merit and therefore present a serious risk to recovery by the Class.

16 (b) There was also a significant risk that, if the Action was not settled, Plaintiff would be unable
17 to obtain class certification and thereby not recover on behalf of any employees other than herself.
18 Defendant argued that the individual experience of each putative class member varied with respect to the
19 claims. Defendant could also contest class certification by arguing injury and good faith were case-by-
20 case determinations that precluded class certification. Plaintiff is aware of other cases where class
21 certification of similar claims was denied. *See e.g. Cacho v. Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019)
22 (denying certification of rest break claims). Finally, even if class certification was successful, as
23 demonstrated by the California Supreme Court decision in *Duran v. U.S. Bank National Assn.*, 59 Cal.
24 4th 1 (2014), there are significant hurdles to overcome for a class wide recovery even where the class has
25 been certified. While other cases have approved class certification in wage and hour claims, class
26 certification in this action would have been hotly disputed and was by no means a foregone conclusion

27 (c) As demonstrated by the decision in *Duran*, the complexities and duration of further litigation
28 cannot be overstated. There is little doubt that Defendant would post a bond and appeal in the event of

1 an adverse judgment. A post-judgment appeal by Defendant would have required many more years to
2 resolve, assuming the judgment was affirmed. If the judgment was not affirmed in total, then the case
3 could have dragged on for years after the appeal. The benefits of a guaranteed recovery today outweigh
4 an uncertain result three or more years in the future. Plaintiff and Class Counsel recognize the expense
5 and length of a trial against Defendant through possible appeals which could take at least another two
6 or three years. Class Counsel also have taken into account the uncertain outcome, the risk of litigation,
7 especially in complex actions such as this one. Class Counsel are also mindful of and recognize the
8 inherent problems of proof under, and alleged defenses to, the claims asserted in the Action. Moreover,
9 post-trial motions and appeals would have been inevitable. Costs would have mounted and recovery
10 would have been delayed if not denied, thereby reducing the benefits of an ultimate victory. Plaintiff and
11 Class Counsel believe that the Settlement confers substantial benefits upon the Class. Based upon their
12 evaluation, Plaintiff and Class Counsel have determined that the Settlement set forth in the Agreement
13 is in the best interest of the Class.

14 (d) The Settlement in this case is fair, reasonable and adequate considering Defendant's defenses
15 to Plaintiff's claims. As set forth in the Declaration of Nordrehaug in support of Preliminary Approval
16 which discussed the value of the class claims in detail, the Gross Settlement Amount compares favorably
17 to the value of the claims. The calculations to compensate for the amount due to the Class Members at
18 the time this Settlement was negotiated were calculated by Plaintiff's expert, Berger Consulting, in
19 advance of mediation. Class Counsel analyzed the data for putative class members and determined the
20 potential maximum damages for the class claims. For the Class, the maximum value of the claim for
21 unpaid sick pay based due to the regular rate calculation was \$5,551, the maximum value of the claim
22 for unpaid wages due to alleged off-the-clock work at 1 hour per week was \$858,951, the maximum
23 potential meal period damages were estimated to be \$2,333,260 based upon a potential 87% violation
24 rate observed in the time records, the maximum potential rest period damages were estimated to be
25 \$2,556,521 based upon the same 87% violation rate for all shifts, and the maximum potential damages
26 for failure to provide expense reimbursement were calculated to be \$30,696. In total, the damages for
27 the Class were calculated to have a maximum potential total value of \$5,784,978. In addition, Plaintiff
28 calculated that the maximum value of the potential waiting time penalties were \$2,179,009, and the

1 maximum value of the potential wage statement penalties were \$283,600.¹ Consequently, the Gross
2 Settlement Amount represents more than 14% of the potential maximum damages at issue for the Class
3 in this case, assuming these amounts could all be proven in full at trial.² The above maximum
4 calculations should then be adjusted in consideration for both the risk of class certification and the risk
5 of establishing class-wide liability on all claims. Given the amount of the Settlement as compared to the
6 potential value of the claims, the Settlement is most certainly fair and reasonable. Clearly, the goal of this
7 litigation has been met.

8 (e) In sum, the Settlement is a fair and reasonable result, and provides the Class with a significant
9 recovery, particularly when viewed in light of the fact that the Defendant asserted serious and substantial
10 defenses both to liability and to class certification. The maximum and average class member allocations
11 will be documented in the Castro Decl. Given the complexities of this case, the defenses, along with the
12 uncertainties of proof and appeal, the proposed Settlement is fair, reasonable and adequate, and should
13 be finally approved.

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

22 ¹ While Plaintiff alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
23 226, at mediation Plaintiff recognized that these claims were subject to additional, separate defenses
24 asserted by Defendant, including, a good faith dispute defense as to whether any premium wages for
25 meal or rest periods or other wages were owed given Defendant's position that Plaintiff and Class
26 Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App. 4th 576, 584
27 (2010) ("There is no willful failure to pay wages if the employer and employee have a good faith
28 dispute as to whether and when the wages were due.").

27 ² Because the PAGA claim does not provide a recovery to the Class, Plaintiff did not included the
28 PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed in the
Declaration of Nordrehaug at ¶ 33 filed in support of the Motion for Preliminary Approval.

1 **ATTORNEYS' FEES, LITIGATION EXPENSES AND SERVICE AWARD**

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

4 (a) Class Counsel successfully negotiated a class action settlement which provides for
5 a common fund settlement to be paid by Defendant to the Class in the amount Eight Hundred Fifty
6 Thousand Dollars (\$850,000) (Agreement ¶¶ 1.22 and 3.1.) As part of the settlement, the parties agreed
7 to an award of attorneys' fees equal to one-third (1/3) of the Gross Settlement Amount as the Class
8 Counsel Fees Payment. (Agreement at ¶ 3.2(b).) By this motion, Class Counsel respectfully requests
9 approval of the Class Counsel Fees Payment in an amount equal to one-third of the Gross Settlement
10 Amount.

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

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

21
22 10. **The Class Counsel Fee Award Is Properly Calculated as a Percentage of the Total Value**
23 **Created for the Benefit of the Class**

24 (a) As part of the settlement, the parties agreed to an award of attorneys' fees equal to
25 one-third of the Gross Settlement Amount of \$850,000, which equals \$283,333 for attorneys' fees. As
26 part of the Agreement, Defendant also agreed that Class Counsel will also be paid reasonable litigations
27 expenses incurred as per Class Counsel's billing statement in an amount not to exceed \$25,000. Finally,
28

1 Defendant also agreed that Plaintiff can be awarded a Class Representative Service Payment in the
2 amount of \$10,000, as her service award under the Agreement.

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

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

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

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

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

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

16 (h) Class Counsel were required to advance all costs in this litigation. Especially in this
17 type of litigation where the corporate defendant and their attorneys are well funded, this can prove to be
18 very expensive and risky. Accordingly, because the risk of advancing costs in this type of litigation can
19 be significant, it is therefore cost prohibitive to many attorneys. The financial burdens undertaken by
20 Plaintiff and Class Counsel in prosecuting this action on behalf of the Class were very substantial. Class
21 Counsel has previously litigated cases and advanced costs, but received no recovery. To date, Class
22 Counsel advanced more than \$22,000 in costs which could not have been recovered if this case had been
23 lost. The Plaintiff also undertook the risk of liability for Defendant's costs had this case not succeeded,
24 as well as other potential negative financial ramifications from having sued Defendant on behalf of the
25 Class. Accordingly, the contingent nature of the fee and the financial burdens on Class Counsel and on
26 Plaintiff also support the requested awards.

27 (i) In a common fund settlement "[t]he lodestar method is merely a cross-check on
28

1 the reasonableness of a percentage figure”. *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1050, n.5 (9th
2 Cir. 2002). In this case, the reasonableness of the requested attorneys’ fee of one-third equal to \$673,299
3 is also established by reference to Class Counsel’s lodestar in this matter. The contemporaneous billing
4 records for Class Counsel evidence that through **December 15, 2023, Class Counsel’s total lodestar**
5 **is \$197,191.25**, with significant additional fees still to be incurred to complete final approval and the
6 settlement process. (Exhibits #3 and 4.) The requested fee award is therefore currently equivalent to
7 Class Counsel’s total lodestar with only a modest multiplier of 1.4, and there will be additional lodestar
8 incurred by Class Counsel to complete the settlement process and manage the settlement distribution and
9 reports. Such a multiplier is below the range of multipliers approved in other cases such as *Laffitte* and
10 *Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002). As evidenced by the billing, Class
11 Counsel’s work was efficiently performed and highly successful, and Class Counsel should not be
12 punished for efficient and successful litigation. As a result, this Court may conclude that the requested
13 award is fair and reasonable and is justified under California law.

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

21 11. On February 11, 2020, in *Singh v. Total Renal Care* (San Francisco Superior Court Case
22 No. CGC-16-550847) Judge Ethan Schulman awarded Class Counsel a one-third award in a wage and
23 hour class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
24 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and hour
25 class settlement. On November 8, 2021, in *Securitas Wage and Hour Cases* (Los Angeles Superior Court
26 Case No. JCCP4837) Judge David Cunningham awarded a one-third fee award in a wage and hour class
27 settlement. On November 17, 2021, in *Leon v. Sierra Aluminum Company* (San Bernardino Superior
28

1 Court Case No. CIVDS2010856) Judge David Cohn awarded a one-third fee award in a wage and hour
2 class settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases* (Los Angeles Superior
3 Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award in a wage and hour class
4 action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No.
5 CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage and hour class action
6 settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los Angeles Superior Court Case
7 No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee award in a wage and hour class
8 action. On July 13, 2022, in *Crum v. S&D Carwash Management LLC*, (Sacramento Superior Court Case
9 No. 2019-00251338), Judge Christopher E. Krueger awarded a one-third fee award in a wage and hour
10 class action settlement. On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*,
11 (Sacramento Superior Court Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger
12 awarded a one-third fee award in a wage and hour class action settlement. On September 7, 2022, in
13 *Lucchese, et al. v. Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard
14 B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On November
15 4, 2022, in *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139),
16 Judge Keri Katz awarded a one-third fee award in a wage and hour class action settlement. On February
17 1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.
18 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class settlement.
19 On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No.
20 CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class
21 action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court
22 Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class
23 settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County Superior
24 Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a wage and hour
25 class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento County Superior
26 Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour
27 class settlement. On August 5, 2023, in *Correia v. Gallo Glass Company* (Stanislaus County Superior
28

1 Court Case No. CV-21-006459) Judge Sonny Sandhu approved a one-third fee award in a wage and hour
2 class settlement. On September 15, 2023, in *Moran v. Sharp Healthcare* (San Diego County Superior
3 Court Case No. 37-2019-00050203), Judge Richard Whitney approved a one-third fee award in a wage
4 and hour class settlement. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County Superior
5 Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a wage and
6 hour class settlement.

7 12. The contemporaneous billing records for Class Counsel evidence that through **December**
8 **15, 2023, Class Counsel's total lodestar is \$197,191.25**, with significant additional fees still to be
9 incurred to complete final approval and the settlement process. The requested fee award is therefore
10 currently equivalent to Class Counsel's total lodestar with a reasonable multiplier of 1.4, and there will
11 be additional lodestar incurred by Class Counsel to complete the settlement process and manage the
12 settlement distribution and reports. From September 2021 to December 15, 2023, Class Counsel
13 performed more than 256 hours of lodestar time with hourly attorney rates between \$450 and \$995. A
14 detailed breakdown of the total fees and the services performed by the firm on this case is attached hereto
15 as Exhibits #3 and 4.³ In addition, Class Counsel will be performing significant additional work that is
16 not included in this lodestar amount, including finalizing the final approval motion, attending the hearing
17 on final approval, and monitoring completion of the settlement process. I expect this additional work will
18 result in \$20,000 in additional lodestar for my firm. The rates charged by my firm are in line with the
19 prevailing rates of attorneys in the local legal community for similar work and, if this were a commercial
20 matter, these are the charges that would be made and presented to the client. My firm's hourly rates are
21 based upon the Laffey Matrix with the appropriate 2% increase adjustment for Southern California. A
22 true and correct copy of the current Laffey Matrix is attached hereto as Exhibit #5. These hourly rates
23 have been approved by Court's throughout California, including the Courts in the Superior Court of
24 California. In fact, on August 1, 2018, District Judge Andre Birotte Jr. explicitly found that Class
25 Counsel's "rates generally appear reasonable and 'in line with those prevailing in the [relevant]"
26

27
28 ³ Class Counsel switched billing systems in June 2022, so Exhibit #3 contains the billing for
inception to June 2022, and Exhibit #4 contains the billing from June 2022 to December 15, 2023.

community’—the Central District of California’’. Finally, the reasonableness of Class Counsel’s hourly rates is further confirmed by comparing such rates with the rates of comparable counsel practicing complex and class litigation as detailed in the National Law Journal Billing Survey. See e.g. *Zest IP Holdings, LLC v. Implant Direct MFG., LLC*, 2014 U.S. Dist. LEXIS 167563 (S.D. Cal. 2014). This survey is useful to show that Class Counsel’s rates are in line with the comparable rates of the defense counsel that opposes these types of class claims. Several years ago, Sheppard Mullin Richter & Hampton, who is opposing counsel in many cases prosecuted by Class Counsel, charged rates as high as \$875 for partners and \$535 for associates. Also several years ago, Paul Hastings, another opposing counsel in these types of cases, charges between \$900 and \$750 for partners and \$755 and \$335 for associates. Thus, the rates charged by Class Counsel for comparable work are less than these examples, and are therefore undoubtedly reasonable. Therefore, the requested fee award as a percentage of the fund is supported by the currently lodestar incurred with a reasonable multiplier which will be even less by the completion of the settlement. This is comparable to the multiplier approved in other cases. The requested award is therefore reasonable viewed by the Lodestar/Multiplier cross-check.

Litigation Expenses

13. As part of the Agreement at paragraph 3.2(b), that Class Counsel may seek a “Class Counsel Litigation Expenses Payment of not more than \$25,000.” Class Counsel requests reimbursement for incurred litigation expenses and costs in the amount of **\$22,747.89** based upon counsel’s billing records. These litigation expenses include the expenses incurred for filing fees, mediation expenses, expert fees (Berger Consulting Group), attorney service charges (Knox, One Legal), court appearance chargers, research (LexisNexis) charges, all of which are costs normally billed to and paid by the client. The details of the litigation expenses incurred are set forth in Exhibits #3 and 4 hereto.⁴ These costs were reasonably incurred in the prosecution of the Action.

⁴ Class Counsel switched billing systems in June 2022, so Exhibit #3 contains the billing for inception to June 2022, and Exhibit #4 contains the billing from June 2022 to December 15, 2023.

1 Service Award

2 14. For her service as the only class representative, Plaintiff should be awarded the agreed
3 service award of \$10,000 in accordance with the Agreement for her time, risk and effort expended on
4 behalf of the Class as the class representative. (Agreement at ¶ 3.2(a).) Defendant has agreed to this
5 payment and there have been no objections to the requested service award. The Declaration of Plaintiff
6 in support of this request is attached hereto as Exhibit #6. As the sole representative of the Class, the
7 Plaintiff performed her duty to the Class admirably and without exception. Plaintiff worked extensively
8 with Class Counsel during the course of the litigation, responding to numerous requests, searching for
9 documents, working with counsel, and reviewing the settlement documentation. As set forth in the
10 Agreement, the Plaintiff is also providing a comprehensive release as part of the Settlement, far beyond
11 the class release. The Declaration of Plaintiff details the involvement, stress and risks she undertook as
12 a result of this Action. The Plaintiff also assumed the serious risk that she might possibly be liable for
13 costs and fees to Defendant, as well as the reputational risk of being “blacklisted” by other future
14 employers for having filed a class action on behalf of fellow former employees. Without the Plaintiff's
15 participation, cooperation and information, no other employees would be receiving any benefit. The
16 payment of service awards to successful class representatives is appropriate and the amount of \$10,000
17 is well within the currently awarded range for similar settlements. The requested award is also
18 reasonable by reference to the amounts that other California courts have found to be reasonable in wage
19 and hour class action settlements: *Mathein v. Pier 1 Imps.*, 2018 U.S. Dist. LEXIS 71386, 168 Lab. Cas.
20 (CCH) P36,620 (E.D. Cal. 2018) (approving two service awards of \$12,500 each); *Holman v. Experian*
21 *Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (approving \$10,000 service award where class
22 member recovery was \$375); *Bellinghausen v. Tractor Supply Co.*, 306 F.R.D. 245, 268 (N.D. Cal. 2015)
23 (approving \$10,000 award); *Ontiveros v. Zamora*, 303 F.R.D. 356, 366 (E.D. Cal. 2014) (reducing
24 \$20,000 award to \$15,000 where the plaintiff brought a class claim in lieu of bringing an individual
25 action); *Glass v. UBS Fin. Servs.*, 2007 U.S. Dist. LEXIS 8476 at *51-*52 (N.D. Cal. 2007) (awarding
26 \$25,000 service award in overtime wage class action); *Zamora v. Balboa Life & Casualty, LLC*, Case
27 No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013) (awarding \$25,000 service award);
28

1 *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
2 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
3 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
4 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
5 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case
6 No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service awards to three
7 named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles
8 County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores,*
9 *Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000
10 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County
11 Superior Court (Oct. 3, 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services,*
12 *Inc.*, Case No. BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service
13 award); *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County
14 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case
15 No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award);
16 *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court,
17 (Aug. 19, 2011)(awarding \$10,000 service award together with additional compensation for their general
18 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court (Jan.
19 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No. BC386500,
20 Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award); *Sheldon v.*
21 *AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior Court (Feb. 22,
22 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054,
23 Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth*
24 *v. Banc West Investment Services, Inc.*, Case No. BC422202, Los Angeles County Superior Court (May
25 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-
26 273289, Santa Clara County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson*
27 *v. Express, LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding
28

1 \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL
2 (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*,
3 Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000
4 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10,
5 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196,
6 Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT*
7 *Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000
8 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County
9 Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security Services,*
10 *LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23, 2010)(awarding
11 \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior Court Case no.
12 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The Industrial*
13 *Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018)
14 (awarding \$10,000 service award).

15 15. The requested service award is also reasonable in light of the reputational risk that
16 Plaintiff assumed in bringing this action against her former employer. Plaintiff put her future
17 employment prospects at risk by becoming a class representative as the fact that they filed a lawsuit "is
18 searchable on the internet and may become known to prospective employers when evaluating" her for
19 employment. *Guippone v. BHS&B Holdings, LLC*, 2011 U.S., Dist. LEXIS 126026, *20 (S.D.N.Y. Oct.
20 28, 2011). Employers routinely screen employee candidates to determine whether they have ever filed
21 a suit against other employers, allowing them to screen out the litigious candidates. An entire industry
22 exists that allows employers to run extensive background searches on potential employees. Companies
23 who provide these services specifically highlight the fact that their services allows employers to weed
24 out litigious employment candidates. Reliable Plant outlines ways that employers can "get a sense of
25 whether a prospective employee is likely to sue" the employer, through background checks and other
26 means, to screen out these employees.⁵ Onicra Credit Rating Agency states: "Background screening has
27

28 ⁵ www.reliableplant.com/Read/6959/a-solution-to-fear-of-hiring-litigious-employees.

1 become a necessity in today's litigious society." Back Track Screening also represents: "In today's
2 litigious culture, employers simply cannot afford to hire employees who will put their company at risk."⁶
3 PreciseHire also offers employment screening and similarly warns: "with today's business climate being
4 extremely competitive and highly litigious, conducting pre employment background checks has become
5 a necessity."⁷

6 16. As a result, Class Counsel respectfully requests approval of the application for award of
7 the Class Counsel Fees Payment equal to one-third (1/3) of the common fund, an award of litigation
8 expenses in the amount of \$22,747.89, and approval of the requested service award to the Plaintiff.

9 17. In accordance with California Rules of Court, rule 3.769, I make the following disclosure.
10 The Class Counsel Fees Payment awarded shall be allocated entirely to Blumenthal Nordrehaug
11 Bhowmik De Blouw LLP.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing is
13 true and correct. Executed this 15th day of December 2023, at San Diego, California.

14
15 By: /s/ Norman B. Blumenthal
Norman B. Blumenthal, Esq

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27 ⁶ <http://www.btscreening.com/wp-content/uploads/2012/09/Screening-101.pdf>.

28 ⁷ <https://precisehireblog.wordpress.com/2013/11/21/pre-employment-background-checks-have-become-a-business-necessity/>.

EXHIBIT #1

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

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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 Ehmann

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

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);

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Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, 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; Lesevic 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; Porras 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 Court, 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. Cytotec 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 Gloria Guiniling (“Plaintiff”) and defendant Escondido Medical Investors Limited Partnership Life Care Center of Escondido (“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” collectively means the Plaintiff’s lawsuits alleging wage and hour violations against Defendant captioned: (1) *Gloria Guiniling vs. Escondido Medical Investors Limited Partnership Life Care Center of Escondido*, Case No. 37-2022-00019520-CU-OE-CTL, initiated on May 23, 2022 and pending in Superior Court of the State of California, County of San Diego; and (2) *Gloria Guiniling vs. Escondido Medical Investors Limited Partnership Life Care Center of Escondido*, Case No. 22NWCV00402, initiated on May 23, 2022 and pending in the in Superior Court of the State of California, County of Los Angeles.
- 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 were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period.
- 1.5. “Class” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period.
- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche 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. Additionally, “Class Data” means Aggrieved Employee’s identifying information in Defendant’s possession including the Aggrieved Employee’s Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of 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 and Facebook.
- 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 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 May 23, 2018 through August 16, 2022.
- 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 San Diego.
- 1.17. “Defendant” means Escondido Medical Investors Limited Partnership Life Care Center of Escondido.
- 1.18. “Defense Counsel means Keith A. Jacoby, Stacey F. Blank, and Zeeshan Kabani of

Littler Mendelson, P.C.

- 1.19. “Effective Date” means the date by when both of the following have occurred 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 Eight Hundred Fifty Thousand Dollars (\$850,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel 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: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The 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 January 7, 2021 through August 16, 2022.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s January 7, 2022 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 to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$12,500) and the 75% to LWDA (\$37,500) 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 Gloria Guiniling, 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 claims that were alleged, or reasonably could have been alleged, based facts stated in the Operative Complaint which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, and

Class claims outside the Class Period.

- 1.39. “Released PAGA Claims” means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for vested benefits, violation of the Fair Employment and Housing Act, wrongful termination, discrimination, unemployment insurance, disability, social security and worker’s compensation, and PAGA claims outside of the PAGA Period.
- 1.40. “Released Parties” means: Defendant and each of its former and present partners, 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 during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

2. RECITALS

Plaintiff’s Class Action

- 2.1. On May 23, 2022, Plaintiff commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Diego (Plaintiff’s “Class Action”). Plaintiff’s Class Action 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, & 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 reimburse employees for required expenses in violation of California Labor Code § 2802;
- (g) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226;
- (h) Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203; and,
- (i) Failed to pay sick wages in violation of §§ 201-204, 233 & 246

2.2. On August 17, 2022, Defendant filed a Notice of Removal, removing Plaintiff's Class Action to the United States District Court for the Southern District of California pursuant to the Class Action Fairness, Act ("CAFA").

2.3. On September 16, 2022, Plaintiff filed a Motion to Remand the Class Action to State Court, which the District Court granted on February 13, 2023, with Notice of Remand given on February 15, 2023.

Plaintiff's PAGA Action

2.4. On May 23, 2022, Plaintiff filed a separate Representative Action Complaint against Defendant in the Superior Court of the State of California, County of Los Angeles. (Plaintiff's "PAGA Action") Plaintiff's Complaint against Defendant alleged one cause of action for Civil Penalties Pursuant to Labor Code §§ 2699, *et seq.* for violations of Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s).

2.5. On August 17, 2022, Defendant filed an Answer to Plaintiff's Representative Action Complaint, asserting forty-five (45) affirmative defenses and a general denial of all claims.

Consolidation/Pleading Amendment

2.6. As part of this Agreement, the Parties agreed to stipulate to leave for Plaintiff to file a First Amended Complaint in the Class Action that adds the claims and parties alleged in the PAGA Action, and thereafter dismiss the separate PAGA Action without prejudice. Plaintiff's First Amended Complaint was filed on June 15, 2023. The First Amended Complaint in the Class Action is the operative complaint in the Action (the "Operative Complaint").

2.7. 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. Defendant filed its answer to the Operative Complaint on June 23, 2023, asserting a general denial of all claims and forty-six (46) affirmative defenses.

Mediation and Settlement

- 2.8. On March 15, 2023, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action 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.
- 2.9. 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*").
- 2.10. 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.
- 2.11. 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 \$850,000 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 \$283,333, and a Class Counsel Litigation Expenses Payment of not more than \$25,000. Defendant will not oppose requests for these payments provided that 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 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 \$12,000 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 \$12,000, 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 \$50,000 to be paid from the Gross Settlement Amount, with 75% (\$37,500) allocated to the LWDA PAGA Payment and 25% (\$12,500) 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 (\$12,500) 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. 25% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 75% 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.

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 has represented that the Class consists of 407 Class Members who collectively worked a total of 24,557 Workweeks during the Class Period, and 222 Aggrieved Employees who worked a total of 4,172 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, Plaintiff's PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, 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. Defendant's Responsibilities. Within 14 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant 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. In this Declaration, Defendant shall also aver as to the number of Class Members and the number of Workweeks for the Class during the Class Period.

- 7.2. 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 Members; 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, the Administrator. In their Declarations, Plaintiff and Class Counsel Declaration 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

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 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.

7.4. 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, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The 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 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 three (3) 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 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 them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

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.
- (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 of 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.

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.

- (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 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 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; (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 provide 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 Class size as set forth in paragraph 4.1 above. In regard hereto, Defendant is providing a declaration as set forth in paragraph 7.1 above. Should the number of workweeks increase by more than 10% of the estimate stated herein in Paragraph 4.1, Defendant will have the option to either a) increase the gross settlement proportionally or b) to shorten the release period so that there is no increase in the amount.

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. 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 and in good faith, to resolve any disagreements 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 reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 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 and 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, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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 Plaintiffs 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: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

Keith A. Jacoby
Stacey F. Blank
Zeeshan Kabani
LITTLER MENDELSON, P.C.
209 Century Park East, 5th Floor
Los Angeles, California 90067-3107
Tel.: (310) 553-0308
Fax: (310) 553-5583
Email: [kjacob@littler.com](mailto:kjacoby@littler.com)
sblank@littler.com
zkabani@littler.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. If the final approval order and judgment are not entered on or before May 23, 2025, the time within which to bring this action to trial under CCP Section 583.310 shall be extended for a period of two (2) years.

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: Jun 28, 2023

Gloria Guiniling

Gloria Guiniling (Jun 28, 2023 15:16 PDT)

Plaintiff Gloria Guiniling

Dated: 7/24/2023

[Signature] CFO
[name]

For Defendant Escondido Medical Investors Limited Partnership
Life Care Center of Escondido

Dated: 6/29/23



Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff

Dated: 7/24/2023



Keith A. Jacoby
Stacey F. Blank
Little Mendelson, P.C.
Attorney for Defendant

EXHIBIT A

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

EXHIBIT “A”

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

***Guiniling vs. Escondido Medical Investors, Superior Court of the State of California,
County of San Diego, Case No. 37-2022-00019520-CU-OE-CTL)***

The Superior Court for the State of California authorized this Notice.

READ IT CAREFULLY!

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

**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 Escondido Medical Investors Limited Partnership Life Care Center of Escondido (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiff Gloria Guiniling (“Plaintiff”) and seeks payment of (1) wages and other relief for the Class of all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period which is May 23, 2018 through August 16, 2022 (“Class Members”), and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period which is January 7, 2021 through August 16, 2022 (“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 share of the PAGA Penalties under the Settlement because you didn’t work 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 it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires 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 below 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 or otherwise notifying the Administrator in writing. 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 San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101, in Department 60 before Judge Matthew C. Braner. This hearing may change as explained below in Section 9. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person or by 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 San Diego (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 were employed by Defendant in California and classified as a non-exempt employee at any time during the Class Period.

The “Class Period” is May 23, 2018 through August 16, 2022.

2. What is this class action lawsuit about?

On May 23, 2022, Plaintiff filed a class action complaint against Defendant in the Superior Court of the State of California, County of San Diego, Case No. 37-2022-00019520-CU-OE-CTL. 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 reimburse employees for required expenses, failure to provide accurate itemized wage statements, failure to provide wages when due, failure to pay sick wages.

On May 23, 2022, Plaintiff filed a representative action complaint against Defendant in the Superior Court of the State of California, County of Los Angeles, Case No. 22NWCV00402, asserting a single cause of action for violation of the Private Attorneys General Act (Labor Code §§ 2698. et seq.) (“PAGA”) based upon the above alleged violations. On May 1, 2023, the Parties filed a stipulation in Case No. 37-2022-00019520-CU-OE-CTL to add the PAGA causes of action to the Class Action. On June 15, 2023, Plaintiff filed this consolidated First Amended Complaint in Case No. 37-2022-00019520-CU-OE-CTL which is referred to herein as the “Operative Complaint”. This lawsuit is referred to in this Class Notice as the “Action.”

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; the 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 **Eight Hundred Fifty Thousand Dollars (\$850,000)** (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 it 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 Settlement Administrator, estimated not to exceed \$12,000, 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 \$283,333, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$25,000. 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 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 \$50,000 relating to Plaintiff's claim under PAGA, \$37,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$12,500 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 (\$12,500) 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. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period (January 7, 2021 through August 16, 2022).

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 of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payment, 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 \$469,667. The Settlement 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-Five Percent (25%) 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. Seventy-Five Percent (75%) of each Participating Class Member's Individual Class Payment is in settlement of claims for 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 to the California Controller's Unclaimed Property Fund in the name of the Class Member.

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 claims that were alleged, or reasonably could have been alleged, based facts stated in the Operative Complaint which occurred during the Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims 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 claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims do not

include other PAGA claims, underlying wage and hour claims, claims for vested benefits, violation of the Fair Employment and Housing Act, wrongful termination, discrimination, unemployment insurance, disability, social security and worker's compensation, and PAGA 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 (May 23, 2018 through August 16, 2022).

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 (January 7, 2021 through August 16, 2022). 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 Settlement 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: _____, _____ (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 *Guiniling vs. Escondido Medical Investors* lawsuit. The request to opt-out should state the Class Member’s full name, address and email address or telephone number. Please include the name and number of the case, which is *Guiniling vs. Escondido Medical Investors*, Case No. 37-2022-00019520-CU-OE-CTL. 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 ILYM Group, _____. 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 (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion 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 *Guiniling vs. Escondido Medical Investors* or on the via the Case Information Portal for the California Superior Court for the County of San Diego (<https://cmportal.scscourt.org/Portal>) and entering the Case No. 37-2022-00019520-CU-OE-CTL.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion 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, *Guiniling vs. Escondido Medical Investors*, Case No. 37-2022-00019520-CU-OE-CTL, and include your name, current address, email or telephone number, and approximate dates of employment with Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: _____

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:

Keith A. Jacoby
Stacey F. Blank
Zeeshan Kabani
LITTLER MENDELSON, P.C.
209 Century Park East, 5th Floor
Los Angeles, California 90067-3107

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 60 of the Superior Court of California, County of San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101, before Judge Matthew C. Braner. 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 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 either in person or using the Court's remote appearance platform at <https://www.sdcourt.ca.gov/virtualhearings>.

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 *Guiniling vs. Escondido Medical Investors*. In addition, hearing dates are posted on the Internet through the Court's online Case Access system at <https://www.roa.sdcourt.gov/roa/> and entering the Case No. 37-2022-00019520-CU-OE-CTL.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Guiniling vs. Escondido Medical Investors* 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 *Guiniling vs. Escondido Medical Investors*. You may get more details by examining the Court's file on the Internet through the Court's online Case Access system at <https://www.roa.sdcourt.gov/roa/> and entering the Case No. 37-2022-00019520-CU-OE-CTL. If you wish to view the Court files in person, you should go to the Clerk's Office located at 330 West Broadway, San Diego, CA 92101, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

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 event, the Administrator shall pay all unclaimed funds to the California State 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 SAN DIEGO

GLORIA GUINILING, an individual, on
behalf of herself, on behalf of all persons
similarly situated,

Plaintiffs,

v.

ESCONDIDO MEDICAL INVESTORS
LIMITED PARTNERSHIP LIFE CARE
CENTER OF ESCONDIDO, a Limited
Partnership; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **37-2022-00019520-CU-OE-CTL**

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Matthew C. Braner
Dept.: 60

Action Filed: May 23, 2022
Trial Date: Not set

PRELIMINARY APPROVAL ORDER

1 This matter came before the Honorable Matthew C. Braner of the Superior Court of the
2 State of California, in and for the County San Diego, on _____[DATE], for the motion by
3 Plaintiff Gloria Guiniling (“Plaintiff”) for preliminary approval of the class settlement with
4 Defendant Escondido Medical Investors Limited Partnership Life Care Center of Escondido
5 (“Defendant”). The Court, having considered the briefs, argument of counsel and all matters
6 presented to the Court and good cause appearing, hereby GRANTS Plaintiff’s Motion for
7 Preliminary Approval of Class Action Settlement.

8 **IT IS HEREBY ORDERED:**

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

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

17 3. The Gross Settlement Amount is Eight Hundred Fifty Thousand Dollars
18 (\$850,000). It appears to the Court on a preliminary basis that the settlement amount and terms
19 are fair, adequate and reasonable as to all potential Class Members when balanced against the
20 probable outcome of further litigation and the significant risks relating to certification, liability and
21 damages issues. It further appears that investigation and research have been conducted such that
22 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
23 to the Court that settlement at this time will avoid substantial additional costs by all Parties, as
24 well as avoid the delay and risks that would be presented by the further prosecution of the Action.
25 It further appears that the Agreement has been reached as the result of serious and non-collusive,
26 arms-length negotiations. The Court therefore preliminarily finds that the Settlement is fair,
27
28

1 adequate, and reasonable when balanced against the probable outcome of further litigation and the
2 significant risks relating to certification, liability, and damages issues.

3 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed Twenty-Five
5 Thousand Dollars (\$25,000), and a proposed Class Representative Service Payment to the Plaintiff
6 in an amount not to exceed Ten Thousand Dollars (\$10,000) The Court will not approve the
7 amount of attorneys' fees and litigation expenses, nor the amount of any service award, until the
8 Final Approval Hearing. Plaintiff will be required to present evidence supporting these requests
9 prior to final approval.

10 5. The Court recognizes that Plaintiff and Defendant stipulate and agree to
11 certification of a class for settlement purposes only. This stipulation will not be deemed
12 admissible in this or any other proceeding should this Settlement not become final. For settlement
13 purposes only, the Court conditionally certifies the following Class: "all individuals who were
14 employed by Defendant in California and classified as a non-exempt employee at any time during
15 the Class Period." The Class Period is May 23, 2018 through August 16, 2022.

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

26 7. The Court provisionally appoints Plaintiff as the representative of the Class. The
27 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,

1 Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug
2 Bhowmik De Blouw LLP as Class Counsel for the Class.

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

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

26 10. The Court hereby preliminarily approves the proposed procedure for exclusion
27 from the Settlement. Any Class Member may individually choose to opt-out of and be excluded
28

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

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

24 12. A Final Approval Hearing shall be held before this Court on _____
25 _____ at _____ in Department 60 at the of the San Diego County Superior Court
26 to determine all necessary matters concerning the Settlement, including: whether the proposed
27 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
28

adequate and reasonable and should be finally approved by the Court; whether the Final Approval Order and Judgment should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and to finally approve attorneys' fees and costs, the service award, and the expenses of the Administrator. The motion for final approval and the motion for attorneys' fees, costs and service award shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing and both motions shall be heard at the Final Approval Hearing.

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

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

1 event, the Court's orders regarding the Settlement, including this Order, shall not be used or
2 referred to in litigation or otherwise for any purpose.

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

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

9 **IT IS SO ORDERED.**

10
11 Dated: _____

HON. MATTHEW C. BRANER
JUDGE, SUPERIOR COURT OF CALIFORNIA

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

GLORIA GUINILING, an individual, on
behalf of herself, on behalf of all persons
similarly situated,

Plaintiffs,

v.

ESCONDIDO MEDICAL INVESTORS
LIMITED PARTNERSHIP LIFE CARE
CENTER OF ESCONDIDO, a Limited
Partnership; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: **37-2022-00019520-CU-OE-CTL**

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

Hearing Date: _____
Hearing Time: _____

Judge: Hon. Matthew C. Braner
Dept.: 60

Action Filed: May 23, 2022
Trial Date: Not set

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Gloria Guiniling (“Plaintiff”) for an order finally approving the
2 class action settlement of this action between Plaintiff and Defendant Escondido Medical Investors
3 Limited Partnership Life Care Center of Escondido (“Defendant”) came on for hearing on
4 _____ before the Honorable Matthew C. Braner.

5 The motion is GRANTED, as set forth below.

6 **I.**

7 **FINDINGS**

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

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

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

15 3. Based on a review of the papers submitted by Plaintiff and a review of the
16 applicable law, the Court finds that the Gross Settlement Amount and the terms set forth in the
17 Agreement are fair, reasonable, and 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 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
28

1 Joseph Daguil as the Class Representative, appointed Norman B. Blumenthal, Kyle R.
2 Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of
3 Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class, and appointed
4 _____ as the Administrator.

5 **Notice to the Class**

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

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

1 **Class Representative Service Payment**

2 12. The Agreement provides for a Class Representative Service Payment of not more
3 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that the Class
4 Representative Service Payment in the amount of \$_____to the Plaintiff is reasonable in light
5 of the risks and burdens undertaken by the Plaintiff in the litigation, for the time and effort in
6 bringing and prosecuting this matter on behalf of the Class, and for the execution of the release.

7 **Administration Expenses Payment**

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

15 **PAGA Penalties**

16 14. The PAGA Penalties amount of \$50,000 is approved and shall be paid out of the
17 Gross Settlement Amount, 75% of which (\$37,500) shall be allocated and paid to the LWDA and
18 25% of which shall be distributed to the Aggrieved Employees as Individual PAGA Payments.
19 The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of
20 the Aggrieved Employees' 25% share of PAGA Penalties (\$12,500) by the total number of PAGA
21 Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b)
22 multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. The Aggrieved
23 Employees are all individuals who were employed by Defendant in California and classified as a
24 non-exempt employee at any time during the PAGA Period which is January 7, 2021 through
25 August 16, 2022. All Aggrieved Employees will be sent their Individual PAGA Payment and will
26 be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt
27 out of the Class Settlement.

1 II.
2 ORDERS

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

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

6 All individuals who were employed by Defendant in California and classified as a
7 non-exempt employee at any time during the Class Period (May 23, 2018 through
8 August 16, 2022.

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

12 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
13 best interest of the Class.

14 4. Class Counsel are awarded Class Counsel Fees Payment in the amount of \$_____
15 _____ and Class Counsel Litigation Expenses Payment in the amount of \$_____.
16 Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant,
17 Plaintiff or members of the Class.

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

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

22 7. The PAGA Penalties are approved and shall be allocated as set forth in the
23 Agreement.

24 8. A Participating Class Member must cash his or her Individual Class Payment check
25 within 180 days after the issuance of the checks. An Aggrieved Employee must cash his or her
26 Individual PAGA Payment check within 180 days after the issuance of the checks. If such checks
27 are not cashed within 120 days after the initial mailing of the checks, the Administrator will also
28 send the affected Participating Class Member and/or Aggrieved a reminder notice informing him

FINAL APPROVAL ORDER AND JUDGMENT

1 or her that unless the check is cashed in the next 60 days, it will expire and become non-
2 negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check
3 remains uncashed by the expiration of the 180 period, the funds from such uncashed checks shall
4 be paid to the California State Controller's Unclaimed Property Fund in the name of and for the
5 benefit of the individual who did not cash their check.

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

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

25 11. If the Agreement does not become final and effective in accordance with the terms
26 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in
27 connection herewith, shall be rendered null and void and shall be vacated, and the Parties shall
28

1 revert to their respective positions as of before entering into the Agreement, and expressly reserve
2 their respective rights regarding the prosecution and defense of this Action, including all available
3 defenses and affirmative defenses, and arguments that any claim in the Action could not be
4 certified as a class action and/or managed as a representative action.

5
6 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

7 1. The Court hereby enters final judgment in this case in accordance with the terms of
8 the Settlement, the Preliminary Approval Order, and this Final Approval Order and Judgment.

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

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

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

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

22 6. As of the Effective Date and upon full finding of the Gross Settlement Amount by
23 Defendant, all Participating Class Members, on behalf of themselves and their respective former
24 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns,
25 release Released Parties from the Released Class Claims. The "Released Class Claims" are all
26 claims that were alleged, or reasonably could have been alleged, based facts stated in the
27 Operative Complaint which occurred during the Class Period. Except as expressly set forth in this
28

1 Agreement, Participating Class Members do not release any other claims, including claims for
2 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act,
3 unemployment insurance, disability, social security, workers' compensation, and Class claims
4 outside the Class Period. The "Released Parties" are Defendant and each of its former and present
5 directors, officers, shareholders, owners, attorneys, insurers, predecessors, successors, assigns and
6 subsidiaries.

7 7. As of the Effective Date and upon full funding of the Gross Settlement Amount by
8 Defendant, all Aggrieved Employees and the LWDA are deemed to release, on behalf of
9 themselves and their respective former and present representatives, agents, attorneys, heirs,
10 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
11 The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably
12 could have been alleged, based on the facts stated in the Operative Complaint and the PAGA
13 Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include
14 other PAGA claims, underlying wage and hour claims, claims for vested benefits, violation of the
15 Fair Employment and Housing Act, wrongful termination, discrimination, unemployment
16 insurance, disability, social security and worker's compensation, and PAGA claims outside of the
17 PAGA Period.

18 8. As of the Effective Date and upon full funding of the Gross Settlement Amount by
19 Defendant, Plaintiff and his or her respective former and present spouses, representatives, agents,
20 attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released
21 Parties all claims, transactions, or occurrences that occurred during the Class Period as set forth
22 fully in the Agreement.

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

24
25 Dated: _____

26 _____
27 HON. MATTHEW C. BRANER
28 JUDGE, SUPERIOR COURT OF CALIFORNIA

FINAL APPROVAL ORDER AND JUDGMENT

EXHIBIT #3

BLUMENTHAL NORDREHAUG

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

DECEMBER 15, 2023

GLORIA GUINILING

RE: LIFE CARE CENTER OF ESCONDIDO
FILE NUMBER: CA2527.001

ATTORNEY FEES

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
09/25/21	ND	REVIEW AND ANALYZE ORIGINAL INTAKE NOTES. LEGAL RESERACH REGARDING RELATED LITIGATION IN STATE AND FEDERAL COURT. RESEARCH DEFENDANT'S BUSINESS OPERATIONS IN CA. STATUS UPDATE WITH PLAINTIFF.	3.50	850	2,975.00
10/10/21	ND	REVIEW AND ANALYZE EMPLOYMENT FILE FOR LEGAL CLAIMS. REVIEW ALL PAY STUBS AND PERFORM LEGAL RESEARCH REGARDING 226(A) VIOLATIONS. CONFERNCE WITH PLAINTIFF TO OBTAIN FACTS FOR COMPLAINT.	4.50	850	3,825.00
10/15/21	ND	REVIEW EMAILS AND DOCUMENTS FROM PLAINTIFF REGARDING CONSTRUCTIVE DISCHARGE/RETALIATION CLAIMS. ANALYZE AND REVIEW OFF THE CLOCK WORK TASKS AND WHETHER COMPENSABLE. LEGAL RESEARCH REGARDING THE SAME.	3.90	850	3,315.00
11/02/21	ND	REVIEW AND ANALYZE EMPLOYMENT FILE. DRAFT ORIGINAL COMPLAINT.	4.60	850	3,910.00
12/15/21	ND	DRAFT COMPLAINT. CONFERENCE WITH PLAINTFF. DISCUSS CLAIMS WITH S. BLUMENTHAL.	4.50	850	3,825.00
12/27/21	ND	REVIEW AND ANALYZE PLAINTIFF'S REVISIONS TO COMPLAINT.	1.90	850	1,615.00

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
		RESEARCH PACER AND PAGA WEBSITE FOR RELATED CASES. ANALYZE OVERLAP. REVIEW COMPLAINT FOR FILING.			
01/07/22	ND	RESEARCH LAB CODE 2699. ANALYZE FACTS AND LAW. DRAFT PAGA NOTICE. UPLOAD TO LWDA.	2.00	850	1,700.00
01/08/22	ND	DRAFT INTERNAL CASE NOTES MEMO DETAILING CLAIMS AND POTENTIAL DAMAGES.	2.10	850	1,785.00
01/10/22 17	KN	REVIEW & REVISE CASE NOTES AND RESEARCH FROM ND; ANALYZE FACTS AND CLAIMS; REVIEW DRAFT COMPLAINT; PROVIDE INPUT ON CLAIMS AND THEORIES	2.00	950	1,900.00
04/04/22	ND	REVIEW SUITABLE SEATING CLAIMS. LEGAL RESEARCH REGARDING THE SAME. CONFERENCE WITH PLAINTIFF TO DISCUSS.	3.10	850	2,635.00
05/03/22	SB	REVIEW COMPLAINT FOR FILING, ANALYZE, ADVISE ND	2.80	450	1,260.00
05/11/22	SB	REVISE COMPLAINT FOR FILING, ADVISE ND	2.40	450	1,080.00
05/19/22	RE	REVIEW CASE NOTES/DAMAGE ANALYSIS	0.50	675	337.50
05/19/22	RE	REVIEW & ANALYZE EMPLOYMENT FILE DOCUMENTS/1198.5 RESPONSE	3.00	675	2,025.00
05/19/22 15	KN	REVIEW DOCUMENTS AND DAMAGE ANALYSIS; REVIEW FINAL COMPLAINT DRAFT	1.00	950	950.00
05/20/22	RE	REVIEW, EDIT & FINALIZE CLASS ACTION COMPLAINT DRAFT	2.50	675	1,687.50
05/21/22	RE	DRAFT PAGA ONLY COMPLAINT	4.00	675	2,700.00
05/21/22	ND	REVIEW PAGA NOTICE AND COMPLAINT. REVIEW AND REVISE PAGA ONLY COMPLAINT. DISCUSS WITH R. EHMANN. STATUS UPDATE TO	1.90	850	1,615.00

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
		PLAINTIFF.			
05/23/22	RE	DRAFT CIVIL COVER SHEET & SUMMONS RE CLASS ACTION COMPLAINT	0.50	675	337.50
05/23/22	RE	REVIEW & FINALIZE CLASS ACTION COMPLAINT PACKAGE; FILE IN SD SUP. CT.	0.60	675	405.00
05/23/22	RE	RESEARCH COMPANY INFORMATION; CONFER W ND RE VENUE RE PAGA ONLY ACTION	0.40	675	270.00
05/23/22	RE	DRAFT SUMMONS, CIVIL CASE COVER SHEET & ADDENDUM/STATEMENT OF LOCATION RE PAGA ONLY ACTION	0.60	675	405.00
05/23/22	RE	REVIEW & FINALIZE PAGA ONLY COMPLAINT PACKAGE; FILE IN LA SUP.CT.	0.60	675	405.00
05/23/22	JH	ANALYZE COMPLAINT; REVIEW DOCS IN FILE; CREATE EXHIBIT BOOK; UPDATE EXHIBIT BOOK	3.00	750	2,250.00
05/23/22	RE	REVIEW COURT-RETURNED DOCUMENTS; MEMO TO FIRM RE JUDICIAL/DEPARTMENT ASSIGNMENT & STATUS OF INITIAL CASE MANAGEMENT CONFERENCE RE PAGA ONLY ACTION	0.50	675	337.50
05/23/22	RE	UPLOAD PAGA ONLY COMPLAINT TO LWDA WEBSITE; SAVE CONFIRMATION FOR FUTURE VERIFICATION OF NOTICE TO LWDA	0.40	675	270.00
05/24/22	RE	REVIEW COURT-RETURNED DOCUMENTS; REVIEW NOTICE OF ASSIGNMENT/CMC; MEMO TO FIRM RE DEPARTMENT/JUDICIAL ASSIGNMENT AND STATUS OF INITIAL CASE MANAGEMENT CONFERENCE RE CLASS ACTION	0.50	675	337.50
05/24/22 15	KN	REVIEW FILED COMPLAINT; REVIEW COURT NOTICES AND ASSIGNMENT; REVIEW MEMO FROM RE	0.50	950	475.00

<u>DATE</u>	<u>ATTY</u>	<u>DESCRIPTION</u>	<u>HOURS</u>	<u>RATE</u>	<u>AMOUNT</u>
06/03/22	JH	REVIEW NOTICE OF CMC; CIRCULATE AND ADVISE TEAM	0.30	750	225.00
<u>TOTAL BILLED HOURS</u>					
JEFF HERMAN		3.30 hr @ 750.00	\$	2,475.00	
KYLE NORDREHAUG		3.50 hr @ 950.00	\$	3,325.00	
NICK DEBLOUW		32.00 hr @ 850.00	\$	27,200.00	
RICO EHMANN		14.10 hr @ 675.00	\$	9,517.50	
SCOTT BLUMENTHAL		5.20 hr @ 450.00	\$	2,340.00	
TOTAL PROFESSIONAL SERVICES			58.10		<u>\$ 44,857.50</u>
COSTS ADVANCED					
01/07/22	PAGA FILING FEE				<u>75.00</u>
TOTAL COSTS ADVANCED					<u>\$ 75.00</u>
TOTAL CURRENT CHARGES					<u>\$ 44,932.50</u>

EXHIBIT #4

Blumenthal Nordrehaug Bhowmik DeBlouw LLP

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

INVOICE

Invoice # 1
Date: 12/15/2023
Due On: 01/14/2024

Gloria Guiniling
10354 Londonderry Avenue
San Diego, CA 92126

CA2527

Escondido Medical Investors Limited Partnership Life Care Center of Escondido

Services

Type	Date	Notes	Quantity	Rate	Total
Service	07/18/2022	Prepare initial documents for service of process re class action; identify registered agent; send out for service via Knox	0.70	\$675.00	\$472.50
Service	07/18/2022	Prepare initial documents for service of process re paga action; identify registered agent; send out for service via Knox	0.70	\$675.00	\$472.50
Service	07/19/2022	File Proof of Service of Summons re class case; memo to firm re post-service written discovery	0.50	\$675.00	\$337.50
Service	07/19/2022	File Proof of Service of Summons re paga case; memo to firm re post-service written discovery	0.50	\$675.00	\$337.50
Service	07/19/2022	Review matter; updated case notes	0.50	\$750.00	\$375.00
Service	07/19/2022	Review status; review notes from staff.	0.30	\$950.00	\$285.00
Service	07/29/2022	(Class) Review Complaint and Case notes. Draft Plaintiff's Initial written discovery requests including, Request for Production, Request for Admissions, Special Interrogatories, Form Interrogatories, Notice of Deposition of Defendant (PMK) and Proof of Service	2.00	\$250.00	\$500.00
Service	07/29/2022	(Paga) Review Complaint and Case notes. Draft Plaintiff's Initial written discovery requests including, Request for Production, Request for Admissions, Special Interrogatories, Form Interrogatories, Notice of	2.00	\$250.00	\$500.00

Deposition of Defendant (PMK) and Proof of Service					
Service	07/29/2022	(Class) Draft Belaire West Notice	0.50	\$250.00	\$125.00
Service	07/29/2022	(Paga) Draft Belaire West Notice	0.50	\$250.00	\$125.00
Service	08/16/2022	Reviewed file in anticipation of deadline to M/C Re: CMC	0.20	\$675.00	\$135.00
Service	08/18/2022	Review/analyze Defendant's Answer	0.40	\$750.00	\$300.00
Service	08/19/2022	Review/analyze Defendant's notice of removal; research for opposition	1.50	\$750.00	\$1,125.00
Service	08/19/2022	Receive parties service agreement. Update file and Proof of Service List accordingly.	0.30	\$250.00	\$75.00
Service	08/19/2022	Review Removal of Class case to Federal Court. Prepare, finalize and file Notice of Appearance for Attorneys, Bhowmik, Herman and Puche.	1.50	\$250.00	\$375.00
Service	08/22/2022	Review Defendant's notice of removal; analysis of issues and review for relevant facts to use	1.00	\$950.00	\$950.00
Service	08/23/2022	Review file; correspondence with defense counsel	0.40	\$750.00	\$300.00
Service	08/24/2022	Review, revise and finalize first set of PAGA written discovery to Defendant	2.00	\$750.00	\$1,500.00
Service	08/25/2022	Prepared for and attended M&C on Class and PAGA matter. Discussed with Team.	1.30	\$675.00	\$877.50
Service	08/25/2022	Prepare for and attend meet and confer call; advise team; discuss with AJB	1.00	\$750.00	\$750.00
Service	09/12/2022	Review file and correspondence; draft CMC stmt; finalize and prepare for filing	0.80	\$750.00	\$600.00
Service	09/12/2022	Review/analyze Defendant's CMC stmt	0.40	\$750.00	\$300.00
Service	09/14/2022	Further research and begin drafting motion to remand	3.00	\$750.00	\$2,250.00
Service	09/15/2022	Continue researching for and drafting motion to remand	2.00	\$750.00	\$1,500.00
Service	09/16/2022	Finish drafting motion to remand; revise TOC/TOA; draft notice of motion; draft proposed order; finalize all docs for filing	2.30	\$750.00	\$1,725.00
Service	09/16/2022	Review draft of motion to remand; provide input	1.00	\$950.00	\$950.00
Service	09/20/2022	Reviewed case file. created caption and service list and provided relevant documents to mediator.	0.90	\$675.00	\$607.50
Service	09/27/2022	Prepare and appear for CMC; advise team	0.60	\$750.00	\$450.00
Service	10/03/2022	Review/analyze Defendant's MT Remand Opp.; begin research for reply	1.00	\$750.00	\$750.00
Service	10/03/2022	Reviewed case file and calendar in anticipation of	0.20	\$675.00	\$135.00

remand motion hearing set for 10/14					
Service	10/04/2022	Reviewed and analyzed case file including class and paga complaint, case notes, and documents. Drafted Mediation Data Request. Sent to AJB and JSH for approval. Served Mediation Data Request.	2.90	\$675.00	\$1,957.50
Service	10/04/2022	Review and revise mediation data request	0.40	\$750.00	\$300.00
Service	10/04/2022	Review Def Opposition to remand	0.50	\$950.00	\$475.00
Service	10/05/2022	Draft motion to remand reply	3.00	\$750.00	\$2,250.00
Service	10/06/2022	Finish drafting Remand Reply	1.50	\$750.00	\$1,125.00
Service	10/07/2022	Further revise and finalize Remand reply for filing.	1.00	\$750.00	\$750.00
Service	10/11/2022	Correspondence with defense counsel re motion to remand; review chamber rules and call clerk re oral argument	0.40	\$750.00	\$300.00
Service	10/19/2022	Reviewed case docket and ensure notice was saved in file.	0.60	\$675.00	\$405.00
Service	01/27/2023	Reviewed file, discovery and documents. Drafted correspondence re: Mediation Data to Defendant. Corresponded with Defendant's Counsel.	0.90	\$675.00	\$607.50
Service	02/13/2023	Review/analyze Order granting Motion to Remand; advise team	0.70	\$750.00	\$525.00
Service	02/16/2023	Review/analyze Defendant's mediation data	1.00	\$750.00	\$750.00
Service	02/22/2023	Review and analyze data produced for mediation purposes. Analyze all discovery to date. Prepare for mediation.	4.50	\$850.00	\$3,825.00
Service	02/23/2023	Review Order re remand; analyze issues; review status for next steps and provide input	0.50	\$950.00	\$475.00
Service	02/24/2023	Review pay stubs exemplars for overtime and 226(a) violations. Legal research regarding bonuses and regular rate claims. Conference with Plaintiff to discuss settlement authority and facts for mediation brief.	3.90	\$850.00	\$3,315.00
Service	03/01/2023	Analyze time punch data for meal break violations. Review rest break claims. Legal research regarding class certification issues for meal and rest break claims.	3.80	\$850.00	\$3,230.00
Service	03/02/2023	Reviewed documents. Reviewed correspondence. Sent mediation data follow up correspondence.	0.60	\$675.00	\$405.00
Service	03/02/2023	Analyze facts and law - Draft mediation brief.	6.70	\$850.00	\$5,695.00
Service	03/03/2023	Review Defendant's mediation data production; discuss with team	1.00	\$750.00	\$750.00
Service	03/03/2023	Review docs produced, including Guiniling v Escondido	6.00	\$895.00	\$5,370.00

NonExempt Employees Active During Class & PAGA Periods - For Mediation; Escondido NE Roster 5 23 18 - 8 16 22 - For Mediation Use Only; Documents produced pre-mediation Escondido (Guiniling) - 000739 - 000772; review corr w/ defense attorney/ exchange corr w/ team member re further mediation needs. Draft mediation brief.

Service	03/04/2023	Review documents produced; review analysis and research from staff; review draft of mediation brief	2.00	\$950.00	\$1,900.00
Service	03/05/2023	Research previous settlements with similar claims and workweeks for mediation valuation. Review case demographics and defendant's written wage and hour policy documents.	3.10	\$850.00	\$2,635.00
Service	03/06/2023	Review/analyze mediation data production by defendant; circulate to team and expert	1.00	\$750.00	\$750.00
Service	03/06/2023	Speak with client in advance of mediation, analyze claims, advise AJB	2.60	\$450.00	\$1,170.00
Service	03/09/2023	Add individual claims to case notes, calculate damages, advise AJB	2.60	\$450.00	\$1,170.00
Service	03/09/2023	Draft mediation brief.	6.00	\$895.00	\$5,370.00
Service	03/09/2023	Review mediation brief and all exhibits attached thereto. Review and analyze expert damage and penalty report and notes and assumptions. Conference with Plaintiff to discuss status and potential outcomes of mediation.	3.40	\$850.00	\$2,890.00
Service	03/10/2023	Review/analyze additional mediation data produced by Defendant; circulate and advise team	1.00	\$750.00	\$750.00
Service	03/10/2023	Review file and status of discovery; assess post-mediation discovery obligations and deadlines; advise team	0.30	\$750.00	\$225.00
Service	03/10/2023	Review and revise draft mediation brief; analysis of facts and claims for mediation	1.00	\$950.00	\$950.00
Service	03/13/2023	Review/analyze additional mediation doc production from defendant; update exhibit book	0.70	\$750.00	\$525.00
Service	03/14/2023	Review exposure analysis. Review documents. Finalize and file mediation brief.	6.00	\$895.00	\$5,370.00
Service	03/14/2023	Prepare for mediation, review and analyze mediation brief, advise AJB	2.60	\$450.00	\$1,170.00
Service	03/15/2023	Prep and appear for mediation.	10.00	\$895.00	\$8,950.00
Service	03/15/2023	Review docs in file and assist with mediation; review mediators proposal; discuss mediation to with team	2.00	\$750.00	\$1,500.00
Service	03/15/2023	Attend mediation	8.00	\$450.00	\$3,600.00

Service	03/15/2023	Review and discuss mediation issues and results of mediation; analysis for settlement	0.50	\$950.00	\$475.00
Service	03/17/2023	Call with defense counsel re extension for responsive pleading; advise team	0.30	\$750.00	\$225.00
Service	03/17/2023	Prep and have call w/ defense attorney re data. Analyze next steps. Call expert. Email mediator.	2.00	\$895.00	\$1,790.00
Service	03/24/2023	Review email confirming acceptance of mediators proposal by all parties, review draft MOU	0.40	\$750.00	\$300.00
Service	03/24/2023	Review and analyze MOU terms. Send MOU to Plaintiff for signature. Conference with Plaintiff to explain terms and process of settlement approval.	1.40	\$850.00	\$1,190.00
Service	04/03/2023	Review finalized executed MOU; advise team re consolidation and pleading amendments	0.40	\$750.00	\$300.00
Service	04/03/2023	Review final MOU and emails; advise staff on procedures	0.50	\$950.00	\$475.00
Service	04/04/2023	Review file; draft/revise plaintiff's CMC stmt	0.40	\$750.00	\$300.00
Service	04/12/2023	Reviewed MOU, case notes, Class complaint, PAGA complaint. Drafted First Amended Consolidated Complaint. Reviewed and revised Stipulation for Plaintiff to File First Amended Consolidated Complaint.	3.40	\$675.00	\$2,295.00
Service	04/13/2023	Review/analyze draft stip for leave to file consolidated complaint with draft complaint; advise team	1.00	\$750.00	\$750.00
Service	04/13/2023	Review MOU; research procedural posture; discuss with KN; draft longform settlement agreement; send to defense counsel for review; correspondence with ILYM re admin bid	3.00	\$750.00	\$2,250.00
Service	04/13/2023	Review draft agreement; advise JH	1.00	\$950.00	\$950.00
Service	04/13/2023	Review long form, analyze.	1.75	\$995.00	\$1,741.25
Service	04/19/2023	Review and Analyze: Final preparation for Case Management Conference; attended Case Management Conference	1.20	\$450.00	\$540.00
Service	04/21/2023	F/u correspondence with defense counsel re status of longform and any proposed revisions	0.30	\$750.00	\$225.00
Service	04/24/2023	f/u correspondence with defense counsel re longform; create redlined version per request; revise stipulation to file FAC and draft FAC; circulate all to defense counsel for review	1.00	\$750.00	\$750.00
Service	04/24/2023	Analysis of issue raised by Defendant re PAGA; review draft agreement; memo to advise JH	1.00	\$950.00	\$950.00
Service	05/04/2023	Review/analyze defendant's changes to long form settlement agreement.	1.00	\$895.00	\$895.00

Service	05/09/2023	Review Defendant's revisions; revise agreement and prepare redlines	1.50	\$950.00	\$1,425.00
Service	05/09/2023	Draft exhibits to Agreement; email Defendant	4.00	\$950.00	\$3,800.00
Service	05/09/2023	Review settlement admin bid from Apex; discuss with KN	0.30	\$750.00	\$225.00
Service	06/14/2023	Review file; advise KN re status of longform and exhibits thereto	0.30	\$750.00	\$225.00
Service	06/15/2023	Review Order re stip to file FAC; advise team re filing	0.30	\$750.00	\$225.00
Service	06/15/2023	Execute and finalize Proof of Service. Process and submit First Amended Class and Representative Action Complaint to court for filing via One Legal and serve via email.	0.30	\$250.00	\$75.00
Service	06/15/2023	Download and save the signed Order for Leave to File Plaintiff's First Amended Class and Representative Action Complaint to the file. Email correspondence sent to handling attorney to advise.	0.20	\$250.00	\$50.00
Service	06/20/2023	Review file; finalize longform with missing information; discuss with KN; circulate to defendant for review	0.50	\$750.00	\$375.00
Service	06/20/2023	Obtain and save Filed First Amended Class and Representative Action Complaint to the file and uploaded to the LWDA website accordingly.	0.30	\$250.00	\$75.00
Service	06/21/2023	Review emails and analysis of settlement issues; review Admin emails and advise JH	0.50	\$950.00	\$475.00
Service	06/22/2023	Additional correspondence with defense counsel re admin bid	0.40	\$750.00	\$300.00
Service	06/26/2023	Review and revise Agreement for final; memo to staff; review and revise draft Class Notice; email Defendant	1.75	\$950.00	\$1,662.50
Service	06/26/2023	Review settlement agreement and exhibits for conformity with MOU terms. Conference with Plaintiff to explain settlement agreement terms. Follow up with Plaintiff to obtain signature on settlement agreement.	1.30	\$850.00	\$1,105.00
Service	06/28/2023	Reviewed, revised, finalized and executed Request for dismissal. Advised team.	0.70	\$675.00	\$472.50
Service	06/28/2023	Execute and finalize Proof of Service. Process and submit Request For Dismissal as to the Paga Action and Proof of Service to court for filing via One Legal. Serve via email.	0.30	\$250.00	\$75.00
Service	06/29/2023	execute agreement; review status of settlement and exhibit revisions; email defendant	0.50	\$950.00	\$475.00
Service	06/29/2023	Research and follow up with One Legal and Superior Court docket to obtain the status of the Dismissal as to the Paga Action submitted for filing on 06/28/2023	0.10	\$250.00	\$25.00

Service	07/05/2023	Review file and status of settlement agreement; f/u with defense counsel re same	0.20	\$750.00	\$150.00
Service	07/07/2023	Obtain filed copy of the Dismissal of the PAGA action. Upload to file and advise attorney accordingly.	0.20	\$250.00	\$50.00
Service	07/12/2023	Review file; draft/revise Joint Status Report; circulate to Defendant for review	0.40	\$750.00	\$300.00
Service	07/12/2023	Research Court Local Rules and Dept C-60 Rules and Procedures regarding Status Conference Statements. Draft Joint Status Conference Report and forward to Attorney Hermann.	1.00	\$250.00	\$250.00
Service	07/13/2023	Finalize joint report; advise team re filing	0.20	\$750.00	\$150.00
Service	07/13/2023	Execute and finalize Proof of Service. Process and submit Joint Status Conference Report and Proof of Service to Court for filing via One Legal and serve via email.	0.30	\$250.00	\$75.00
Service	07/19/2023	Draft: Reviewed file and court docket in preparation for upcoming CMC for PAGA matter; reviewed Court docket for upcoming CMC in Class matter.	0.80	\$450.00	\$360.00
Service	07/19/2023	Review prelim, analyze, advise KN.	1.25	\$995.00	\$1,243.75
Service	07/20/2023	Draft motion for preliminary approval; analysis of approval issues and Kullar valuation; redline proposed order; prepare draft motion and circulate to Defendant	4.50	\$950.00	\$4,275.00
Service	07/20/2023	Review/analyze draft of the motion for preliminary approval. Compare w/ mediation notes/charts/brief to ensure consistency w/ MOU.	2.00	\$895.00	\$1,790.00
Service	07/20/2023	F/u with defense counsel re longform; review draft MPA	0.50	\$750.00	\$375.00
Service	07/21/2023	Review Superior Court Case Docket to verify hearing on 07/25/2023 -CMC (Paga) - Case Dismissed and Hearing vacated. update calendar and email handling attorneys accordingly.	0.30	\$250.00	\$75.00
Service	07/21/2023	Review Superior Court Case Docket to verify hearing on 07/28/2023 -Status Conference (Class). Review court appearance requirements. Obtain information for Remote telephonic appearance. Add to event calendar and email handling attorneys.	0.20	\$250.00	\$50.00
Service	07/22/2023	Review file; draft declaration of Gloria Guiniling re preliminary approval/service award request; email to client re draft declaration	2.75	\$675.00	\$1,856.25
Service	07/24/2023	Review and Analyze: Planned and prepared for upcoming CMC.	0.50	\$450.00	\$225.00
Service	07/25/2023	Review final signed agreement; circulate; advise KN	0.40	\$750.00	\$300.00
Service	07/25/2023	Draft declaration ISO motion; prepare exhibits for	3.00	\$950.00	\$2,850.00

		motion			
Service	07/25/2023	Review and revise motion for prelim; revise proposed order; prepare motion for final; file and serve motion; serve LWDA	2.00	\$950.00	\$1,900.00
Service	07/26/2023	Review and Analyze: Reviewed Court docket and file in preparation for upcoming CMC.	0.50	\$450.00	\$225.00
Service	07/26/2023	Review final/filed preliminary approval motion; discuss final approval with KN	0.50	\$750.00	\$375.00
Service	07/27/2023	Review and research court case docket to confirm 7/28/2023 Class Status Conference Hearing still on calendar. Check for tentative ruling in preparation for the hearing. Email correspondence to appearing attorney to advise.	0.20	\$250.00	\$50.00
Service	07/28/2023	Review and Analyze: Final preparation for Status Conference; attended Status Conference; advised firm and updated file re Status Conference.	2.10	\$450.00	\$945.00
Service	08/18/2023	Court appearance - motion for preliminary approval; prepare for hearing; travel to Court; prepare signed order; email Def; memo to staff	2.90	\$950.00	\$2,755.00
Service	08/18/2023	Memo to Admin and Def with instructions and documents	0.50	\$950.00	\$475.00
Service	09/06/2023	Email to plaintiff G. Guiniling re status of action; final approval hearing	0.30	\$675.00	\$202.50
Service	09/19/2023	Review/analyze preliminary calculations from settlement admin	0.30	\$750.00	\$225.00
Service	09/19/2023	Review prelim calculations; review formatted class notice; respond to Admin	0.80	\$950.00	\$760.00
Service	10/04/2023	Review weekly report from settlement admin; circulate and update file re opt-outs	0.20	\$750.00	\$150.00
Service	10/13/2023	Review status and Admin report	0.25	\$950.00	\$237.50
Service	10/25/2023	Review report from settlement admin; update file re opt-outs	0.30	\$750.00	\$225.00
Service	11/27/2023	Further review of Preliminary Approval order and longform agreement; begin draft motion for final approval and fees	1.50	\$750.00	\$1,125.00
Service	11/28/2023	Review attorney time and costs entries to assess loadstar; further review longform and preliminary approval order; complete draft of Mtn for Final Approval and Fees; circulate to KN for review	2.50	\$750.00	\$1,875.00
Service	11/30/2023	Review declaration from settlement admin; discuss with KN	0.40	\$750.00	\$300.00

Service	11/30/2023	Review status; discuss with JH	0.30	\$950.00	\$285.00
Service	12/05/2023	Review and revise draft motion for final approval; revise memorandum; research issues; review status; revise proposed order and prepare redline; email Def; memo to staff	3.00	\$950.00	\$2,850.00
Service	12/06/2023	Revie KN revision to draft final approval/fee motion; further review longform; draft supporting declaration; circulate to KN for review	1.50	\$750.00	\$1,125.00
Service	12/13/2023	Corresp. with defense counsel re MFA/Fee motin draft	0.30	\$750.00	\$225.00
Service	12/14/2023	Review and revise declaration ISO motion; prepare exhibits for declaration.	1.00	\$950.00	\$950.00
Service	12/15/2023	Review and revise motion for final approval; update citations and insert final figures; prepare motion for final; file and serve motion; serve LWDA.	2.75	\$950.00	\$2,612.50
				Services Subtotal	\$152,333.75

Expenses

Type	Date	Notes	Quantity	Rate	Total
Expense	05/23/2022	Onelegal/Filing Fee	1.00	\$465.03	\$465.03
Expense	05/24/2022	Onelegal/Filing Fee	1.00	\$1,490.20	\$1,490.20
Expense	07/18/2022	Onelegal/Filing Fee	1.00	\$12.87	\$12.87
Expense	07/19/2022	Onelegal/Filing Fee	1.00	\$17.19	\$17.19
Expense	07/20/2022	Onelegal/Filing Fee	1.00	\$41.69	\$41.69
Expense	07/20/2022	Onelegal/Filing Fee	1.00	\$41.69	\$41.69
Expense	07/31/2022	KNOX Messenger and Filing Service.	1.00	\$150.25	\$150.25
Expense	07/31/2022	KNOX Messenger and Filing Service.	1.00	\$58.75	\$58.75
Expense	09/13/2022	One Legal Invoice No. 04364632	1.00	\$17.19	\$17.19
Expense	09/30/2022	KNOX - Messenger and Filing Service.	1.00	\$64.25	\$64.25
Expense	10/05/2022	Mediation Fees - Ortman.	1.00	\$13,000.00	\$13,000.00
Expense	02/22/2023	One Legal Invoice No. 04772070	1.00	\$13.33	\$13.33
Expense	03/23/2023	Berger Consulting Fee.	1.00	\$5,950.00	\$5,950.00
Expense	04/04/2023	One Legal Invoice No. 04880854	1.00	\$17.66	\$17.66
Expense	06/02/2023	Lexisnexis	1.00	\$200.00	\$200.00
Expense	06/14/2023	filing via One Legal	1.00	\$33.92	\$33.92

Expense	06/16/2023	Filing via One Legal	1.00	\$13.33	\$13.33
Expense	06/30/2023	Filing via One Legal	1.00	\$17.66	\$17.66
Expense	07/03/2023	Lexis Nexis	1.00	\$226.00	\$226.00
Expense	07/13/2023	One Legal Invoice No. 05143094	1.00	\$13.33	\$13.33
Expense	07/27/2023	Filing fee - one legal - motion	1.00	\$83.34	\$83.34
Expense	08/02/2023	LexisNexis	1.00	\$220.00	\$220.00
Expense	08/11/2023	Filing fee - one legal - motion	1.00	\$77.21	\$77.21
Expense	08/18/2023	Court parking for motion hearing	1.00	\$14.00	\$14.00
Expense	09/01/2023	Lexis Nexis	1.00	\$154.00	\$154.00
Expense	10/02/2023	LexisNexis	1.00	\$220.00	\$220.00
Expense	12/14/2023	Filing fee - motion	1.00	\$60.00	\$60.00
Expenses Subtotal				\$22,672.89	

Time Keeper	Quantity	Rate	Total
AJ Bhowmik	33.0	\$895.00	\$29,535.00
Norm Blumenthal	3.0	\$995.00	\$2,985.00
Scott Blumenthal	15.8	\$450.00	\$7,110.00
Nicholas De Blouw	28.1	\$850.00	\$23,885.00
Ricardo Ehmann	5.45	\$675.00	\$3,678.75
Jeffrey Herman	47.7	\$750.00	\$35,775.00
Trevor Moran	5.1	\$450.00	\$2,295.00
Kyle Nordrehaug	38.55	\$950.00	\$36,622.50
Sergio Puche	11.7	\$675.00	\$7,897.50
Heather Drosi	10.2	\$250.00	\$2,550.00
Subtotal			\$175,006.64
Total			\$175,006.64

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
1	01/14/2024	\$175,006.64	\$0.00	\$175,006.64
Outstanding Balance				\$175,006.64
Total Amount Outstanding				\$175,006.64

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

Please pay within 30 days.

EXHIBIT #5

LAFFEY MATRIX

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			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/22- 5/31/23	1.085091	\$225	\$413	\$508	\$733	\$829	\$997
6/01/21- 5/31/22	1.006053	\$208	\$381	\$468	\$676	\$764	\$919
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406
6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *DL v. District of Columbia*, 267 F.Supp.3d 55, 69 (D.D.C. 2017)

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

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

EXHIBIT #6

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (SBN 068687)

Kyle R. Nordrehaug (SBN 205975)

Aparajit Bhowmik (SBN 248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858) 551-1223

Facsimile: (858) 551-1232

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

GLORIA GUINILING, an individual, on
behalf of herself, on behalf of all persons
similarly situated,

Plaintiff,

vs.

ESCONDIDO MEDICAL INVESTORS
LIMITED PARTNERSHIP LIFE CARE
CENTER OF ESCONDIDO, a Limited
Partnership; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2022-00019520-CU-OE-CTL

**DECLARATION OF GLORIA
GUINILING IN SUPPORT OF
MOTION FOR PRELIMINARY
APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: August 18, 2023

Hearing Time: 9:00 a.m.

Judge: Hon. Matthew C. Braner

Dept.: 60

Action Filed: May 23, 2022

Trial Date: Not set

1 I, Gloria Guiniling, 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 Escondido Medical Investors Limited Partnership Life Center
10 Care of Escondido ("Escondido Medical Investors") in California from October of 2013 to
11 September of 2021 and was classified by Escondido Medical Investors as a non-exempt
12 employee during that time period.
13

14 4. I retained my attorneys who are experienced in both class action and PAGA
15 representative action litigation and claims against employers for violations of the California
16 Labor Code. I have no personal relationship or family ties to my attorneys or any officer of the
17 Court. I am not aware of having any actual or potential conflicts of interest with another class
18 member in this case nor am I aware of having any actual or potential conflicts of interest with
19 ILYM Group, the settlement administrator. I am not aware of any other pending matter or action
20 asserting claims that will be extinguished or adversely affected by this settlement.
21

22 5. I decided to file this class action lawsuit and be a plaintiff/class representative because
23 I felt that my legal rights as an employee and others like me were violated. For example, due to
24 my heavy workload, staff shortages and company policies that required employees to be on call
25 and ready to respond at all times, I regularly did not receive compliant meal and rest breaks
26 which were often late, interrupted or missed entirely. Also, I did not receive the meal and rest
27

1 break premium payments I was entitled to when these violations occurred.

2 6. Before the complaint was filed I spoke to my attorneys several times and discussed how
3 Escondido Medical Investors implemented its company policies and procedures. I also assisted
4 my attorneys in their investigation into my claims by providing them documents and answering
5 their questions. I reviewed the complaint before it was filed and after it was filed I was given
6 access to an electronic file sharing program that alerted me via email when important documents
7 were filed so that I could review them and keep up with the developments in the case which I
8 understood was one of my duties as a class representative. I would also contact my attorneys
9 from time to time if I had any questions about the case.
10

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

18 8. I understood that being a plaintiff/class representative in this case meant that I
19 was seeking damages not only for myself but also other current and/or former non-exempt
20 employees working for Escondido Medical Investors in California. I felt that these individuals
21 were not aware of their labor law rights and even if they were they would probably be
22 apprehensive about speaking up or even simply because of the time, effort and risk involved in
23 filing a class action lawsuit.
24

25 9. I understood that being a part of this lawsuit involved risks. For example, my
26 attorneys explained to me that if the case went to trial and we lost, I could be held responsible to
27

1 pay for all or part of the attorney fees and costs paid by Escondido Medical Investors to defend
2 this lawsuit. Also, I knew there was a risk that future employers, if they ever found out about
3 this lawsuit, could hold it against me or downgrade me as a potential hire. As the only named
4 Plaintiff in this case it would not be difficult for a future employer to become aware that I sued a
5 former employer for labor law violations. Ultimately I decided these risks were worth it and
6 decided to fight for my rights and the rights of others regardless of the risks, time and effort I
7 spent on this case.
8

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

13 11. A mediation took place on March 15, 2023 with Tripper Ortman, a well-respected
14 and experienced mediator of wage and hour class actions. After the all-day mediation the parties
15 were able to reach an agreement to settle the action based on a mediator's proposal. I
16 communicated with my attorneys regarding the terms of the settlement which was reached
17 between the parties and understood that I was representing absent class members and therefore
18 wanted the best possible result to be obtained for the class members and I believe a very positive
19 result was in fact achieved via settlement. I reviewed and signed the Memorandum of
20 Understanding on March 27, 2023 and when the final settlement papers were ready, I closely
21 reviewed the Settlement Agreement which I signed on June 28, 2023.
22

23 12. I have been actively involved with this lawsuit performing the duties described above.
24 Although I did not keep time records, I was in regular contact with my attorneys, reviewed court
25 filings, and spent a significant amount of time on the issues presented during the lawsuit and in
26 the settlement process. I estimate that I spent approximately 30-40 hours working on this case
27

up until this point. I believe I have been diligent and have done what is expected of a named plaintiff and a proposed class representative to date, and will continue to do so. I have and always will maintain the best interest of the class members.

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

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

15. As part of the settlement it was necessary for me to sign a general release of all claims I may have against Escondido Medical Investors. I believe the Class Representative Service Payment I have requested provides me with some compensation for this agreed release.

16. In light of all the time and effort I have spent on this case, the risk I undertook by suing a former employer, the exposure to being responsible for paying Escondido Medical Investor's costs in the event we did not win the case, the reputational risk that future employers may hold this lawsuit against me, the general release, and in light of the size of the settlement, I believe the request for \$10,000 as a Class Representative service payment is fair and reasonable.

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

3 Executed on Jul 23, 2023, at SAN DIEGO, CA
4 (city, state)

5 *gloria guiniling*

6 gloria guiniling (Jul 23, 2023 01:53 PDT)

Gloria Guiniling