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13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

14 **IN AND FOR THE COUNTY OF MONTEREY**

15 ANGELA GARCIA, an individual, on  
16 behalf of herself and on behalf of all  
17 persons similarly situated,

18 Plaintiff,

19 vs.

20 SUNDERSTORM INC., a Corporation;  
21 SUNDERSTORM BAY LLC, a Limited  
22 Liability Corporation; and DOES 1 through  
23 50, inclusive,

24 Defendants.

**Case No. 22CV001827**

**DECLARATION OF KYLE NORDREHAUG  
IN SUPPORT OF MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT**

Hearing Date: September 29, 2023

Hearing Time: 8:30 a.m.

Judge: Hon. Thomas W. Wills

Dept: 15

Action Filed: June 29, 2022

Trial Date: Not Set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,  
3 counsel of record for Plaintiff Angela Garcia ("Plaintiff") in 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  
6 herein.

7 2. This declaration is being submitted in support of Plaintiff's unopposed motion for  
8 preliminary approval of the proposed class action settlement with Defendants Sunderstorm Inc. and  
9 Sunderstorm Bay LLC ("Defendants"), which motion seeks entry of an order: (1) preliminarily  
10 approving the proposed settlement of this class action with Defendants; (2) for settlement purposes  
11 only, conditionally certifying the Class, which is comprised of "all individuals who were employed  
12 by Defendants in California and classified as a non-exempt employee at any time during the Class  
13 Period" of June 29, 2018 through July 1, 2023; (3) provisionally appointing Plaintiff as the  
14 representative of the Class; (4) provisionally appointing Norman B. Blumenthal, Kyle R.  
15 Nordrehaug, Aparajit Bhowmik, Nicholas J. DeBlouw, Jeffrey S. Herman, and Sergio J. Puche of  
16 Blumenthal Nordrehaug Bhowmik De Blouw LLP as Class Counsel for the Class; (5) approving  
17 the form and method for providing class-wide notice; (6) directing that notice of the proposed  
18 settlement be given to the Class; (7) appointing ILYM Group as the Administrator; and  
19 (8) scheduling a final approval hearing date proposed for February 23, 2024 to consider Plaintiffs'  
20 motion for final approval of the settlement and entry of the Judgment, and Plaintiffs' motion for  
21 approval of attorneys' fees and expenses. Attached hereto as Exhibit #1 is a copy of the fully  
22 executed Class Action and PAGA Settlement Agreement ("Agreement") along with exhibits  
23 thereto. The form of the Agreement is based upon the Los Angeles County Superior Court model  
24 form for a class and PAGA settlement. This Declaration incorporates by reference the definitions in  
25 the Agreement, and all terms defined therein shall have the same meaning as set forth in the  
26 Agreement.

1 Fairness of Settlement

2           3.       As consideration for this Settlement, the Gross Settlement Amount is Six Hundred  
3 Thousand Dollars (\$600,000) to be paid by Defendants, as set forth in the Agreement. The Gross  
4 Settlement Amount will settle all issues pending in the Action between the Parties and will be made  
5 in full and final settlement of the Released Class Claims. The Gross Settlement Amount includes  
6 all payments of Individual Class Payments to the Participating Class Members, Administration  
7 Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment,  
8 Class Representative Service Payment, and the PAGA Penalties. The Gross Settlement Amount  
9 does not include the employer's share of payroll taxes which will be separately paid by Defendants.  
10 The Settlement is all-in with no reversion to Defendants and no need to submit a claim form.

11           4.       The relief provided in the Settlement will benefit all members of the Class. The  
12 Settlement does not grant preferential treatment to Plaintiff or segments of the Class in any way.  
13 Payments to the Class Members are all determined under a neutral methodology. Each  
14 Participating Class Member will receive the same opportunity to participate in and receive payment  
15 through a neutral formula that is based upon the weeks worked by that individual.

16           5.       On May 1, 2023, the Parties participated in an all-day mediation presided over by  
17 Hon. Carl J. West (Ret.), a respected jurist and experienced mediator of wage and hour  
18 representative and class actions. In preparation for the mediation, Defendants provided Class  
19 Counsel with necessary information for the members of the Class, including time punch data,  
20 payroll data and information concerning the composition of the Class. Plaintiff analyzed the data  
21 with the assistance of damages expert, Berger Consulting, and prepared and submitted a mediation  
22 brief and damage valuation to the Mediator. Following this all-day mediation, the Parties agreed to  
23 this Settlement. The final settlement terms were negotiated and set forth in the Agreement now  
24 presented for this Court's approval. Importantly, Plaintiff and Class Counsel believe that this  
25 Settlement is fair, reasonable and adequate.

26           6.       Based upon 193 Class Members who collectively worked 10,296 weeks (Agreement  
27 at ¶ 4.1), the Gross Settlement Amount provides a value of \$3,108 per Class Member and \$58 per  
28

1 work week and the Net Settlement Amount provides an average recovery of \$1,782.38 per Class  
2 Member and a recovery of \$33.41 per work week. The calculations to compensate for the amount  
3 due to the Class Members at the time this Settlement was negotiated were calculated by Plaintiffs'  
4 expert, Berger Consulting, in advance of mediation. Class Counsel analyzed the data for putative  
5 class members and determined the potential maximum damages for the class claims. For the Class,  
6 the maximum value of the claim for unpaid wages due to off the clock work was potentially  
7 \$260,878, the maximum value of the claim for unpaid wages due to an alleged miscalculation of the  
8 regular rate for wages and sick pay was \$17,157, the maximum value of the claim for unpaid wages  
9 due to the maximum potential damages for unpaid meal premiums were estimated to be \$47,400  
10 based upon an alleged 18% violation rate and after deducting the significant meal period premiums  
11 paid by Defendants, the maximum potential rest period damages were estimated to be \$821,758  
12 based upon an potential 85% violation rate observed in the time records, and the maximum potential  
13 damages for failure to provide expense reimbursement were calculated to be \$12,870. In total, the  
14 damages for the Class were calculated to have a maximum potential total value of \$1,160,064. In  
15 addition, Plaintiff calculated that the maximum value of the potential waiting time penalties were  
16 between \$223,914 and \$447,828, depending on the predicate violation, and the maximum value of  
17 the potential wage statement penalties were \$215,500.<sup>1</sup> Defendants vigorously disputed Plaintiff's  
18 calculations and exposure theories. Consequently, the Gross Settlement Amount represents more  
19 than 51% of the potential maximum damages at issue for the Class in this case, assuming these  
20 amounts could all be proven in full at trial.<sup>2</sup> The above maximum calculations should then be

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21  
22 <sup>1</sup> While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203  
23 and 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate  
24 defenses asserted by Defendants, including, a good faith dispute defense as to whether any wages  
25 were owed given Defendants' position that Plaintiffs were properly compensated. *See Nordstrom*  
26 *Commission Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if  
27 the employer and employee have a good faith dispute as to whether and when the wages were  
28 due.").

26 <sup>2</sup> Because the PAGA claim does not provide a recovery to the Class, Plaintiffs did not included  
27 the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed in  
28 the Decl. Nordrehaug at ¶ 33.

1 adjusted in consideration for both the risk of class certification and the risk of establishing class-  
2 wide liability on all claims. Given the amount of the Settlement as compared to the potential value  
3 of the claims, the Settlement is most certainly fair and reasonable.

4  
5 Procedural History of the Litigation

6 7. On February 21, 2022, Plaintiff filed with the LWDA and served on Defendants a  
7 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover  
8 civil penalties on behalf of Aggrieved Employees for various Labor Code violations (the "PAGA  
9 Notice"). A true and correct copy of the PAGA Notice sent by Plaintiff is attached hereto as  
10 Exhibit #3. On June 29, 2022, Plaintiff commenced this Action by filing a Class Action Complaint  
11 against Defendants in the Superior Court of the State of California, County of Monterey. This class  
12 action Complaint asserted class claims against Defendants for: (1) unfair competition in violation of  
13 Cal. Bus & Prof. Code §§ 17200, et seq.; (2) failure to pay minimum wages in violation of  
14 California Labor Code §§ 1194, 1197 & 1197.1; (3) failure to pay overtime wages in violation of  
15 California Labor Code §§ 510, 1194 & 1198; (4) failure to provide required meal periods in  
16 violation of California Labor Code §§ 226.7 and 512; (5) failure to provide required rest periods in  
17 violation of Cal. Labor Code §§ 226.7 and 512; (6) failure to reimburse employees for required  
18 expenses in violation of California Labor Code § 2802; (7) failure to provide accurate itemized  
19 wage statements in violation of California Labor Code § 226; (8) failure to provide wages when due  
20 in violation of California Labor Code §§ 201, 202 and 203; and, (9) failure to provide sick wages in  
21 violation of California Labor Code §§ 201-204, 233 and 246. On September 21, 2022 Defendants  
22 filed an Answer to Plaintiff's Class Action Complaint, asserting twenty-three (23) affirmative  
23 defenses.

24 8. On June 30, 2022, Plaintiff filed a separate Representative Action Complaint against  
25 Defendants in the Superior Court of the State of California, County of Monterey. (Plaintiff's  
26 "PAGA Action") Plaintiff's Complaint against Defendants alleged one cause of action for Civil  
27 Penalties Pursuant to Labor Code §§ 2699, et seq. for various alleged wage and hour violations of  
28

1 the Labor Code, including, but not limited to the following: Labor Code §§ 201, 202, 203, 204 et  
2 seq., 210, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,  
3 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable  
4 Wage Order(s). On September 21, 2022 Defendants filed an Answer to Plaintiff's Representative  
5 Action Complaint, asserting twenty-one (21) affirmative defenses.

6 9. As part of the Agreement, the Parties agreed to stipulate to the filing of the First  
7 Amended Class and Representative Action Complaint in the Class Action that adds the claims and  
8 parties alleged in the PAGA Action, and thereafter dismiss the separate PAGA Action without  
9 prejudice. The First Amended Class and Representative Action Complaint was filed on June 27,  
10 2023. The First Amended Class and Representative Action Complaint in the Class Action is the  
11 operative complaint in the Action (the "Operative Complaint").

12 10. Over the course of litigation, the Parties engaged in the investigation of the claims,  
13 including production of documents, class data, and other information, allowing for the full and  
14 complete analysis of liabilities and defenses to the claims in the Action. Plaintiff obtained informal  
15 discovery, which included the production relevant documents and data. The information for  
16 mediation obtained by Plaintiffs included: (1) data concerning the class; (2) payroll data and time  
17 punch data for the class; (3) Defendants' wage and hour policies and job descriptions; (4) the  
18 employment file for the Plaintiff; and, (5) samples of wage statements provided by Defendants. As  
19 such, Class Counsel received the data and information for the Class, which was sufficient for  
20 Plaintiff's expert to prepare the valuations of the claims for the Class.

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

27 12. Plaintiff and Defendants agreed to discuss resolution of the Action through a  
28

1 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of  
2 documents and information in connection with the Action. On May 1, 2023, the Parties participated  
3 in an all-day mediation presided over by Hon. Carl J. West (Ret.), a respected jurist and  
4 experienced mediator of wage and hour class actions. Following the mediation, each side,  
5 represented by its respective counsel, were able to agree to settle the Action based upon a  
6 mediator's proposal which was memorialized in a memorandum of understanding. The Parties then  
7 negotiated the final terms of the settlement as set forth in the Agreement. At all times, the  
8 negotiations were arm's length and contentious.

9       13. Although a settlement has been reached, Defendants deny any liability or  
10 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for  
11 any purpose other than settlement, the Action is appropriate for class and/or representative  
12 treatment. Defendants contend, among other things, that they have properly compensated the Class  
13 Members and complied at all times with the California Labor Code, applicable Wage Order, and all  
14 other laws and regulations. Further, Defendants contend that class certification is inappropriate for  
15 any reason other than for settlement. Plaintiff contends that Defendants violated California wage  
16 and hour laws. Plaintiff further contends that the Action is appropriate for class certification on the  
17 basis that the claims meet the requisites for class certification. Without admitting that class  
18 certification is proper, Defendants have stipulated that the above Class may be certified for  
19 settlement purposes only. (Agreement at ¶ 2.9.) The Parties agree that certification for settlement  
20 purposes is not an admission that class certification is proper. Further, the Agreement is not  
21 admissible in this or any other proceeding as evidence that the Class could be certified absent a  
22 settlement. Solely for purposes of settling the Action, the Parties stipulate and agree that the  
23 requisites for establishing class certification with respect to the Class are satisfied.

24       14. Class Counsel has conducted a thorough investigation into the facts of the class  
25 action. Over the course of more than one year, Class Counsel diligently evaluated the Class  
26 Members' claims against Defendants. Prior to the settlement negotiations, counsel for Defendants  
27 provided Class Counsel with access to necessary information for the Class. In addition, Class  
28

1 Counsel previously negotiated settlements with other employers in actions involving nearly  
2 identical issues and analogous defenses. Based on the foregoing data and their own independent  
3 investigation, evaluation and experience, Class Counsel believes that the settlement with  
4 Defendants on the terms set forth in the Agreement is fair, reasonable, and adequate and is in the  
5 best interest of the Class in light of all known facts and circumstances, including the risk of  
6 significant delay, defenses asserted by Defendants, and potential appellate issues.

7  
8 Settlement Terms and Plan of Allocation

9       15.     The Gross Settlement Amount is Six Hundred Thousand Dollars (\$600,000) .  
10 (Agreement at ¶ 1.22.) Under the Settlement, the Gross Settlement Amount consists of the  
11 following elements: (1) payment of the Individual Class Payments to the Participating Class  
12 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)  
13 Administration Expenses Payment; (4) the Class Representative Service Payment to Plaintiff; and  
14 (5) the PAGA Penalties payment. (Agreement at ¶ 1.22.) The Gross Settlement Amount does not  
15 include Defendants' share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount  
16 shall be all-in with no reversion to Defendants. (Agreement at ¶ 3.1.)

17       16.     Within twenty (20) days of the Effective Date, Defendants shall deposit the Gross  
18 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual  
19 Class Payments to Participating Class Members along with the other Court-approved distributions  
20 shall be made by the Administrator within fourteen (14) days after Defendants fully fund the Gross  
21 Settlement Amount. (Agreement at ¶ 5.1.)

22       17.     The amount remaining in the Gross Settlement Amount after the deduction of  
23 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, Class  
24 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses  
25 Payment, and the Administration Expenses Payment (called the "Net Settlement Amount") shall be  
26 allocated to Class Members as their Individual Class Payments. (Agreement at ¶¶ 1.28 and 3.2.)  
27 From the Net Settlement Amount, the Individual Class Payment for each Participating Class  
28

1 Member will be calculated by (a) dividing the Net Settlement Amount by the total number of  
2 Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying  
3 the result by each Participating Class Member's Workweeks. (Agreement at ¶ 3.2(e).) Workweeks  
4 will be based on Defendants' records; however, Class Members will have the right to challenge the  
5 number of Workweeks.

6 18. Class Members may choose to opt-out of the Settlement by following the directions  
7 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be  
8 deemed Participating Class Members who will be bound by the Settlement and will be entitled to  
9 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All Aggrieved Employees,  
10 including those who submit an opt-out request, will still be paid their allocation of the PAGA  
11 Penalties and will remain subject to the release of the Released PAGA Claims regardless of their  
12 request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).) Finally, the Class Notice will advise the  
13 Class Members of their right to object to the Settlement and/or dispute their Workweeks.  
14 (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

15 19. A Participating Class Member must cash his or her Individual Class Payment check  
16 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within  
17 180 days will be voided and any funds represented by such checks to to the California Controller's  
18 Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue"  
19 subject to the requirements of California Code of Civil Procedure Section 384, subd. (Agreement at  
20 ¶ 5.4.)

21 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the  
22 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid  
23 for settlement administration in an amount not to exceed \$7,000. (Agreement at ¶ 3.2(c).)

24 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded  
25 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.  
26 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of  
27 Class Counsel Litigation Expenses Payment in an amount not to exceed \$15,000. (Agreement at ¶  
28

1 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$10,000  
2 to the Plaintiff as the Class Representative Service Payment. (Agreement at ¶ 3.2(a).)

3 22. Subject to Court approval, Twenty-Four Thousand Dollars (\$24,000) will be paid  
4 from the Gross Settlement Amount for PAGA penalties under the California Private Attorneys  
5 General Act, Cal. Labor Code Section 2698, *et seq.* ("PAGA"). Pursuant to the express  
6 requirements of Labor Code § 2699(i), the PAGA Penalties shall be allocated as follows: 75%  
7 (\$18,000) shall be allocated to the Labor Workforce Development Agency ("LWDA") as its share  
8 of the civil penalties and 25% (\$6,000) allocated to the Individual PAGA Payments to be  
9 distributed to the Aggrieved Employees based on the number of their respective PAGA Pay  
10 Periods. (Agreement at ¶ 3.2(d).) As set forth in the accompanying proof of service, the LWDA has  
11 been served with this motion and the Agreement.

12  
13 Risks of Continued Litigation and Standards for Approval

14 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to  
15 litigate and trying this Action against Defendants and then litigating possible appeals which could  
16 take several years. Class Counsel has also taken into account the uncertain outcome and risk of  
17 litigation, especially in complex class actions such as this Action. Class Counsel is also mindful of  
18 and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in  
19 the Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the  
20 Settlement set forth in the Agreement is in the best interest of the Class Members.

21 24. Here, a number of defenses asserted by Defendants present serious threats to the  
22 claims of the Plaintiffs and the other Class Members. Defendants asserted that Defendants'  
23 practices complied with all applicable laws. Defendants argued that all work time was paid for and  
24 that the regular rate was properly calculated. Defendants contended that their meal and rest period  
25 policies fully complied with California law, that Defendants' timekeeping system recorded meal  
26 periods, and that all meal periods were provided. Defendants' could argue the significant meal  
27 period premiums paid was evidence of their legally compliance practices. As to expenses  
28

1 reimbursement, Defendants maintained that employees were not required to use their cell phones  
2 and any use of their cell phone was voluntary for their convenience and therefore not subject to  
3 Labor Code §2802. Defendants argued that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th  
4 1004 (2012), *Lockheed Martin Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v.*  
5 *See's Candy Shops Inc.*, 64 Cal. App.5th 85 (2021), weakened Plaintiffs' claims, on liability, value,  
6 and class certifiability as to the meal and rest period claims. Defendants also argue that based on its  
7 facially lawful practices, they acted in good faith and without willfulness, which if accepted would  
8 negate the claims for waiting time penalties and/or inaccurate wage statements. If successful,  
9 Defendants' defenses could eliminate or substantially reduce any recovery to the Class. While  
10 Plaintiff believe that these defenses could be overcome, Defendants maintains these defenses have  
11 merit and therefore present a serious risk to recovery by the Class.

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

24 26. This settlement is therefore certainly entitled to preliminary approval. Were this  
25 case to go to trial, the Plaintiff and the other class members would need to prove, among other  
26 things, that wages were owed on a class-wide basis. This was and is a substantial risk.

27 27. Plaintiff will apply to the Court for a Class Representative Service Payment in  
28

1 consideration for her service and for the risks undertaken on behalf of the class. (Agreement at ¶  
2 3.2(a).) Plaintiff performed her duties admirably by working with Class Counsel. In support,  
3 Plaintiff's declaration addresses her work and service on behalf of the Class. For purposes of this  
4 preliminary approval stage, the requested service award of \$10,000 is well within the accepted  
5 range of awards for purposes of preliminary approval. *See e.g. Mathein v. Pier 1 Imps. (U.S.), Inc.*,  
6 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member  
7 payment was \$351); *Holman v. Experian Info. Solutions, Inc.*, 2014 U.S. Dist. LEXIS 173698 (N.D.  
8 Cal. 2014) (approving \$10,000 service award where class member recovery was \$375); *Rausch v.*  
9 *Hartford Fin. Servs. Grp.*, 2007 U.S. Dist. LEXIS 14740, 2007 WL 671334 (D. Or. 2007)  
10 (approving award of \$10,000 where class member recoveries were as little as \$150); *Louie v.*  
11 *Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, \*7 (S.D.Cal. Oct. 06, 2008) (awarding  
12 \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*,  
13 2007 WL 221862, \*16-17 (N.D.Cal. Jan. 27 2007) (awarding \$25,000 service award in overtime  
14 class action and a pool of \$100,000 in enhancements ). As explained in *Glass*, service awards are  
15 routinely awarded to class representatives to compensate the employees for the time and effort  
16 expended on the case, for the risk of litigation, for the fear of suing an employer and retaliation  
17 there from, and to serve as an incentive to vindicate the statutory rights of all employees. 2007 WL  
18 221862 at \*16-17. Below, I provided a long list of similar Court-approved service awards.

19         28. The stage of the proceedings at which this Settlement was reached also militates in  
20 favor of preliminary approval and ultimately, final approval of the Settlement. Class Counsel has  
21 conducted a thorough investigation into the facts of the class action. Class Counsel began  
22 investigating the Class Members' claims before the Action was filed. Class Counsel engaged in an  
23 investigation of the claims and conducted a review and analysis of the relevant documents and data.  
24 Class Counsel was also experienced with the claims at issue here, as Class Counsel previously  
25 litigated and settled similar claims in other actions. Accordingly, the agreement to settle did not  
26 occur until Class Counsel possessed sufficient information to make an informed judgment regarding  
27 the likelihood of success on the merits and the results that could be obtained through further  
28

1 litigation.

2           29.     Based on the foregoing data and their own independent investigation and evaluation,  
3 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the  
4 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the  
5 Class in light of all known facts and circumstances, including the risk of significant delay, defenses  
6 asserted by Defendants, and numerous potential appellate issues. There can be no doubt that  
7 Counsel for both parties possessed sufficient information to make an informed judgment regarding  
8 the likelihood of success on the merits and the results that could be obtained through further  
9 litigation.

10  
11 Class Certification Issues

12           30.     Plaintiffs contends that the proposed settlement meets all of the requirements for  
13 class certification under California Code of Civil Procedure § 382 as demonstrated below, and  
14 therefore, the Court may appropriately approve the Class as defined in the Agreement. This Court  
15 should conditionally certify the Class for settlement purposes only, defined as follows:

16           All individuals who were employed by Defendants in California and classified as a  
17 non-exempt employee at any time during the Class Period.

18 (Agreement at ¶ 1.5.)

19 The “Class Period” is from June 29, 2018 through July 1, 2023. (Agreement at ¶ 1.13.)

20           a.     **Numerosity** - Here, Plaintiff asserts that the 193 individuals who comprise  
21 the Class can be identified based on Defendants’ records and are sufficiently numerous for class  
22 certification.

23           b.     **Common Issues Predominate** - Here, Plaintiff contends that common  
24 questions of law and fact are present, and specifically the common questions of whether Defendants  
25 miscalculated the regular rate, whether Defendants failed to pay wages for all time worked, whether  
26 the Defendants failed to provide meal and rest periods, whether Defendants failed to provide  
27 required expense reimbursement, and whether Class Members are entitled to damages and penalties  
28 as a result of these practices. Plaintiff contends that certification of this Class is appropriate because

1 Defendants allegedly engaged in uniform practices with respect to the Class Members. As a result,  
2 these common questions of liability could be answered on a class wide basis.

3 c. **Typicality** - In this Action, Plaintiff contends that there can be little doubt  
4 that the typicality requirement is satisfied. The Plaintiff worked for Defendants as a non-exempt  
5 employee during the Class Period. Plaintiff contends that, like every other member of the Class,  
6 she were subject to the same practices and policies of Defendants and are subject to the same  
7 defenses. Thus, Plaintiff asserts that the claims of the Plaintiff and the Class Members arise from  
8 the same course of conduct by the Defendants, involve the same official policies and practices of  
9 Defendants, and are based on the same legal theories.

10 d. **Adequacy** - Plaintiff contends that the Class Members are adequately  
11 represented here because Plaintiff and representing counsel (a) do not have any conflicts of interest  
12 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This  
13 requirement is met here. First, Plaintiff is well aware of her duties as the representative of the Class  
14 and have actively participated in the prosecution of this case to date. Plaintiff effectively  
15 communicated with counsel, provided documents to counsel and participated in the investigation  
16 and negotiations in the Action. Second, Plaintiff retained competent counsel who are experienced  
17 in employment class actions and who have no conflicts. Third, there is no antagonism between the  
18 interests of the Plaintiff and those of the Class. Both the Plaintiff and the Class Members seek  
19 monetary relief under the same set of facts and legal theories.

20 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal  
21 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can  
22 competently represent the Class. Other lawyers at my firm and I have extensive class litigation  
23 experience. We have handled a number of class actions and complex cases and have acted both as  
24 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully  
25 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits  
26 involving complex issues of law and fact. My firm is particularly experienced in wage and hour  
27 employment law class actions, including claims for misclassification, overtime, expense  
28 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal

1 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in hundreds of wage and  
2 hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be  
3 adequate counsel by the courts throughout California. We have been approved as experienced class  
4 counsel by both state and federal courts in California in contested class certification proceedings. A  
5 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this  
6 settlement is defined as “all individuals who were employed by Defendants in California and  
7 classified as a non-exempt employee at any time during the Class Period.” I have reviewed my  
8 firm’s cases and representation of other plaintiffs and there is no conflict or representation which  
9 would prevent my firm from representing the interests of the Class this case. My firm only  
10 represents workers, and not employers. My firm has never represented Defendants nor any affiliate  
11 of the Defendants. My firm’s only interest in the subject matter of this litigation is to ensure a  
12 recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the  
13 claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other  
14 employees and classes as the claims are all against different and distinct employers. I can think of  
15 no conflict that would arise in our representation of the Class and our adequate representation of the  
16 Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery  
17 for the Class. Moreover, neither the Plaintiff nor Class Counsel have any affiliation with the  
18 Administrator for this settlement. Thus, the adequacy requirement for my firm is satisfied.

19 32. The Class Notice, drafted jointly and agreed upon by the Parties through their  
20 respective counsel and to be approved by the Court, includes all relevant information. (*See* Exhibit  
21 “A” to the Agreement.) The Class Notice, drafted jointly and agreed upon by the Parties through  
22 their respective counsel and to be approved by the Court, includes all relevant information. (*See*  
23 Exhibit “A” to the Agreement.) The Class Notice will include, among other information: (i)  
24 information regarding the Action; (ii) the impact on the rights of the Class Members if they do not  
25 opt out, including a description of the applicable release; (iii) information to the Class Members  
26 regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class  
27 Payment for each of the Class Members; (iii) the amount of attorneys’ fees and expenses to be  
28 sought; (v) the amount of the Plaintiff’s service award request; and (vi) the anticipated expenses of

1 the Administrator. The Class Notice will state that the Class Members shall have forty-five (45)  
2 days from the date that the Notice is mailed to them (the "Response Deadline") to request exclusion  
3 (opt-out) or to submit an objection. (Agreement at ¶¶ 1.43, 8.5, 8.7.) Class Members shall be given  
4 the opportunity to object to the Settlement and/or requests for attorneys' fees and expenses and to  
5 appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who do not submit a  
6 timely and proper request to opt-out will automatically receive a payment of their Individual Class  
7 Payment. This notice program was designed to meaningfully reach the Class Members and it  
8 advises them of all pertinent information concerning the Settlement.

9  
10 33. The PAGA Claim -

11 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201  
12 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The  
13 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a  
14 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the  
15 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of  
16 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on  
17 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of  
18 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that  
19 primary consideration. "The LWDA recognizes that this Court does not review the PAGA  
20 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is  
21 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent  
22 class members." (LWDA Response at p.4).

23 b. **Valuation of the PAGA Claim.** Plaintiffs calculated the value of the alleged  
24 PAGA claim as to Aggrieved Employees for civil penalties to be between \$110,150 and \$220,300  
25 for a single violation in every one of the estimated 2,203 pay periods at issue in the PAGA Period,  
26 depending on whether the violation was \$50 per pay period as in the case of Labor Code §  
27 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code § 1198. This  
28 valuation assumed that PAGA civil penalties would be awarded at the maximum rate per pay period

1 but without stacking.<sup>3</sup> The PAGA allocation in the Settlement is \$24,000. This allocation is  
2 justified by several important considerations. First, the PAGA claim was subject to the same risks  
3 as the underlying class claims. Second, Defendants asserted additional defenses to the PAGA  
4 claim, not only as to liability but also as to the amount of the penalties. Defendants could also  
5 argue that no penalties prior to the PAGA notification should be awarded, and I am aware of one  
6 Court which has so ruled. These additional defenses present a risk to the PAGA claim and the  
7 potential that some or all of the PAGA penalties sought may not be awarded. Second, in  
8 *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which  
9 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties  
10 awarded could be significantly less than Plaintiff's calculation even where Plaintiff prevailed on the  
11 PAGA claim. Even if we assume that violations for all 2,203 pay periods were established, using  
12 the valuation from *Carrington* results in a potential recovery of \$11,015 under PAGA. This means  
13 that the PAGA allocation in the Agreement is a reasonable percentage of this potential PAGA  
14 recovery range. Fourth, the interests of PAGA are also served by the Class recovery under the  
15 reasoning of the LWDA in *O'Connor v. Uber*.

16 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA  
17 claim, Class Counsel was also aware of what allocations other Courts have approved for similar  
18 PAGA settlements as compared to the total settlement amount. A class settlement that allocates  
19 approximately 2% of the total settlement value to resolve the PAGA claims applicable to the class  
20 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,  
21 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the  
22 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)  
23 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*  
24 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for  
25

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26 <sup>3</sup> Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.  
27 The valuation of between \$127,800 and \$255,600 is the civil penalty amount without stacking. If  
28 stacking is permitted, then the valuation increases with each additional penalty added to each pay  
period. Plaintiff, however, is not aware of any PAGA award which permitted stacking and in the  
cases cited herein, only one penalty per pay period was assessed.

1   PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637  
2   (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs,*  
3   *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA  
4   for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL  
5   672645, \*1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9  
6   million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, \*13  
7   (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million  
8   common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, \*9 (N.D. Cal. 2009)  
9   (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*  
10   *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement  
11   of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,  
12   CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount  
13   of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay,*  
14   8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000  
15   allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted  
16   as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*  
17   *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000  
18   allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*  
19   *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)  
20   (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*  
21   *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or  
22   0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441  
23   (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);  
24   *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.  
25   30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of  
26   \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case  
27   No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement  
28   amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.

1 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement  
2 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case  
3 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement  
4 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)  
5 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*  
6 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or  
7 0.34% of \$1,450,000 settlement amount).

8  
9 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the  
10 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and  
11 reasonable, and at the time of final approval, my firm will present lodestar to further support the  
12 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees  
13 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some  
14 of the class action awards obtained by Class Counsel in similar employment actions throughout the  
15 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total  
16 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles  
17 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee  
18 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*  
19 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class  
20 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*  
21 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil  
22 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December  
23 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.  
24 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and  
25 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange  
26 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-  
27 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*  
28 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679) Judge Brian Walsh awarded Class

1 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in  
2 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-  
3 00245842) Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour  
4 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case  
5 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and  
6 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles  
7 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee  
8 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*  
9 *Cases* (Los Angeles Superior Court Case No. JCCP4837) Judge David Cunningham awarded a  
10 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*  
11 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004) Judge Maren Nelson  
12 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in  
13 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665) Judge Richard  
14 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,  
15 in *Ettegui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of  
16 California Case No. 2:20-cv-08053-MCS-JDE) Judge Mark C. Scarsi awarded a one-third fee  
17 award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*  
18 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson  
19 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*  
20 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge  
21 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.  
22 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court  
23 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee  
24 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*  
25 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.  
26 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in  
27 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge  
28 Keri Katz awarded a one-third fee award in a wage and hour class action settlement. On February

1, 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that have been awarded in other similar cases.

35. Class Representative Service Payment - The reasonableness of the requested service award is also established by reference to the amounts that other California courts have found to be reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service award); *Aguir v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.

1 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);  
2 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior  
3 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*  
4 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,  
5 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los  
6 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*  
7 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,  
8 2011)(awarding \$10,000 service award together with additional compensation for their general  
9 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court  
10 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.  
11 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);  
12 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior  
13 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,  
14 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000  
15 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los  
16 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*  
17 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,  
18 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa  
19 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*  
20 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,  
21 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS  
22 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);  
23 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding  
24 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside  
25 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*  
26 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000  
27 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange  
28 County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*

1 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,  
2 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior  
3 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*  
4 *Inductrial Complany*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug.  
5 1, 2018) (awarding \$10,000 service award).

6  
7 36. Potentially Related Other Actions - I am unaware of any other related cases pending  
8 against Defendants which would be impacted by this settlement. (Agreement at ¶ 2.10.) I have also  
9 searched the LWDA database which showed that there were no other PAGA notices submitted  
10 against Defendants other than the PAGA Notice in this Action.

11  
12 37. Administration - After seeking bids from qualified administrators, the estimate from  
13 ILYM Group is was selected, as it provided for an estimate of \$5,250 to perform the settlement  
14 administration, with any difference between the actual expenses and the budget of \$7,000 to be  
15 retained in the Net Settlement Amount for distribution to the Class. I have used ILYM Group  
16 successfully as the administrator in more than twenty class settlements in the last few years and  
17 know them to be competent and experienced. My firm has no relationship or connection with  
18 ILYM Group, and thus no conflict of interest exists. Attached hereto as Exhibit #4 is a true and  
19 correct copy of the estimate for administration from ILYM Group.

20  
21 Service on the LWDA:

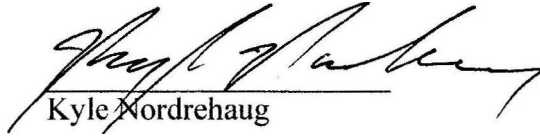
22 38. At the same time as the filing and service of this declaration, I am also serving the  
23 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA  
24 Settlement Agreement. This service is verified by the accompanying proof of service.

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1 I declare under penalty of perjury under the laws of the State of California that the foregoing  
2 is true and correct. Executed this 28th day of August, 2023, at La Jolla, California.

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5 Kyle Nordrehaug  
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## CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Angela Garcia (“Plaintiff”) and defendants Sunderstorm Inc. and Sunderstorm Bay LLC (“Defendants”). The Agreement refers to Plaintiff and Defendants collectively as the “Parties,” or individually as “Party.”

### 1. DEFINITIONS

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

- 1.1. “Action” means the First Amended Class and Representative Action Complaint filed on June 27, 2023 that incorporates all of the allegations of the following: (a) Plaintiff’s original Class Action lawsuit alleging wage and hour violations against Defendants captioned *Angela Garcia v. Sunderstorm Inc., Sunderstorm Bay LLC*, Case No. 22CV001827, initiated on June 29, 2022, pending in Superior Court of the State of California, County of Monterey; (b) Plaintiff’s PAGA Representative Action Complaint against Defendants captioned *Angela Garcia v. Sunderstorm Inc., Sunderstorm Bay LLC*, Case No. 22CV001855, initiated on June 30, 2022, pending in Superior Court of the State of California, County of Monterey; and (c) the PAGA Notice dated February 21, 2022.
- 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 Defendants 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 Defendants 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 Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendants), and number of Workweeks and PAGA Pay Periods.
- 1.9. “Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an Aggrieved Employee).
- 1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn 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 June 29, 2018 through July 1, 2023.
- 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 Defendants’ expenses, and for the general release of all claims by the Plaintiff.
- 1.16. “Court” means the Superior Court of California, County of Monterey.
- 1.17. “Defendants” collectively means Sunderstorm Inc. and Sunderstorm Bay LLC.
- 1.18. “Defense Counsel means Michael J. Nader and Alexandra M. Asterlin of Ogletree Deakins Nash Smoak & Stewart, 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 Six Hundred Thousand Dollars (\$600,000) 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 Defendants, 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 Defendants.
- 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 Defendants for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from February 21, 2021 through July 1, 2023.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. “PAGA Notice” means the Plaintiff’s February 21, 2022 letter to Defendants 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 (\$6,000) and the 75% to LWDA (\$18,000) in settlement of PAGA claims.
- 1.35. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.36. “Plaintiff” means Angela Garcia., 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 and causes of action that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204, 210, 218, 221, 226 et seq, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, and double-time

wages, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Operative Complaint, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to employees under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for the alleged failure to pay employees for reporting time pay; and (k) all claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claim, and causes of action alleged in the Operative Complaint. 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, discrimination, unemployment insurance, disability, social security, workers' compensation, or Class claims based on facts occurring 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, including the following: (a) All class claims stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 246 et seq., 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) All claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, and double-time wages, the alleged failure to pay for all

time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) All claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d.) All claims for civil penalties for rest break violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) All claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) All claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) All claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to employees under sections 204 and 210 of the Labor Code; (h) All claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) All claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) All claims for civil penalties for failing to provide suitable seating; (k) All claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; (l) All claims for civil penalties for the alleged failure to pay employees for reporting time pay; and (m) All claims for civil penalties for alleged violations of section 227.3 of the Labor Code. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, violation of the Fair Employment and Housing Act discrimination, unemployment insurance, disability, social security, worker's compensation, and PAGA claims outside of the PAGA Period.

- 1.40. "Released Parties" means: Defendants Sunderstorm Inc. and Sunderstorm Bay LLC and their past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns.
- 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 forty-five (45) 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 Defendants as a Class Member for at least one day.

## **2. RECITALS**

### **Plaintiff’s Class Action**

2.1. On June 29, 2022, Plaintiff commenced this Action by filing a Class Action Complaint against Defendants in the Superior Court of the State of California, County of Monterey (“Plaintiff’s Class Action”). Plaintiff’s Class Action Complaint asserted several wage and hour claims against the Defendants, including, but not limited to, the following claims that Defendants:

- (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 September 21, 2022 Defendants filed an Answer to Plaintiff’s Class Action Complaint, asserting twenty-three (23) affirmative defenses.

### **Plaintiff’s PAGA Action**

- 2.3. On June 30, 2022, Plaintiff filed a separate Representative Action Complaint against Defendants in the Superior Court of the State of California, County of Monterey. (Plaintiff's "PAGA Action") Plaintiff's Complaint against Defendants alleged one cause of action for Civil Penalties Pursuant to Labor Code §§ 2699, *et seq.* for various alleged wage and hour violations of the Labor Code, including, but not limited to the following: 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).
- 2.4. On September 21, 2022 Defendants filed an Answer to Plaintiff's Representative Action Complaint, asserting twenty-one (21) affirmative defenses.

#### **Consolidation/Pleading Amendment**

- 2.5. As part of this Agreement, the Parties agreed to stipulate to leave for Plaintiff to file a First Amended Class and Representative Action 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 Class and Representative Action Complaint was filed on June 27, 2023. The First Amended Class and Representative Action Complaint in the Class Action is the operative complaint in the Action (the "Operative Complaint").
- 2.6. Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Action. Defendants also dispute the damages and penalties claimed by the Plaintiff, and further contend that, for any purpose other than settlement, Plaintiff's claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendants as to the merits or lack thereof of the claims asserted in the Actions. Defendants contend that at all times it has complied with all applicable state, federal and local laws related to the Class Members' employment. Nevertheless, Defendants have entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of any of the Defendants collectively or individually, or an admission that class or representative action treatment would be allowed outside the settlement context. The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent litigation. Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall not be admissible in evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendants to support a stay of such subsequent action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment

bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

### **Mediation and Settlement**

- 2.7. On May 1, 2023, the Parties participated in an all-day mediation presided over by Hon. Carl J. West (Ret.), a respected mediator of wage and hour representative and class actions. The mediator facilitated an agreement among the Parties that 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.
- 2.8. 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*").
- 2.9. 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 Defendants that the claims in the Action of Plaintiff or the Class have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' 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, Defendants reserve the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.10. 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, Defendants promise to pay \$600,000 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 Defendants to the Administrator. Defendants have 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 Defendants.

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). Defendants 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 \$200,000, and a Class Counsel Litigation Expenses Payment of not more than \$15,000. Defendants will not oppose requests for these payments provided that they 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 Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Fees Payment, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request, or demand an increase to the Gross Settlement Amount on that basis.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$7,000 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 \$7,000, 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 \$24,000 to be paid from the Gross Settlement Amount, with 75% (\$18,000) allocated to the LWDA PAGA Payment and 25% (\$6,000) 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 (\$6,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.
  - ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
  - i. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
  - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

#### **4. SETTLEMENT FUNDING**

- 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on its records during the time of the mediation, Defendants represented that the Class consists of approximately 193 Class Members who collectively worked a total of 10,296 Workweeks from June 29, 2018 to May 1, 2023 (the “Mediation Period”), and approximately 109 Aggrieved Employees who worked a total of 2,750 PAGA Pay Periods.
- 4.2. Class Data. Not later than 20 days after the Court grants Preliminary Approval of the Settlement, Defendants 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. Defendants have 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. The Parties recognize that because the operations of a third-party timekeeping and payroll vendor for the Defendants ceased in 2019, Defendants lost the timekeeping, payroll and HRIS data of its employees for the Fourth Quarter of 2018 and for the First Quarter of 2019. After the mediation date, Defendant was able to reconstruct the Class Data for the Fourth Quarter of 2018 and the First Quarter of 2019, and will provide the Class Data to the Administrator following Preliminary Approval. Based on that reconstructed Class Data, Defendants represented that there are approximately 8,884 Workweeks during the Mediation Period.
- 4.3. Funding of the Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants’ share of payroll taxes by transmitting the funds to the Administrator no later than twenty (20) days after the Effective Date.

## **5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT**

- 5.1. Within 14 days after Defendants 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). 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 Defendants 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 Defendants 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 through the Effective Date, including, but not limited to: all known and unknown claims against the Released Parties, including any Released Class

Claims and Released PAGA Claims as well as all other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act (“PAGA”), claims under the Fair Labor Standards Act (“FLSA”), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to Plaintiff’s relationship, or termination of relationship, with any Released Party through the date of Final Approval for any type of relief. Plaintiff further covenants that he will not become a member of any other legal actions against the Released Parties asserting any of Plaintiff’s Released Claims and will opt out of any such actions if necessary. For the avoidance of doubt, this is a complete and general release to the maximum extent permitted by law. The scope of this release does not include claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

- (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.

Plaintiff may hereafter discover claims or facts in addition to, or different from, those which he now knows or believes to exist, but Plaintiff expressly agrees to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist on behalf of or against the other at the time of execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiff’s employment with Defendants.

- 6.2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

6.3. Release of PAGA Claims. All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.

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

7.1. Plaintiff’s Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class 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; (vi) 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, and that Class Counsel does not currently represent any employees of the Defendants other than the Plaintiff.

7.2. 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.

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

## **8. SETTLEMENT ADMINISTRATION**

8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, 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). 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 must: (1)

contain the name, address and telephone number of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement or have any right to object to or appeal the class settlement. A Request for Exclusion has no effect to the PAGA portion of this Settlement; Aggrieved Employees cannot request exclusion from the Settlement and will receive an Individual PAGA Payment regardless of whether they submit a Request for Exclusion.

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.

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 providing 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.** At the mediation, Defendants represented that an extrapolation of the workweeks is 10,296 from June 29, 2018 to May 1, 2023 (the "Mediation Period"). The Parties agree that if, once the data covering the Mediation Period is reviewed by the Administrator, and the actual number of workweeks during the Mediation Period is calculated to be more than ten percent (10%) greater than 10,296 (or greater than 11,326 workweeks), then the Gross Settlement Amount shall increase by \$58.28 for each additional workweek. For example, if the actual number of workweeks during the Mediation Period is 11,336, then the Gross Settlement Amount will increase in the amount of \$582.80.

**10. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendants may, but are not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, 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, Defendants will remain responsible for paying all

Administration Expenses incurred as of the date Defendants makes this election to withdraw. Defendants 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. 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 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' 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, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve 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 Defendants' 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.** The Parties and their counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the Agreement. Unless required by applicable law, neither Plaintiff nor his counsel shall publicize the terms of this Agreement in any medium or initiate or issue any press release or have any communications with the press or media concerning the settlement prior to approval of the settlement. If counsel receives an inquiry about the settlement from the media prior to final approval of the settlement, counsel may respond only after the motion for final approval of the settlement has been filed and only by confirming the terms of the settlement in the Agreement that are publicly available..

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 Defendants, 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, Defendants 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 of Information. 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 Defendants 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 Defendants.
- 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. Representation by Class Counsel. Class Counsel represents that they do not currently represent any employees of Defendants other than Plaintiff.
- 13.18. 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](mailto:norm@bamlawca.com)  
[kyle@bamlawca.com](mailto:kyle@bamlawca.com)

*To Defendant:*

Michael J. Nader  
Alexandra M. Asterlin  
Ogletree Deakins Nash Smoak & Stewart, P.C.  
500 Capital Mall, Suite 2500  
Sacramento, CA 95814  
Tel: (916) 840-3140  
Fax: (916) 640-3159  
Emails: [michael.nader@ogletree.com](mailto:michael.nader@ogletree.com)  
[alexandra@ogletree.com](mailto:alexandra@ogletree.com)

13.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g. 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.

13.20. Stay of Litigation. The Parties agree that upon the execution of this Agreement, the Parties will jointly notify the Court and request that the Court stay the litigation except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for a period of not less than one (1) year starting from the date of the signing of the Memorandum of Understanding by all parties until the entry of the final approval order or if not entered, the date this Agreement shall no longer be of any force or effect.

13.21. 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: Aug 24, 2023

  
Angela Augustina Carranza (Aug 24, 2023 16:05 PDT)

Plaintiff Angela Garcia

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Agent for Defendant Sunderstorm Inc.

Michael J. Nader  
Alexandra M. Asterlin  
Ogletree Deakins Nash Smoak & Stewart, P.C.  
500 Capital Mall, Suite 2500  
Sacramento, CA 95814  
Tel: (916) 840-3140  
Fax: (916) 640-3159  
Emails: [michael.nader@ogletree.com](mailto:michael.nader@ogletree.com)  
[alexandra@ogletree.com](mailto:alexandra@ogletree.com)

13.19. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g. 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.

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13.21. 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: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff Angela Garcia

Dated: 8/23

Keith C. C. C.  
Authorized Agent for Defendant Sunderstorm Inc.

KEITH C. C. C., President

Dated: 8/23

Keith Cich  
Authorized Agent for Defendant Sunderstorm Bay LLC  
KEITH CICH, President

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFF,  
AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE  
SETTLEMENT GROUP:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE DEFENDANTS:

Dated: 8/22/23

Michael J. Nader  
Michael J. Nader  
Alexandra M. Asterlin  
Ogletree Deakins Nash Smoak & Stewart, P.C.  
Attorney for Defendants

Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Agent for Defendant Sunderstorm Bay LLC

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE NAMED PLAINTIFF,  
AND AS A SUBSTANTIVE RECOMMENDATION TO THE COURT ON BEHALF OF THE  
SETTLEMENT GROUP:

Dated: 8/24/23

Kyle Nordrehaug  
\_\_\_\_\_  
Kyle Nordrehaug  
Blumenthal Nordrehaug Bhowmik De Blouw LLP  
Attorney for Plaintiff

APPROVED AS TO FORM AND CONTENT ON BEHALF OF THE DEFENDANTS:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michael J. Nader  
Alexandra M. Asterlin  
Ogletree Deakins Nash Smoak & Stewart, P.C  
Attorney for Defendants

**EXHIBIT A**

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

**EXHIBIT “A”**

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

***Garcia v. Sunderstorm Inc., Superior Court of the State of California,  
County of Monterey, Case No. 22CV001827***

***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 Defendants Sunderstorm Inc. and Sunderstorm Bay LLC (“Defendants”) for alleged wage and hour violations. The Action was filed by Plaintiff Angela Garcia (“Plaintiff”) and seeks payment of (1) wages and other relief on behalf of all individuals who were employed by Defendants in California and classified as a non-exempt employee at any time during the Class Period (June 29, 2018 through July 1, 2023) (“Class Members”), and (2) penalties and other relief on behalf of all individuals who were employed by Defendants in California and classified as a non-exempt employee at any time during the PAGA Period (February 21, 2021 through July 1, 2023) (“Aggrieved Employees”).

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

Based on Defendants’ 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 might be different and will depend on a number of factors.

The above estimates are based on Defendants’ records showing that **you worked <<\_\_\_\_\_>> workweeks** during the Class Period and **you worked <<\_\_\_\_\_>> pay periods** during the PAGA Period. If you believe that these numbers need correction, 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. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

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

- (1) **Do Nothing and receive your share of the Settlement amount.** 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.
- (2) **Opt-Out of the Class Settlement and not receive a Settlement payment.** 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 and you will keep your right as an individual to sue Defendants separately about the same legal claims that are being settled. 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.

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

| <b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                                                      | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and a share of the PAGA Penalties (if any).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><br><b>The Opt-out Deadline is ____.</b>                                     | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice.</p> <p>However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also an Aggrieved Employee and exclude yourself, you will still be paid your share of the PAGA Penalties and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.</p> |
| <b>Participating Class Members Can Object to the Class Settlement</b><br><br><b>Written Objections Must be Submitted by the Response Deadline</b><br>_____ | If you think that the Settlement is not fair, and you don't opt out of the Settlement, then you can object to the Settlement in writing as explained in Section 8 of this Notice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

|                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Can Participate in the _____ Final Approval Hearing</b>                                                                                              | <p>The Court’s Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the Monterey County Superior Court, located at 1200 Aguajito Road, Monterey, CA 93940, in Department 15 before Judge Thomas W. Wills. This hearing may change as explained below in Section 9.</p> <p>You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice</p> |
| <b>You Can Challenge the Calculation of Your Workweeks / Pay Periods</b><br><br><b>Witten Challenges Must be Submitted by the Response Deadline (_____)</b> | <p>The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The amount of your share of the PAGA Penalties (if any) depends on how many pay periods you worked at least one day during the PAGA Period. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to Defendants’ 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</p>                                                                                       |

## 1. What is action about?

Plaintiff Angela Garcia is a former employee of Defendants. The Action alleges that Defendants failed to pay minimum and overtime wages, failed to provide meal and rest breaks and related premiums, failed to provide accurate itemized wage statements, failed to reimburse expenses, failed to provide timely wage payments, and unfair competition. Plaintiff also seeks civil penalties under the Private Attorneys General Act (“PAGA”).

Defendants deny that they have done anything wrong and dispute all the claims in the Action. After good-faith negotiations, in which both sides recognized the substantial risk of an uncertain outcome, Plaintiff and the Defendants agreed to settle the Action pursuant to the terms and conditions of the Settlement. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendants that Plaintiff’s claims in the Action have merit or that Defendants have any liability to Plaintiff or the proposed class on those claims. Defendants deny any and all such liability.

The parties and their counsel have concluded that the Settlement is advantageous, considering the risks and uncertainties to each side of continued litigation. The parties and their counsel have determined that the Settlement is fair, reasonable, and adequate and is in the best interests of the members of the Class.

Consistent with Defendants’ policies, there will be no retaliation or adverse action taken against any Class Member who participates in the Settlement or opts out of the Settlement.

## **2. What does it mean that the action has settled?**

This settlement does not involve any decision by the Court on the merits of the Action. Plaintiff and Defendants have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims. Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

## **3. What are the terms of the Settlement?**

**Gross Settlement Amount.** Defendants has agreed to pay an "all in" amount of Six Hundred Thousand Dollars (\$600,000) (the "Gross Settlement Amount") to fund the settlement of the Action. The Gross Settlement Amount includes all payments of Individual Class Payments, 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 Defendants. Defendants shall fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes, by transmitting the funds to the Administrator no later than 20 days after the Effective Date. The "Effective Date" means the date the Judgment is entered unless there are objections in which case the "Effective Date" means when the Judgment is no longer subject to appeal. Within 14 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments to Participating Class Members.

**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, the amounts of which will be decided by the Court at the Final Approval Hearing:

- **Administration Expenses Payment.** Payment to the Administrator, estimated not to exceed \$7,000, 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 \$200,000, and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$15,000. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated

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

- Class Representative Service Payment. A Class Representative Service Payment in an amount not more than \$10,000 to the Plaintiff as a service award, or such lesser amount as may be approved by the Court, to compensate her for services on behalf of the Class in initiating and prosecuting the Action, and for the risks she 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 \$24,000 relating to Plaintiff's claim under PAGA, \$18,000 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$6,000 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 (\$6,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA 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, which is February 21, 2021 through July 1, 2023.

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

Calculation of Payments to Class Members. After all 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 \$344,000. The Administrator will pay an Individual Class Payment from the Net Settlement Amount to each Participating Class Member. The Individual Class Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks. "Workweek" means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one day.

**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.

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.

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 individual who failed to cash their check.

Administrator. The Court has appointed a neutral company, \_\_\_\_\_ (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

#### **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 and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, 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 and causes of action that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204, 210, 218, 221, 226 et seq, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Operative Complaint, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to employees under sections 204 and

210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for the alleged failure to pay employees for reporting time pay; and (k) all claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claim, and causes of action alleged in the Operative Complaint. 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, discrimination, unemployment insurance, disability, social security, workers' compensation, or Class claims based on facts occurring outside the Class Period.

Released PAGA 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, 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, including the following: (a) All class claims stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 et seq., 210, 221, 226(a), 226.7, 227.3, 246 et seq., 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) All claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) All claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d.) All claims for civil penalties for rest break violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) All claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) All claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) All claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to employees under sections 204 and 210 of the Labor Code; (h) All claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the

Labor Code Section; (i) All claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) All claims for civil penalties for failing to provide suitable seating; (k) All claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; (l) All claims for civil penalties for the alleged failure to pay employees for reporting time pay; and (m) All claims for civil penalties for alleged violations of section 227.3 of the Labor Code. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, violation of the Fair Employment and Housing Act discrimination, unemployment insurance, disability, social security, worker's compensation, and PAGA claims outside of the PAGA Period.

**Released Parties.** The Released Parties are: Defendants Sunderstorm Inc. and Sunderstorm Bay LLC and their past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, parent companies, subsidiaries, affiliates, successors, and assigns.

#### **5. How much will my payment be?**

**Individual Class Payments.** The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

**Defendants' records reflect that you worked <<\_\_\_\_\_>> Workweeks during the Class Period (June 29, 2018 through July 1, 2023).**

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

**Defendants' records reflect that you worked <<\_\_\_\_\_>> PAGA Pay Periods during the during the PAGA Period (February 21, 2021 through July 1, 2023). Based on this information your estimated Individual PAGA Payment is <<\_\_\_\_\_>>.**

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the address provided in this Class Notice no later than the Response Deadline, which is \_\_\_\_\_ [forty-five (45) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. 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.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendants' calculation of Workweeks based on Defendants' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The

Administrator will resolve Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendants' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

#### **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.

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

#### **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 Defendants for the Released Class Claims.** However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Penalties and will remain bound by 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 *Garcia v. Sunderstorm Inc.* 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 *Garcia v. Sunderstorm Inc.*, Case No. 22CV001827. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

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

#### **8. How do I Object to the Settlement?**

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendants 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 Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is

requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as 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](http://www.bamlawca.com) under "Class Notices" for *Garcia v. Sunderstorm Inc.* or on the Court's website (<https://portal.monterey.courts.ca.gov/>) and entering the Case No. 22CV001827.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The Response Deadline for sending written objections to the Administrator is \_\_\_\_\_** [forty-five (45) 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, *Garcia v. Sunderstorm Inc.*, Case No. 22CV001827, and include your name, current address, email or telephone number, and approximate dates of employment for Defendants 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. Instructions on how to do so are available on the Court's website at <https://www.monterey.courts.ca.gov/online-services/remote-appearance>. 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 Class 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](mailto:kyle@bamlawca.com)

## 9. Can I Attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing at \_\_\_\_\_ (Pacific Standard Time) on \_\_\_\_\_, in Department 15 of the Superior Court of California, County of Monterey, Monterey Courthouse, 1200 Aguajito Road, Monterey, California 93940, before Judge Thomas W. Wills. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as a service payment to Plaintiff. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing remotely or in person. Check the Court's website for the most current information concerning appearances and procedures at the Court - <https://www.monterey.courts.ca.gov/online-services/remote-appearance>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below

It's 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](http://www.bamlawca.com) under "Class Notices" for *Garcia v. Sunderstorm Inc.* In addition, hearing dates are posted on the Internet via the Case Search page for the California Superior Court for the County of Monterey (<https://portal.monterey.courts.ca.gov/>) and entering the Case No. 22CV001827.

## 10. How Can I Get More Information?

You may call the Administrator at \_\_\_\_\_ or write to *Garcia v. Sunderstorm Inc.* Administrator, c/o \_\_\_\_\_.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service award, the motion for final approval or other Settlement documents by going to Class Counsel's website at [www.bamlawca.com](http://www.bamlawca.com) under "Class Notices" for *Garcia v. Sunderstorm Inc.*. You may get more details by examining the Court's file on the Internet via the Case Search page for the California Superior Court for the County of Monterey (<https://portal.monterey.courts.ca.gov/>) and entering the Case No. 22CV001827. If you wish to view the Court files in person, you must make an appointment with the Clerk's Office at the Monterey Courthouse, 1200 Aguajito Road, Monterey, CA 93940.

**PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**

### IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the

California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at [https://www.sco.ca.gov/upd\\_msg.html](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 MONTEREY

ANGELA GARCIA, an individual, on behalf  
of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

SUNDERSTORM INC., a Corporation;  
SUNDERSTORM BAY LLC, a Limited  
Liability Corporation; and DOES 1 through  
50, inclusive,

Defendants.

**CASE NO.: 22CV001827**

**[PROPOSED] PRELIMINARY  
APPROVAL ORDER**

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Thomas W. Wills  
Dept: 15

Date Filed: June 29, 2022  
Trial Date: Not set

This matter came before the Honorable Thomas W. Wills of the Superior Court of the State of California, in and for the County Monterey, on \_\_\_\_\_[DATE], for hearing on the unopposed motion by Plaintiff Angela Garcia ("Plaintiff") for preliminary approval of the Settlement with Defendants Sunderstorm Inc. and Sunderstorm Bay LLC ("Defendants"). The

PRELIMINARY APPROVAL ORDER

1 Court, having considered the briefs, argument of counsel and all matters presented to the Court  
2 and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class  
3 Action Settlement.

4  
5 **IT IS HEREBY ORDERED:**

6 1. The Court preliminarily approves the Class Action and PAGA Settlement  
7 Agreement ("Agreement") attached as Exhibit \_\_\_\_ to the Declaration of Kyle Nordrehaug in  
8 Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement. This is based  
9 on the Court's determination that the Settlement set forth in the Agreement is within the range of  
10 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil  
11 Procedure and California Rules of Court, rule 3.769.

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

14 3. The Gross Settlement Amount that Defendant shall pay is Six Hundred Thousand  
15 Dollars (\$600,000). It appears to the Court on a preliminary basis that the settlement amount and  
16 terms are fair, adequate and reasonable as to all potential Class Members when balanced against  
17 the probable outcome of further litigation and the significant risks relating to certification, liability  
18 and damages issues. It further appears that investigation and research have been conducted such  
19 that counsel for the Parties are able to reasonably evaluate their respective positions. It further  
20 appears to the Court that the Settlement will avoid substantial additional costs by all Parties, as  
21 well as avoid the delay and risks that would be presented by the further prosecution of the Action.  
22 It further appears that the Settlement has been reached as the result of serious and non-collusive,  
23 arm's-length negotiations.

24 4. The Court preliminarily finds that the Settlement appears to be within the range of  
25 reasonableness of a settlement that could ultimately be given final approval by this Court. The  
26 Court has reviewed the monetary recovery that is being granted as part of the Settlement and  
27 preliminarily finds that the monetary settlement made available to the Class is fair, adequate, and  
28

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

3         5.       The Agreement specifies for an attorneys' fees award not to exceed one-third of the  
4 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$15,000, and  
5 proposed Class Representative Service Payment to the Plaintiff in an amount not to exceed  
6 \$10,000. The Court will not approve the amount of attorneys' fees and costs, nor the amount of  
7 any service award, until the Final Approval Hearing. Plaintiff will be required to present evidence  
8 supporting these requests, including lodestar, prior to final approval.

9         6.       The Court recognizes that Plaintiff and Defendants stipulate and agree to  
10 representative treatment and certification of a class for settlement purposes only. This stipulation  
11 will not be deemed admissible in this or any other proceeding should this Settlement not become  
12 final. For settlement purposes only, the Court conditionally certifies the Class which consists of  
13 "all individuals who were employed by Defendants in California and classified as a non-exempt  
14 employee at any time during the Class Period." The "Class Period" is June 29, 2018 through July  
15 1, 2023.

16         7.       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; (d)  
22 the Plaintiff will fairly and adequately protect the interests of the members of the Class; (e) a class  
23 action is superior to other available methods for the efficient adjudication of this controversy; and  
24 (f) counsel for the Class is qualified to act as counsel for the Class and the Plaintiff is an adequate  
25 representative of the Class.

26         8.       The Court provisionally appoints Plaintiff as the representatives of the Class. The  
27 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,  
28

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         9.       The Agreement provides for a PAGA Penalties out of the Gross Settlement  
4 Amount of \$24,000, which shall be allocated \$18,000 to the Labor & Workforce Development  
5 Agency (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this  
6 Agreement pursuant to the PAGA and \$6,000 to the Aggrieved Employees. “Aggrieved  
7 Employees” are all individuals who were employed by Defendants in California and classified as a  
8 non-exempt employee at any time during the PAGA Period (February 21, 2021 through July 1,  
9 2023). Pursuant to Labor Code section 2699, subdivision (l)(2), the LWDA will be provided  
10 notice of the Agreement and these settlement terms. The Court finds the PAGA Penalties to be  
11 reasonable.

12         10.       The Court hereby approves, as to form and content, the Class Notice attached to the  
13 Agreement as Exhibit A. The Court finds that the Class Notice appears to fully and accurately  
14 inform the Class of all material elements of the proposed Settlement, of the Class Members’ right  
15 to be excluded from the Class by submitting a written opt-out request, and of each member’s right  
16 and opportunity to object to the Settlement. The Court further finds that the distribution of the  
17 Class Notice substantially in the manner and form set forth in the Agreement and this Order meets  
18 the requirements of due process, is the best notice practicable under the circumstances, and shall  
19 constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of  
20 the Class Notice by first class mail pursuant to the terms set forth in the Agreement. If a Class  
21 Notice Packet is returned because of an incorrect address, the Administrator will promptly search  
22 for a more current address for the Class Member and re-mail the Class Notice Packet to any new  
23 address for the Class Member no later than seven (7) days after the receipt of the undelivered  
24 Class Notice.

25         11.       The Court hereby appoints ILYM Group as the Administrator. No later than  
26 twenty (20) days after this Order, Defendants will provide the Class Data to the Administrator.  
27 The Administrator will perform address updates and verifications as necessary prior to the first  
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1 mailing. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)  
2 days after receiving the Class Data, the Administrator will mail the Class Notice Packet to all  
3 Class Members via first-class regular U.S. Mail to their last known address.

4       12.     The Court hereby preliminarily approves the proposed procedure for exclusion  
5 from the Settlement, as set forth in Section 8.5 of the Settlement Agreement. Any Class Member  
6 may individually choose to opt out of and be excluded from the Class as provided in the Class  
7 Notice by following the instructions for timely requesting exclusion from the Class that are set  
8 forth in the Class Notice. All requests for exclusion must be postmarked or received no later than  
9 forty-five (45) calendar days after the date of the mailing of the Class Notice (“Response  
10 Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline for requests for  
11 exclusion will be extended an additional fourteen (14) days. A Request for Exclusion may also be  
12 faxed or emailed to the Administrator as indicated in the Class Notice. Any such person who  
13 chooses to opt out of and be excluded from the Class will not be entitled to any recovery under the  
14 Class Settlement and will not be bound by the Class Settlement or have any right to object, appeal  
15 or comment thereon. Class Members who have not requested exclusion, or failed to request  
16 exclusion on a timely basis, shall be bound by all determinations of the Court, the Agreement and  
17 the Judgment. A request for exclusion may only opt out that particular individual, and any attempt  
18 to effect an opt-out of a group, class, or subclass of individuals is not permitted and will be  
19 deemed invalid.

20       13.     Any Class Member who has not opted out may appear at the final approval hearing  
21 and may object or express the Member’s views regarding the Settlement and may present evidence  
22 and file briefs or other papers that may be proper and relevant to the issues to be heard and  
23 determined by the Court as provided in the Class Notice. Class Members will have until the  
24 Response Deadline to submit their written objections to the Administrator. Written objections  
25 may also be faxed or emailed to the Administrator as indicated in the Class Notice. If a Class  
26 Notice Packet is re-mailed, the Response Deadline for written objections will be extended an  
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1 additional fourteen (14) days. Alternatively, Class Members may appear at the Final Approval  
2 Hearing to make an oral objection.

3 14. A final approval hearing shall be held before this Court on \_\_\_\_\_  
4 \_\_\_\_\_ at \_\_\_\_\_ in Department 15 at the Monterey Courthouse of the Monterey  
5 County Superior Court to hear the motion for final approval and the motion for attorneys' fees and  
6 costs, and to determine all necessary matters concerning the Settlement, including: whether the  
7 proposed settlement of the Action on the terms and conditions provided for in the Agreement is  
8 fair, adequate and reasonable and should be finally approved by the Court; whether the Final  
9 Approval Order and Judgment should be entered herein; whether the plan of allocation contained  
10 in the Agreement should be approved as fair, adequate and reasonable to the Class Members; and  
11 to finally approve attorneys' fees and costs, service award, and the fees and expenses of the  
12 Administrator. All papers in support of the motion for final approval and the motion for attorneys'  
13 fees, costs and service award shall be filed with the Court and served on all counsel no later than  
14 sixteen (16) court days before the hearing and both motions shall be heard at this final approval  
15 hearing.

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

16. 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 any claim in the Action could not be certified as a class action and/or managed as a representative action . In such an event, the Court's orders regarding the Settlement, including this Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Agreement with respect to the effect of the Agreement if it is not approved.

17. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Class Members and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

HON. THOMAS W. WILLS  
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

**EXHIBIT C**

[FINAL APPROVAL ORDER AND JUDGMENT]

**EXHIBIT "C"**

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF MONTEREY

ANGELA GARCIA, an individual, on behalf  
of herself and on behalf of all persons  
similarly situated,

Plaintiff,

vs.

SUNDERSTORM INC., a Corporation;  
SUNDERSTORM BAY LLC, a Limited  
Liability Corporation; and DOES 1 through  
50, inclusive,

Defendants.

**CASE NO.: 22CV001827**

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

Hearing Date: \_\_\_\_\_  
Hearing Time: \_\_\_\_\_

Judge: Hon. Thomas W. Wills  
Dept: 15

Date Filed: June 29, 2022  
Trial Date: Not set

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FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiff Angela Garcia (“Plaintiff”) for an order finally  
2 approving the Class Action and PAGA Settlement Agreement (“Agreement”) with Defendants  
3 Sunderstorm Inc. and Sunderstorm Bay LLC (“Defendants”), attorneys’ fees and costs, service  
4 payment, and the expenses of the Administrator duly came on for hearing on \_\_\_\_\_  
5 before the Honorable Thomas W. Wills.

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 Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before  
12 the Superior Court for the State of California, in and for the County of Monterey, and over all  
13 Parties to this litigation, including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the  
15 applicable law, the Court finds that the Gross Settlement Amount of Six Hundred Thousand  
16 Dollars (\$600,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 17 4. The Court further finds that the Settlement was the result of arm’s length  
18 negotiations conducted after Class Counsel had adequately investigated the claims and became  
19 familiar with the strengths and weaknesses of those claims. In particular, the amount of the  
20 Settlement, and the assistance of an experienced mediator in the settlement process, among other  
21 factors, support the Court’s conclusion that the Settlement is fair, reasonable, and adequate.

22 **Preliminary Approval of the Settlement**

- 23 5. On \_\_\_\_\_, the Court granted preliminary approval of the Settlement. At  
24 this same time, the Court approved conditional certification of the Class for settlement purposes  
25 only.

1           **Notice to the Class**

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

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

22           **Fairness of the Settlement**

23           8.       The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*  
24 48 Cal.App.4th 1794, 1801 (1996).

25           a.       The settlement was reached through arm's-length bargaining between the  
26 Parties during an all-day mediation before Hon. Carl J. West (Ret.), an experienced mediator of  
27  
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1 wage and hour class actions. There has been no collusion between the Parties in reaching the  
2 Settlement.

3 b. Plaintiff and Class Counsel's investigation and discovery have been  
4 sufficient to allow the Court and counsel to act intelligently.

5 c. Counsel for all Parties are experienced in similar employment class action  
6 litigation. Class Counsel recommended approval of the Agreement.

7 d. The percentage of objectors and requests for exclusion is small. \_\_\_\_  
8 objections were received. \_\_\_\_\_ requests for exclusion were received.

9 e. The participation rate was high. \_\_\_\_\_ Class Members will be mailed a  
10 settlement payment, representing \_\_\_\_% of the overall Class.

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

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

18 **Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment**

19 11. An award of \$\_\_\_\_\_ for attorneys' fees, representing one-third of the  
20 Gross Settlement Amount, and \$\_\_\_\_\_ for litigation costs and expenses, is reasonable,  
21 in light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and  
22 the results achieved by Class Counsel. The requested award has been supported by Class  
23 Counsel's lodestar and billing statement.

24 **Class Representative Service Payment**

25 12. The Agreement provides for a Class Representative Service Payment of not more  
26 than \$10,000 to the Plaintiff, subject to the Court's approval. The Court finds that Class  
27 Representative Service Payment in the amount of \$\_\_\_\_\_ to the Plaintiff is reasonable in  
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1 light of the risks and burdens undertaken by the Plaintiff in this litigation and for his time and  
2 effort in bringing and prosecuting this matter on behalf of the Class.

3 **Administration Expenses Payment**

4 13. The Administrator shall calculate and administer the payment to be made to the  
5 Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the  
6 Class Representative Service Payment to the Plaintiff, issue all required tax reporting forms,  
7 calculate withholdings and perform the other remaining duties set forth in the Agreement. The  
8 Administrator has documented \$ \_\_\_\_\_ in fees and expenses, and this amount is reasonable in  
9 light of the work performed by the Administrator.

10 **PAGA Penalties**

11 14. The Agreement provides for a PAGA Penalties out of the Gross Settlement  
12 Amount of \$24,000, which shall be allocated \$18,000 to the Labor & Workforce Development  
13 Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid under this  
14 Agreement pursuant to the PAGA and \$6,000 to be distributed to the Aggrieved Employees and  
15 allocated by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties  
16 (\$6,000) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees  
17 during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay  
18 Periods. "Aggrieved Employees" are all individuals who were employed by Defendants in  
19 California and classified as a non-exempt employee at any time during the PAGA Period  
20 (February 21, 2021 through July 1, 2023). Pursuant to Labor Code section 2699, subdivision  
21 (l)(2), the LWDA was provided notice of the Agreement and these settlement terms and has not  
22 indicated any objection thereto. The Court finds the PAGA Penalties to be reasonable.

23 **II.**

24 **ORDERS**

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

26 15. The Class is certified for the purposes of settlement only. The Class is defined as  
27 follows:

1 All individuals who were employed by Defendants in California and classified as a  
2 non-exempt employee at any time during the Class Period (June 29, 2018 through  
3 July 1, 2023).

4 16. All persons who meet the foregoing definition are members of the Class, except for  
5 those individuals who filed a valid and timely request for exclusion (“opt out”) from the Class.

6 [INSERT REFERENCE TO IDENTIFY ANY OPT OUTS].

7 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the  
8 best interest of the Class.

9 18. Class Counsel are awarded attorneys’ fees in the amount of \$\_\_\_\_\_ and  
10 costs in the amount of \$\_\_\_\_\_. Class Counsel shall not seek or obtain any other  
11 compensation or reimbursement from Defendants, Plaintiff or members of the Class.

12 19. The payment of Class Representative Service Payment in the amount of \$\_\_\_\_\_

13 to the Plaintiff is approved.  
14 20. The payment of \$\_\_\_\_\_ to the Administrator for its fees and expenses is  
15 approved.

16 21. The PAGA Penalties amount of \$24,000 is approved and is to be distributed in  
17 accordance with the Agreement.

18 22. Pursuant to Labor Code section 2699, subdivision (l)(2), Class Counsel shall  
19 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its  
20 entry.

21 23. Neither the Agreement nor this Settlement is an admission by Defendants, nor is  
22 this Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of  
23 any wrongdoing by Defendants or that this Action is appropriate for class or representative  
24 treatment (other than for settlement purposes), and this Settlement cannot be construed to support  
25 any claim for subsequent violation penalty rates under the PAGA for the claims released in the  
26 Agreement. Neither this Final Approval Order and Judgment, the Agreement, nor any document  
27 referred to herein, nor any action taken to carry out the Agreement is, may be construed as, or may  
28 be used as an admission by or against Defendants of any fault, wrongdoing or liability whatsoever.

1 The entering into or carrying out of the Agreement, and any negotiations or proceedings related  
2 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or  
3 concession with regard to the denials or defenses by Defendants. Notwithstanding these  
4 restrictions, Defendants may file in the Action or in any other proceeding this Final Approval  
5 Order and Judgment, the Agreement, or any other papers and records on file in the Action as  
6 evidence of the Settlement to support a defense of *res judicata*, collateral estoppel, release, or  
7 other theory of claim or issue preclusion or similar defense as to the Released Class Claims and/or  
8 Released PAGA Claims.

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

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

21 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

22         26. Except as set forth in the Agreement and this Final Approval Order and Judgment,  
23 Plaintiffs, and all members of the Class, shall take nothing in the Action.

24         27. The Court shall retain jurisdiction to construe, interpret, implement and enforce the  
25 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to  
26 supervise and adjudicate any dispute arising from or in connection with the distribution of  
27 settlement benefits.

1           28.     All Parties shall bear their own attorneys' fees and costs, except as otherwise  
2 provided in the Agreement and in this Final Approval Order and Judgment.

3           29.     Effective on the date when Defendants fully funds the entire Gross Settlement  
4 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class  
5 Payments, Plaintiff, Participating Class Members, Aggrieved Employees and the LWDA will  
6 release claims against all Released Parties as set forth on Sections 1.38 and 1.39 of the Settlement  
7 Agreement, including the following:

8                   (a)     All Participating Class Members, on behalf of themselves and their  
9 respective former and present representatives, agents, attorneys, heirs, administrators, successors,  
10 and assigns, release Released Parties from the Released Class Claims. The "Released Class  
11 Claims" are all claims and causes of action that were alleged, or reasonably could have been  
12 alleged, based on the facts stated in the Operative Complaint, including all of the following: (a) all  
13 class claims stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204,  
14 210, 218, 221, 226 et seq, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198,  
15 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, and double-time  
16 wages, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock  
17 work, the alleged failure to pay for drug testing and other required testing and examinations, the  
18 alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the  
19 alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates,  
20 the alleged improper rounding of time entries, and the alleged unlawful deductions from earned  
21 wages; (c) all claims for meal period violations, including claims for late, short, interrupted,  
22 rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular  
23 rates, and the alleged failure to properly record meal periods; (d) all claims for rest break  
24 violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled  
25 rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for  
26 unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone  
27 usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage  
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1 statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the  
2 facts and legal theories contained in the Operative Complaint, including the allegation that the  
3 wage statements lacked the total number of hours worked and corresponding rates and the proper  
4 legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for  
5 the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and  
6 reporting time pay to employees under sections 204 and 210 of the Labor Code; (h) all claims for  
7 the untimely payment of final wages and associated waiting time penalties under sections 201 to  
8 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick  
9 leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for the alleged  
10 failure to pay employees for reporting time pay; and (k) all claims under the Business &  
11 Professions Code (including Section 17200 et seq.) premised on the facts, claim, and causes of  
12 action alleged in the Operative Complaint. Except as expressly set forth in this Agreement,  
13 Participating Class Members do not release any other claims, including claims for vested benefits,  
14 wrongful termination, violation of the Fair Employment and Housing Act, discrimination,  
15 unemployment insurance, disability, social security, workers' compensation, or Class claims based  
16 on facts occurring outside the Class Period.

17 (b) All Aggrieved Employees and the LWDA are deemed to release, on behalf  
18 of themselves and their respective former and present representatives, agents, attorneys, heirs,  
19 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.  
20 The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably  
21 could have been alleged, based on the facts stated in the Operative Complaint and the PAGA  
22 Notice, which occurred during the PAGA Period, including the following: (a) All class claims  
23 stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 et seq., 210,  
24 221, 226(a), 226.7, 227.3, 246 et seq., 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802,  
25 California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of  
26 Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), and applicable Industrial  
27 Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) All claims for  
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1 civil penalties for violations of unpaid wages, including unpaid minimum, overtime, and double-  
2 time wages, the alleged failure to pay for all time worked, the alleged failure to pay for off the  
3 clock work, the alleged failure to pay for drug testing and other required testing and examinations,  
4 the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the  
5 alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates,  
6 the alleged improper rounding of time entries, and the alleged unlawful deductions from earned  
7 wages; (c) All claims for civil penalties for meal period violations, including late, short,  
8 interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the  
9 correct regular rates, and the alleged failure to properly record meal periods; (d.) All claims for  
10 civil penalties for rest break violations, including late, short, interrupted, missed, or otherwise  
11 improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular  
12 rates; (e) All claims for civil penalties for unreimbursed expenses, including, but not limited to,  
13 expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) All claims  
14 for civil penalties for inaccurate itemized wage statements, including any alleged violations of  
15 Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA  
16 Notice, including the allegation that the wage statements lacked the total number of hours worked  
17 and corresponding rates and the proper legal entity of the employer; (g) All claims for civil  
18 penalties for the untimely payment of wages, including regular, overtime, premium wages, paid  
19 sick leave, and reporting time pay to employees under sections 204 and 210 of the Labor Code; (h)  
20 All claims for civil penalties for the untimely payment of final wages and associated waiting time  
21 penalties under sections 201 to 203 of the Labor Code Section; (i) All claims for civil penalties for  
22 unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of  
23 pay; (j) All claims for civil penalties for failing to provide suitable seating; (k) All claims for civil  
24 penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records  
25 showing when employees began and ended each shift and meal period; (l) All claims for civil  
26 penalties for the alleged failure to pay employees for reporting time pay; and (m) All claims for  
27 civil penalties for alleged violations of section 227.3 of the Labor Code. The Released PAGA  
28

1 Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful  
2 termination, violation of the Fair Employment and Housing Act discrimination, unemployment  
3 insurance, disability, social security, worker's compensation, and PAGA claims outside of the  
4 PAGA Period.

5 (c) Plaintiff and his or her respective former and present spouses,  
6 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release  
7 and discharge Released Parties from all claims, transactions, or occurrences that occurred through  
8 the Effective Date, as fully set forth in the Agreement.

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

14 31. The Court hereby enters judgment in the entire Action as of the filing date of this  
15 Order and Judgment, pursuant to the terms set forth in the Settlement. Without affecting the  
16 finality of this Order and Judgment in any way, the Court hereby retains continuing jurisdiction  
17 over the interpretation, implementation, and enforcement of the Settlement and all orders entered  
18 in connection therewith pursuant to California Code of Civil Procedure section 664.6.

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

20  
21 Dated: \_\_\_\_\_

22 \_\_\_\_\_  
23 HON. THOMAS W. WILLS  
24 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA  
25  
26  
27  
28



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**REPORTED CASES**

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9<sup>th</sup> 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. 4<sup>th</sup> 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 (9<sup>th</sup> Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

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

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles, 75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E\*Trade Mortg. Corp., 514 F.3d 1001 (9<sup>th</sup> Cir. 2008); Silvas v. E\*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391

(S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9<sup>th</sup> Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3<sup>rd</sup> Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9<sup>th</sup> Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

### **CLASS ACTION & REPRESENTATIVE CASES**

4G Wireless Wage Cases, Orange County Superior Court, JCCP No. 4736; Classic Party Rentals Wage & Hour Cases, Los Angeles Superior Court, Case No. JCCP No. 4672; Abu-Arafeh v. Norco Delivery Service, Inc., San Francisco County Superior Court, Case No. CGC-14-540601; Aburto v. Verizon, U.S. District Court, Southern District California, Case No. 11-cv-0088; Adkins v. Washington Mutual Bank, Class Certification Granted, San Diego County Superior Court, Case No. GIC819546; Agah v. CompUSA, U.S. District Court, Central District of California, Case No. SA CV05-1087 DOC (Anx); Akers v. The San Diego Union Tribune, San Diego County Superior Court, Case No 37-2010-00088571; Altman v. SolarCity Corporation, San Diego County Superior Court, Case No. 37-2014-00023450-CU-OE-CTL; Aquino v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00395420; Baker v. Advanced Disability Management, Inc., Sacramento County Superior Court, Case No. 34-2014-00160711; Barcia v. Contain-A-Way, U.S. District Court, Southern District California, Case No. 07 cv 0938; Bates v. Verengo, Inc., Orange County Superior Court, Case No. 30-2012-00619985-CU-OE-CXC; Battle v. Charming Charlie Inc., San Diego

County Superior Court, Case No. 37-2014-00005608; Behar v. Union Bank, Orange County Superior Court, Case No. 30-2009-00317275; Bell v. John Stewart Company, Alameda County Superior Court, Case No. RG14728792; Bennett v. Custom Built Personal Training, Monterey County Superior Court, Case No. M127596; Bermant v. Bank of America, Investment Services, Inc., Los Angeles Superior Court, Civil Action No. BC342505; Bethley v. Raytheon Company, United States District Court, Central District of California, Case No. SACV10-01741; Betorina v. Randstad US, L.P., U.S. District Court Northern District of California, Case No. 3:15-cv-03646-MEJ; Beverage v. Edcoa Inc., Sacramento County Superior Court, Case No. 2013-00138279; Bova v. Washington Mutual Bank / JP Morgan Chase, U.S. District Court, Southern District California, Case No. 07-cv-2410; Bowden v. Sunset Parking Services, LLC & LAZ Parking California, LLC - Settled San Diego County Superior Court, Case No. 37-2012-00101751-CU-OE-CTL; Briseno v. American Savings Bank, Class Certification Granted, Orange County Superior Court, Case No. 774773; Brueske v. Welk Resorts, San Diego Superior Court, Case No 37-2010-00086460; Bueche v. Fidelity National Management Services, U.S. District Court, Eastern District of California, Case No. 13-cv-01114; Bunch v. Pinnacle Travel Services, LLC, Los Angeles County Superior Court, Case No. BC552048; Butler v. Stericycle, Inc & Appletree Answering Services of California, Inc., Sacramento County Superior Court, Case No. 34-2015-00180282; Cabral v. Creative Communication Tech., Class Certification Granted, Los Angeles Superior Court, Case No. BC402239; Cardoza v. Wal-Mart Associates, Inc., U.S. District Court Northern District of California, Case No. 4:15-cv-01634-DMR; Castro v. Vivint Solar, Inc., San Diego County Superior Court, Case No. 37-2014-00031385-CU-OE-CTL; Cavazos v. Heartland Automotive Services, Inc., Riverside County Superior Court, Case No. PSC 1401759; Cohen v. Bosch Tool, San Diego Superior Court, Case No. GIC 853562; Comstock v. Washington Mutual Bank - Class Certification Granted, San Diego County Superior Court, Case No. GIC820803; Conley v. Norwest, San Diego County Superior Court, Case No. N73741; Connell v. Sun Microsystems, Alameda Superior Court, Case No. RG06252310; Corrente v. Luxe Valet, Inc., San Francisco County Superior Court, Case No. CGC-15-545961; Cruz v. Redfin Corporation, U.S. District Court Northern District of California, Case No. 3:14-cv-05234-THE; Culley v. Lincare Inc. & Alpha Respiratory Inc., U.S. District Court eastern District of California, Case No. 2:15-cv-00081-GEB-CMK; Cunningham v. Leslie's Poolmart, Inc., U.S. District Court, Central District of California, Case No. 13-cv-02122-CAS; Curry v. California Testing Bureau/McGraw Hill, U.S. District Court, Northern District of California, Case No. C-05-4003 JW; Daniels, et al. v. Philip Morris,(In Re Tobacco Cases II) – Class Certification Granted, San Diego Superior Court, Case No. JCCP 4042; Davis v. Genex Holdings Inc., Santa Clara County Superior Court, Case No. 1-13-cv-240830; Davis v. Clear Connection, LLC, San Diego County Superior Court, Case No. 37-2014-00035173-CU-OE-CTL; Day v. WDC Exploration, Orange County Superior Court, Case No. 30-2010-00433770; Dedrick v. Hollandia Dairy, San Diego County Superior Court, Case No. 37-2014-00004311-Cu-OE-CTL; Delmare v. Sungard Higher Education - Settled U.S. District Court, Southern District of California, Case No. 07-cv-1801; Del Rio v. Tumi Stores, Inc., San Diego County Superior Court, Case No. 37-2015-00022008-CU-OE-CTL; Dewane v. Prudential, U.S. District Court, Central District of California, Case No. SA CV 05-1031; Diesel v. Wells Fargo Bank, Orange County Superior Court, Case No. 30-2011-00441368; Dirienzo v. Dunbar Armored, U.S. District Court, Southern District of California, Case No. 09-cv-2745; Dobrosky v. Arthur J. Gallagher Service Company, LLC, Class certification Granted, No. EDCV 13-0646 JGB (Spx); Dodds v. Zaven Tootikian, Los Angeles County Superior Court, Case No. BC494402; Drumheller v. Radioshack Corporation, United States District Court, Central District of California, Case No. SACV11-355; Enger v. Kaiser Foundation Health Plan, U.S. District Court, Southern District of California, Case No. 09-cv-1670; Escobar v. Silicon Valley Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 1-14-cv272514; Fierro v. Chase Manhattan - Class Certification Granted, Settled San Diego Superior Court, Case No. GIN033490; Figueroa v. Circle K Stores, Inc., San Diego County Superior Court, Case No. 37-2012-00101193-CU-OE-CTL; Finch v. Lamps Plus, (Lamps Plus Credit Transaction Cases), San Diego Superior Court, Case No. JCCP 4532; Fletcher v. Verizon, U.S. District Court, Southern

District of California, Case No. 09-cv-1736; Francisco v. Diebold, U.S. District Court, Southern District of California, Case No. 09-cv-1889; Friend v. Wellpoint, Los Angeles Superior Court, Case No. BC345147; Frudakis v. Merck Sharp & Dohme, U.S. District Court, Central District California, Case No. SACV 11-00146; Fulcher v. Olan Mills, Inc., U.S. District Court, Northern District of California, Case No. 11-cv-1821; Gabisan v. Pelican Products, U.S. District Court, Southern District California, Case No. 08 cv 1361; Galindo v. Sunrun Installation Services Inc., San Diego County Superior Court, Case No. 37-2015-00008350-CU-OE-CTL; Gallagher v. Legacy Partners Commercial, Santa Clara County Superior Court, Case No. 112-cv-221688; Ghattas v. Footlocker Retail, Inc., U.S. District Court Central District of California, Case No. CV 13-0001678 PA; Gibson v. World Savings, Orange County Superior Court, Case No. 762321; Goerzen v. Interstate Realty Management, Co., Stanislaus County Superior Court, Case No. 679545; Gomez v. Enterprise Rent-A-Car, U.S. District Court, Southern District of California, Case No. 3:10-cv-02373; Gordon v. Wells Fargo Bank, U.S. District Court, Southern District of California, Case No. 3:11-cv-00090; Grabowski v. CH Robinson, U.S. District Court, Southern District of California, Case No. 10-cv-1658; Gross v. ACS Compiq Corporation, Orange County Superior Court, Case No. 30-2012-00587846-CU-OE-CXC; Gripenstraw v. Buffalo Wild Wings, U.S. District Court, Eastern District of California, Case No. 12-CV-00233; Gruender v. First American Title, Orange County Superior Court, Case No. 06 CC 00197; Guillen v. Univision Television Group, Inc. & Univision Management Co., San Francisco County Superior Court, Case No. CGC-12-526445; Gujjar v. Consultancy Services Limited, Orange County Superior Court, Case No. 30-2010-00365905; Gutierrez v. Five Guys Operations, LLC, San Diego County Superior Court, Case No. 37-2012-00086185-CU-OE-CTL; Handler v. Oppenheimer, Los Angeles Superior Court, Civil Action No. BC343542; Harley v. Tavistock Freebirds, LLC, Sacramento County Superior Court, Case No. 34-2014-00173010; Harrington v. Corinthian Colleges – Class Certification Granted, Orange Superior Court; United States Bankruptcy Court District of Delaware; Harvey v. PQ Operations, Inc., Los Angeles County Superior Court, Case No. BC497964; Henshaw v. Home Depot U.S.A., United States District Court, Central District of California, Case No. SACV10-01392; Heithold v. United Education Institute, Orange County Superior Court, Case No. 30-2013-00623416-CU-OE-CXC; Hibler v. Coca Cola Bottling, Settled U.S. District Court, Southern District of California, Case No. 11cv0298; Hildebrandt v. TWC Administration LLC & Time Warner NY Cable, LLC, U.S. District Court, Central District of California, Case No. ED-cv-13-02276-JGB; Hopkins v. BCI Coca-Cola Bottling Company of Los Angeles, United states District Court, Central District of California; U.S. Court of Appeals 9<sup>th</sup> Circuit; Howard v. Southern California Permanente Medical Group, Los Angeles Superior Court, Case No. BC586369; Hughes v. Parexel International, Los Angeles County Superior Court, Case No. BC485950; Hurley v. Comcast of California/Colorado/Texas/Washington, Inc., Sonoma County Superior Court, Case No. SCV-253801; Irving v. Solarcity Corporation, San Mateo County Superior Court, Case No. CIV525975; Jacobs v. Nu Horizons - Settled Santa Clara County Superior Court, Case No. 111cv194797; Jefferson v. Bottling Group LLC (Pepsi) - Class Certification Granted, Orange County Superior Court, Case No. 30-2009-0018010; Jones v. E\*Trade Mortgage, U.S. District Court, Southern District California Case No. 02-CV-1123 L (JAH); Kennedy v. Natural Balance - Dismissal Reversed on Appeal, San Diego Superior Court, Case No. 37-2007-00066201; Keshishzadeh v. Arthur J. Gallagher Service Co., U.S. District Court, Southern District of California, Case No. 09-cv-0168; Kinney v. AIG Domestic Claims / Chartis, U.S. District Court, Central District of California, Case No. 8:10-cv-00399; Kizer v. Tristar Risk Management, Orange County Superior Court, Case No. 30-2014-00707394-CU-OE-CXC; Kleinberg v. Reeve Trucking Company, Inc., San Diego County Superior Court, Case No. 37-2015-00001601-CU-OE-CTL; Kove v. Old Republic Title, Alameda County Superior Court, Case No. RG09477437; Krellcom v. Medley Communications, Inc., San Diego County Superior Court, Case No. 37-2013-00050245-CU-OE-CTL; Ladd v. Extreme Recovery, LP, Contra Costa County Superior Court, Case No. MSC11-02790; Langille v. EMC, U.S. District Court, Southern District of California, Case No. 09-cv-0168; Lawson v. Marquee Staffing, Los Angeles County Superior Court, Case No. 37-2012-00103717-

CU-OE-CTL; Lazar v. Kaiser Foundation Health Plan, Inc., Santa Clara County Superior Court, Case No. 1-14-cv-273289; Lemmons v. Kaiser Foundation Hospitals, Inc., Sacramento County Superior Court, Case No. 34-2012-00125488; Levine v. Groeniger, Alameda County Superior Court, Case No. RG09476193; Linder v. OCWEN (In re Ocwen Federal Bank FSB Servicing Litig.) U.S. District Court, Central District California, Case No. 07cv501, U.S. District Court, Northern Dist. Illinois, Case No. MDL 1604; Litton v. Diebold, Incorporated, San Mateo County Superior Court, Case No. CIV524776; Lohn v. Sodexo, Inc. & SDH Services West, LLC, U.S. District Court Central District of California, Case No. 2:15-CV-05409; Lopez v. K-Mart, Ventura County Superior Court, Case No. BC351983; Louie / Stringer v. Kaiser, U.S. District Court, Southern District California, Case No. 08-cv-0795; Lucero v. Sears, U.S. District Court Southern District of California, Case No. 3:14-cv-01620-AJB; Lucero v. Kaiser Foundation Hospitals, Inc., San Diego County Superior Court, Case No. 37-2013-00075933-CU-OE-CTL; Magallanes v. TSA Stores, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-283586; Magana v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2012-00613901-CU-OE-CXC; Maitland v. Marriott, U.S. District Court, Central District California, Case No. SACV 10-00374; Mann v. NEC Electronics America, Santa Clara County Superior Court, Case No. 109CV132089; Martinez v. Hydro-Scape Products, Inc., San Diego County Superior Court, Case No. 37-2014-00029157-CU-OE-CTL; Mathies v. Union Bank - Class Certification Granted, San Francisco County Superior Court, Case No. CGC-10-498077; McDermott v. Catalina Restaurant Group Inc., Orange County Superior Court, Case No. 30-2012-00574113-CU-OE-CXC; McPhail v. First Command, United States District Court for the Southern District of California, Case No. 05CV0179 IEG (JMA); Medina v. Universal Protection Service, LP, Santa Clara County Superior Court, Case No. BC572848; Meierdiercks v. 8x8, Inc., Santa Clara County Superior Court, Case No. 110CV162413; Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, U.S. District Court Eastern District of California, Case No. 16-1133 JGB (Kkx); Meyer v. Thinktank Learning, Inc., Santa Clara County Superior Court, Case No. 1-15-cv-282698; Morales v. Wells Fargo Insurance Services USA, Inc., U.S. District Court Northern District of California, Case No. 3:13-cv-03867-EDL; Morse v. Marie Callender Pie Shop, U.S. District Court, Southern District California, Case No. 09-cv-1305; Moynihan v. Escalante Golf, Inc. & Troon Golf, LLC, San Diego County Superior Court, Case No. 37-2012-00083250-CU-OE-CTL; Muntz v. Lowe's HIW, San Diego County Superior Court, Case No. GIC880932; Najarian v. Macy's West Stores, Orange County Superior Court, Case No. 30-2010-00418401; Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF; Nguyen v. Wells Fargo Home Mortgage, Orange County Superior Court, Case No. 05 CC 00116; Ochoa v. Eisai, Inc., U.S. District Court, Northern District California, Case No. 3:11-cv-01349; Ogans v. Nationwide Credit, Inc., Sacramento County Superior Court, Case No. 34-2012-00121054; Ohayon v. Hertz, United States District Court, Northern District of California, Case No. 11-1662; Olvera v. El Pollo Loco, Inc., Orange County Superior Court, Case No. 30-2014-00707367-CU-OE-CXC; Orozco v. Illinois Tool Works Inc., Class Certification Granted, U.S. District Court, Eastern District of California, Case No. 14-cv-02113-MCE; Ortega v. Prime Healthcare Paradise Valley, LLC, San Diego County Superior Court, Case No. 37-2014-00011240-CU-OE-CTL; Patel v. Nike Retail Services, Inc., U.S. District Court Northern District of California, Case No. 3:14-cv-04781-RS; Patelski v. The Boeing Company, United States District Court, Southern District of New York; transferred to United States District Court, Eastern District of Missouri; Pearlman v. Bank of America, San Diego Superior Court; Perry v. AT&T, U.S. District Court, Northern District California, Case No. 11-cv 01488; Picus v. Wal-Mart Stores, U.S. District Court, District of Nevada, Case No. 2:07-CV-00682; Pittard v. Salus Homecare, U.S. District Court, Southern District California, Case No. 08 cv 1398; Port v. Southern California Permanente Medical Group, San Diego County Superior Court, Case No. 37-2007-00067538; Postema v. Lawyers Title Ins. Corp., Orange County Superior Court, Case No. 30-2010-00418901; Pratt v. Verizon, Orange County Superior Court, Case No. 30-2010-00430447; Proctor v. Ameriquest, Orange County Superior Court, Case No. 06CC00108; Ramirez v. Estenson Logistics, LLC, Orange County Superior Court, Case No. 30-2015-00803197-CU-OE-CXC; Ray

v. Lawyers Title, Fidelity National, Commonwealth Land Title, Chicago Title, Orange County Superior Court, Case No. 30-2010-00359306; Renazco v. Unisys Technical Services, L.L.C., San Francisco County Superior Court, Case No. CGC-14-539667; Reynolds v. Marlboro/Philip Morris U.S.A., United States Court of Appeals for the Ninth Circuit, Case No. 08-55114, U.S. District Court, Southern District of California, Case No. 05 CV 1876 JAH; Rezec v. Sony, San Diego Superior Court; Rix v. Lockheed Martin Corporation, U.S. District Court, Southern District of California, Case No. 09-cv-2063; Rieve v. Coventry Health Care, Summary Judgment *Sua Sponte* Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012); Ritchie v. Mauran Ambulance Services, Inc., Los Angeles County, Case No. BC491206; Rivers v. Veolia Transportation Services, Class Certification Granted, Sonoma County Superior Court, Case No. SCV 255350; Roeh v. JK Hill, San Diego Superior Court, Case No. 37-2011-00089046; Rodriguez v. Protransport-1, LLC, San Francisco County Superior Court, Case No. CGC-12-522733; Romero v. Central Payment Co., LLC, Marin County Superior Court, Case No. CIV 1106277; Salas v. Evolution Hospitality, LLC, San Diego County Superior Court, Case No. 37-2012-00083240-CU-OE-CTL; Salem v. Alliance Human Services, Inc., San Diego County Superior Court, Case No. CIVRS1401129; Sanchez v. Beena Beauty Holding, Inc. d/b/a Planet Beauty, Los Angeles County Superior Court, BC566065; Santone v. AT&T – Settled United States District Court, Southern District of Alabama; Santos v. Sleep Train (Sleep Train Wage and Hour Cases), Orange County Superior Court, Case No. 30-2008-00214586, San Francisco County Superior Court, Case No. JCCP 4553; Saravia v. O.C. Communciations, Sacramento County Superior Court, Case No. 34-2015-00180734; Sawyer v. Vivint, Inc., U.S. District Court, Northern District of Illinois, Case No. 1:14-cv-08959; Sayaman v. Baxter Healthcare, U.S. District Court, Central District of California, Case No. CV 10-1040; Schuler v. Ecolab, Inc., U.S. District Court, Southern District of California, Case No. 3:10-cv-02255; Schulz v. Qualxserv, LLC / Worldwide Techservices - Class Certification Granted, U.S. District Court, Southern District of California, Case No. 09-cv-0017; Serrato v. Sociedad Textil Lonia, Corp., San Diego County Superior Court, Case No. 37-2012-00101195-CU-OE-CTL; Shrivastara v. Fry's Electronics, Santa Clara County Superior Court, Case No. 111cv192189; Sierra v. Oakley Sales Corp., Orange County Superior Court, U.S. District Court Central District of California; U.S. Court of Appeals 9<sup>th</sup> Circuit; Sirota v. Swing-N-Slide, Wisconsin District Court, County of Rock Wisconsin, Case No. 95CV726J; Small v. Kaiser Foundation Hospitals - Settled San Diego County Superior Court, Case No. 37-2011-00099011-CU-OE-CTL; Smith v. Kaiser Foundation Hospitals, U.S. District Court, Southern District of California, Case No. 08-cv-02353; Smith v. Fedex Ground Package system, Inc., Alameda County Superior Court, Case No. RG14734322; Sones v. World Savings / Wachovia; U.S. District Court, Northern District of California, Case No. 3:08-cv-04811; Spradlin v. Trump, U.S. District Court, District of Nevada, Case No. 2:08-cv-01428; Steele v. Kaiser Foundation Health Plan, U.S. District Court, Northern District of California, Case No. 07-5743; Steffan v. Fry's Electronics, Inc., Santa Clara County Superior Court, Case No. 1-13-CV-254011; Steroid Hormone Product Cases, Los Angeles Superior Court, JCCP4363; Strauss v. Bayer Corporation, United States District Court, District of Minnesota; Sustersic v. International Paper Co., Orange County Superior Court, Case No. 30-2009-00331538; Sutton v. Seasons Hospice & Palliative Care of California, Inc., Los Angeles County Superior Court, Case No. BC590870; Swartout v. First Alarm Security & Patrol, Inc., Santa Clara County Superior Court, Case No. 112-cv-231989; Talamantez v. The Wellpoint Companies, Inc., U.S. District Court, Central District of California, Case No. 12-cv-08058; Tan v. California State Automobile Assn. - Class Certification Granted, U.S. District Court, Central District California, Case No. 07cv1011, Orange County Superior Court, Case No. 30-2008-00231219; Tauber v. Alaska Airlines, et al., Los Angeles Superior Court; Thai v. Staff Assistance, Inc., Los Angeles County Superior Court, Case No. BC567943; Thomas v. Stanford Health Care d/b/a Stanford University Medical Center, Santa Clara County Superior Court, Case No. 1-14-cv-273362; Thomas-Byass v. Michael Kors Stores (California), Inc., U.S. District Court Central District of California, Case No. 5:15-cv-00369-JGB; Trujillo v. LivHome, Orange County Superior Court, Case No. 30-2008-00100372, San Diego

County Superior Court, Case No. JCCP4570; Tull v. Stewart Title, U.S. District Court, Southern District California, Case No. 08-CV-1095; Turner v. C.R. England, U.S. District Court Central District of California, Case No. 5:14-cv-02207-PSG; Turner v. Ampac Fine Chemicals, LLC, Sacramento County Superior Court, Case No. 34-2015-00176993; Valadez v. Schering-Plough, U.S. District Court, Southern District California, Case No. 10-CV-2595; Van Gorp v. Ameriquest Mortgage/Deutsche Bank, U.S. District Court, Central District of California, Case No. SACV05-907 CJC (Anx); Varela v. The Walking Company, Los Angeles County Superior Court, Case No. BC562520; Veloz v. Ross Dress For Less, Inc., Los Angeles County Superior Court, Case No. BC485949; Vogel v. Price-Simms, Inc., Santa Clara County Superior Court, Case No. 114CV261268; Vrab v. DNC Parks & Resorts at Tenaya, Inc., Mariposa County Superior Court, Case No. 0010225; Vultaggio-Kish v. Golden State Lumber, Inc., San Mateo County Superior Court, Case No. CIV 51661; Wadhwa v. Escrow Plus, Los Angeles Superior Court; Waldhart v. Mastec North Amercia, Inc., San Bernardino County Superior Court, Case No. CIVDS1419318; Walker v. Brink's Global Services USA, Inc. & Brinks Incorporated, Los Angeles County Superior Court, Case No. BC564369; Walsh v. Apple, Inc., U.S. District Court, Northern District California, Case No. 08-04918; Weinman v. Midbar Condo Development (Las Vegas One), U.S. District Court, District of Nevada, Case No. 2:08-cv-00684; Weltman v. Ortho Mattress - Class Certification Granted, U.S. District Court, Southern District California, Case No. 08-cv-0840, Orange County Superior Court, Case No. 30-2009-00327802; West v. Jerome's Furniture Warehouse, Sacramento County Superior Court, Case No. 34-2013-00147707-CU-OE-GDS; Wheat v. Jerome's Furniture Warehouse, San Diego County Superior Court, Case No. 37-2012-00094419-CU-OE-CTL; Wietzke v. Costar Realty, U.S. District Court, Southern District California, Case No. 09-cv-2743; Williams v. Lockheed Martin Corporation, U.S. District Court, Southern District California, Case No. 3:09-cv-01669; Wilson v. Wal-Mart Associates, Inc., U.S. District Court Central District of California, Case No. 8:14-cv-1021-FMO; Winston v. Lemore Transportation, Inc., Contra Costa County Superior Court, Case No. C-15-00897; Wise v. Cubic, U.S. District Court, Southern District California, Case No. 08-cv-2315; Witman v. Level 3 Communications, San Diego County Superior Court, Case No. 37-2012-00091649-CU-OE-CTL; Yam v. Kaiser Foundation Hospitals, U.S. District Court, Northern District California, Case No. 10-cv-05225-SBA; Zurlo v. Mission Linen, U.S. District Court, Central District, Case No. 08cv1326; Baxt v. Scor U.S., Delaware Court of Chancery; Bronson v. Blech Securities - Settled U.S. District Court, Southern District of New York; Castro & Cardwell v. B & H Education, Inc., Los Angeles Superior Court Case No. BC456198; Dibella v. Olympic Financial, U.S. District Court, District of Minnesota; Doyle v. Lorna Jane USA, Inc., Los Angeles County Superior Court, Case No. BC526837; Estrella v. B-Per Electronic, Inc. & My Wireless, Inc., San Diego County Superior Court, Case No. 37-2013-00048951-CU-OE-CTL; Ferrari v. Read-Rite, U. S. District Court, Northern District of California; Forever 21 Wage and Hour Cases - Settled San Diego County Superior Court, JCC Proceeding No. 4745; Hart v. United States Tobacco Co., Los Angeles Superior Court; In re Bank of America Wage and Hour Employment Practices Litigation, U.S. District Court, District of Kansas, Case No. MDL 2138; In re Walgreen Co. Wage and Hour Litigation, U.S. District Court, Central District of California, Case No. 11-cv-07664; Jackson v. Fresh & Easy Neighborhood Market Inc., Los Angeles County Superior Court, Case No. BC497964; U.S. Bankruptcy Court District of Delaware Case No. 13-12569 (KJC); Jordan/Ramos v. DMV -Sacramento County Superior Court; Kensington Capital v. Oakley, U. S. District Court, Southern District of California; Kensington Capital v. Vesta, U. S. District Court, Northern District of Alabama; Lopez v. Tire centers, LLC, U.S. District Court Northern District of California, Case No. 3:13-cv-05444-JCS; Miller v. Western Athletic Clubs, LLC, Santa Clara County Superior Court, Case No. 112-cv-228670; Moffett v. WIS International, San Diego County Superior Court, Case No. 37-2011-00099909-CU-OE-CTL; Perez v. Urban Outfitters, Inc., U.S. District Court Northern District of California, Case No. 13-cv-02628-JSW; Ridgewood Capital Management v. Gensia, U.S. District Court, Southern District of California, #CV-92-1500H; Sandoval v. Redfin Corporation, U.S. District Court Northern District, Case No. 3:14-cv-04444-SC; Shurman v. Scimed, State of Minnesota District Court, Fourth District,

#94-17640; Sioson v. AMP Holding, Inc., Orange County Superior Court, Case No. 30-2013-00663825; Slatton v. G.E. Capital Mortgage Services, Camden County Superior Court, New Jersey, #CAML0256198; Somkin v. Molten Metal, U.S. District Court, District of Massachusetts, #9710325PBS; Sparks v AT&T, Illinois District Court - Madison County; Sullivan v. Lyon Management Group, Orange County Superior Court, Case No. 30-2013-00649432-CU-BT-CXC; Herencia v. Alexander's Steakhouse, Inc. – San Francisco County Superior Court, Case No. CGC-16-550551; Reinhardt v. Beverly Fabrics, Inc. – Sonoma County Superior Court, Case No. SCV-257217; DeBettencourt v. Interstate realty Management Company – San Joaquin County Superior Court, Case No. STK-CV-UOE-2015-0011942; Torres v. Bhandal Bros, Inc. – Santa Cruz County Superior Court, Case No. 16CV01555; Rodriguez v. El Toro Medical Investors Limited Partnership – U.S. District Court, Central District of California, Case No. 16-CV-00059-JLS-KES; Velez v. Timec Specialty Services, Inc. & Transfield Services – Los Angeles County Superior Court, Case No. BC614318; Henry v. Central Freight Lines, Inc. – U.S. District Court, Eastern District of California, Case No. 16-CV-00280-JAM-EFB; Taylor v. TIC – The Industrial Company – U.S. District Court, Central District of California, Case No. 16-CV-00186-VAP(SPX); Harvey v. Sears, Roebuck And Co. – Sacramento County Superior Court, Case No. 34-2017-00207556; Tapia v. Panda Express, LLC et al. – Los Angeles County Superior Court, JCCP No. 4919; Severson v. Lowe's HIW, Inc. – Sacramento County Superior Court, Case No. 34-2016-00189508; Bendon v. DTG Operations, Inc. - U.S. District Court, Central District of California, Case No. 16-CV-00861-FMO-AGR; Talavera v. ACS Dataline, LP – Los Angeles County Superior Court, Case No. BC617159; McHenry v. Prologix Distribution Services (West), LLC – Los Angeles County Superior Court, Case No. BC608948; Stone v. Prologistics Distribution, Inc. – Orange County Superior Court, JCCP No 4881; Easton v. Handy Technologies, Inc. – San Diego County Superior Court, Case No. 37-2016-00004419-CU-OE-CTL; Singh v. Total Renal Care, Inc. – San Francisco County Superior Court, Case No. CGC-16-550847; Conners v. Rag Traders Melrose, LLC – Los Angeles County Superior Court, Case No. BC591413; Saporito v. Space Explorations Technologies Corporation, Los Angeles Superior Court, Case No. BC554258; Calhoun v. Celadon Trucking Services, Inc., U.S. District Court, Central District of California, Case No. 16-CV-01351-PSG-FFM; Conners v. Mission Valley Kilt, LLC - San Diego County Superior Court, Case No. 37-2015-00036888-CU-OE-CTL; Shibley v. New Prime, Inc. - U.S. District Court, Central District of California, Case No. 17-CV-00321-DOC; Lawrenz v. Blacktalon Enterprises, Inc. - Sonoma County Superior Court, Case No. SCV-258205; Jamison v. Fitness 19 CA 121, LLC - Solano County Superior Court, Case No. FCS046697; Brooks v. Archer Trucking, Inc. – Mendocino County Superior Court, Case No. SCUK-CVG-16-67106; Montgomery v. New Prime, Inc. - San Bernardino County Superior Court, Case No. CIVDS1611884; Mills v. Core-Mark International, Inc. – San Diego County Superior Court, case No. 37-2016-00009669-CU-OE-CTL; Lopez v. Networked Insurance Agents, LLC – Orange County Superior Court, Case No. 30-2016-00843587-CU-OE-CXC; Yberri v. Agent Provocateur, Inc. – Los Angeles County Superior Court, Case No. BC620413; Woodard v. BKD Twenty-One Management Company, Inc. – San Diego County Superior Court, Case No. 37-2016-00009682-CU-OE-CTL; Gallagher v. H.H. Restaurant, Inc. – San Diego County Superior Court, Case No. 37-2016-00031247-CU-OE-CTL; San Nicolas v. West Covina Corporate Fitness, Inc. – Los Angeles County Superior Court, Case No. BC16304; Summerlin v. Maplebear Inc., d/b/a Instacart – Los Angeles County Superior Court, Case No. BC 603030; Padilla v. Sutter West Bay Hospitals – San Mateo County Superior Court, Case No. CIV538977; Quagliariello v. Victory Entertainment, Inc. – Los Angeles County Superior Court, Case No. BC620273; Mohammad v. Tee It Up LLC – Contra Costa Superior Court, Case No. C16-01188; Pucilowski v. Esurance Insurance Services, Inc. – Placer County Superior Court, Case No. SCV0038790; Arias v. Alamitos Enterprises, LLC – Orange County Superior Court, Case No. 30-2016-00865183-CU-OE-CXC; Orzano v. Hazelwood Enterprises, Inc. - San Diego County Superior Court, Case No. 37-2016-00029231-CU-OE-CTL; Tejero v. Firstmed Ambulance Services, Inc. – Orange County Superior Court, Case No. 30-2016-00885355-CU-OE-CXC; Artis v. T-W Transport, Inc. – San Diego County Superior Court, Case No. 37-2016-00013010-CU-OE-CTL; Searles v.

Navajo Express, Inc. – San Bernardino County Superior Court, Case No. CIVDS1613846; Lara v. Commercial Protective Service, Inc. – Los Angeles County Superior Court, Case No. BC648921; Picos v. Culinart of California, Inc. – San Diego County Superior Court, Case No. JCCP 4892; Samaniego v. A&I Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV01894; Bailey v. Romanoff Floor Covering, Inc. – U.S. District Court, Eastern District of California, Case No. 17-CV-00685-TLN-CMK; Aguirre v. Bitech, Inc. – Sacramento County Superior Court, Case No. 34-2016-002022; Phillips v. DI Overnite LLC – San Diego County Superior Court, Case No. 37-2016-00016800-CU-OE-CTL; Jacob v. Pride Transport, Inc. – Santa Cruz County Superior Court, Case No. 16CV1337; Bennett v. Heartland Express, Inc. of Iowa – San Diego County Superior Court, Case No. 37-2016-00015056-CU-OE-CTL; Stapf v. Mercer Health & Benefits Administration LLC – Los Angeles County Superior Court, Case No. BC643007; Armstrong v. Ruan Transport Corporation – San Bernardino County Superior Court, Case No. CIVDS1605897; Geiger v. Floyd’s 99-California LLC – Orange County Superior Court, Case No. 30-2016-00874943-CU-OE-CXC; Mondrian v. Trius Trucking, Inc. – Fresno County Superior Court, Case No. 16CECG01501; Johnson v. Fedex Office and Print Services, Inc. – Alameda County Superior Court, Case No. RG17856291; Rios v. Pacific Western Bank – San Diego County Superior Court, Case No. 37-2016-00038083; Sanders v. Old Dominion Freight Lines, Inc. – San Diego County Superior Court, Case No. 37-2016-00030725-CU-OE-CTL; Taylor v. Gardner Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1614280; Couture v. Wal-Mart Associates, Inc. – U.S. District Court, Eastern District of California, case No. 16-CV-02202-VC; Bertuol v. AHMC Anaheim Regional Medical Center LP – Orange County Superior Court, Case No. 30-2017-00899024-CO-OE-CXC; Espinoza v. Prime Communications of California, LLC – San Mateo County Superior Court, Case No. 16CIV01563; Archuletta v. Tidy Services, Inc. – Orange County Superior court, Case No. 30-2016-008611892-CU-OE-CXC; Puccini v. Earthbound Farm, LLC – Santa Clara County Superior Court, Case No. 17CV308643; Vikram v. First Student Management, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-04656-KAW; Blair v. Ashley Distribution Services, LTD. – U.S. District Court, Central District of California, Case No. 17-CV-01427-JAK-SP; Richardson v. Service Staffing, LLC – Orange County Superior Court, Case No. 30-2017-00899039-CU-OE-CXC; Coffin v. Certified Freight Logistics, Inc. – San Diego County Superior Court, Case No. 37-2016-00036523-CU-OE-CTL; Encarnacion v. S.A.S. Services Group, Inc. – San Diego County Superior Court, Case No. 37-2017-00026726-CU-OE-CTL; Vasquez v. Golden State Overnight Delivery Service, Inc. – Alameda County Superior Court, Case No. RG17862924; Karr v. Tristar Managed Care, Inc. – Contra Costa Superior Court, case No. MSC17-00650; Gouveia v. Central Cal Transportation – San Joaquin County Superior Court, Case No. STK-CV-UOE-2017-0001765; Miranda v. Genex Services, LLC – U.S. District Court, Northern District of California, Case No. 17-CV-01438-JD; Spears v. Health Net of California, Inc. – Sacramento County Superior Court, Case No. 34-2017-00210560; Martinez v. Geil Enterprises, Inc. – Fresno County Superior Court, Case No. 17CECG01879; McComack v. Marriott Ownership Resorts, Inc. – U.S. District Court, Southern District of California, Case No. 17CV1663 BEN WVG; Velasco v. Lemonade Restaurant Group, LLC – Los Angeles County Superior Court, Case No. BC672235; Smith v. Personnel Services, Inc. – U.S. District Court, Northern District of California, Case NO. 17-CV-03594-SK; Gabriel v. Kuni SDA, LLC – San Diego County Superior Court, Case No. 37-2017-000251191-CU-OE-CTL; Miller v. Mattress Firm, Inc. – Santa Clara County Superior Court, Case No. 17CV313148; Provost v. Yourmechanic, Inc. – San Diego County Superior Court, Case No. 37-2017-00024056-CU-OE-CTL; Zirpolo v. UAG Stevens Creek II, Inc. – Santa Clara County Superior Court, Case No. 17CV313457; Salazar v. Aids Healthcare Foundation – San Diego County Superior Court, Case No. 37-2017-00033482-CU-OE-CTL; Knipe v. Amazon.com, Inc. – San Diego County Superior Court, Case No. 37-2017-00029426-CU-OE-CTL; Erwin v. Caremeridian, LLC – Fresno County Superior Court, Case No. 17CECG03048; Davis v. Cox Communications California, LLC – U.S. District Court, Southern District of California, Case No. 16-CV-00989-BAS-BLM; Lara v. RMI International, Inc. – Los Angeles County Superior Court, Case No. BC597695; Harper v. C.R. England, Inc. – U.S. District Court, Utah Central

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



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WRITERS EXT:  
1004

February 21, 2022  
CA2549

## VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency  
Online Filing

Sunderstorm Bay LLC  
Certified Mail # 70211970000003067016  
Keith Cich  
1146 North Central, #352  
Glendale, CA 91202

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Sunderstorm Inc. and/or Sunderstorm Bay LLC in California and classified as non-exempt employees during the time period of February 21, 2021 until a date as determined by the Court. Our offices represent Plaintiff Angela Garcia (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Sunderstorm Inc. and/or Sunderstorm Bay LLC (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from December of 2018 until October of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely

provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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February 21, 2022  
CA2549

## VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency  
Online Filing

Sunderstorm Inc.  
Certified Mail #70211970000003067023  
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13725 Saticoy Street  
Panorama City, CA 91402

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Sunderstorm Inc. and/or Sunderstorm Bay LLC in California and classified as non-exempt employees during the time period of February 21, 2021 until a date as determined by the Court. Our offices represent Plaintiff Angela Garcia (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Sunderstorm Inc. and/or Sunderstorm Bay LLC (“Defendant”). Plaintiff was employed by Defendant in California as a non-exempt employee from December of 2018 until October of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5<sup>th</sup> 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely

provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 11070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statue of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.



# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

## Case Name: Sunderstorm Bay LLC Settlement

Date: 5/23/2023

Requesting Law Firm:

Blumenthal Nordrehaug

Law Firm Contact:

Jeffrey S. Herman

E-Mail:

[jeffrey@bamlawca.com](mailto:jeffrey@bamlawca.com)

ILYM Contact:

Michael Sutherland

E-Mail:

[msutherland@ilymgroup.com](mailto:msutherland@ilymgroup.com)

Contact Number:

321.223.5067

### ESTIMATE FOR ADMINISTRATION SOLUTIONS

| ASSUMPTIONS                              |     |
|------------------------------------------|-----|
| Total Number of Class Members            | 200 |
| Estimated Mail Returned as Undeliverable | 10% |
| NCOA                                     | Yes |
| Reminder Notice-Check Cashing Deadline   | Yes |
| Toll Free Telephone Support Line         | Yes |
| Spanish Translation and Mailing          | No  |
| Case Duration (Year(s))                  | 1   |

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

| CASE STARTUP                                   |        |          |   |          |
|------------------------------------------------|--------|----------|---|----------|
| Initial Setup - Import and Formatting of Data* | Hourly | \$150.00 | 3 | \$450.00 |
| Programming of Class Database                  | Hourly | \$175.00 | 3 | \$525.00 |

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

**Subtotal \$975.00**

| PROJECT MANAGEMENT & NOTICING                                |           |          |   |          |
|--------------------------------------------------------------|-----------|----------|---|----------|
| Project Manager (Case notification and maintenance)          | Hourly    | \$120.00 | 3 | \$360.00 |
| Staff Hours for Processing Returned Mail                     | Hourly    | \$70.00  | 1 | \$70.00  |
| Staff Hours for Processing Opt-Outs, Disputes & Objection(s) | Hourly    | \$70.00  | 1 | \$70.00  |
| Report Processing                                            | Hourly    | \$70.00  | 1 | \$70.00  |
| NCOA                                                         | Flat Rate | \$100.00 | 1 | \$100.00 |
| Toll Free Customer Service Representative                    | Flat Fee  | \$100.00 | 1 | \$100.00 |
| ILYM Group, Static Website, Includes Hosting                 | Flat Fee  | \$250.00 | 1 | \$250.00 |
| Weekly Reports                                               | Flat Rate | \$750.00 | 1 | Waived   |

**Subtotal \$1,020.00**

# ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

| Activity                                                   | Rate Type | Unit Cost | Volume | Amount   |
|------------------------------------------------------------|-----------|-----------|--------|----------|
| <b>NOTIFICATION/MAILING</b>                                |           |           |        |          |
| Fulfillment of Notice                                      | Per Piece | \$1.00    | 200    | \$200.00 |
| USPS First Class Postage                                   | Per Piece | \$0.63    | 200    | \$126.00 |
| Re-Mails (Forward/Skip trace Undeliverables)               | Per Piece | \$2.50    | 20     | \$50.00  |
| Fulfillment of Notice                                      | Per Piece | \$1.00    | 1      | \$1.00   |
| USPS First Class Postage                                   | Per Piece | \$0.60    | 1      | \$0.60   |
| Reminder Postcard, Check Cashing Deadline Includes Postage | Per Piece | \$1.25    | 50     | \$62.50  |
| Storage, Photocopies, Deliveries                           | Flat Fee  | \$250.00  | 1      | \$250.00 |

**Subtotal \$690.10**

|                                                            |           |            |     |            |
|------------------------------------------------------------|-----------|------------|-----|------------|
| <b>DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)</b> |           |            |     |            |
| Distribution Setup & Management                            | Hourly    | \$150.00   | 2   | \$300.00   |
| Account Reconciliation & Distribution Reporting            | Hourly    | \$125.00   | 1   | \$125.00   |
| Check, Stub & Release - Print & Mail (W-2/1099)            | Per Check | \$1.50     | 200 | \$300.00   |
| USPS First Class Postage                                   | Per Piece | \$0.63     | 200 | \$126.00   |
| Re-Mails (Forward/Skip trace Undeliverables up to 10%)     | Per Piece | \$2.00     | 20  | \$40.00    |
| Preparation of Taxes                                       | Hourly    | \$120.00   | 2   | \$240.00   |
| Annual Filing of Tax Return                                | Per Year  | \$1,250.00 | 1   | \$1,250.00 |

*\*Additional Bank fees may apply*

**Subtotal \$2,381.00**

|                                                      |          |          |   |          |
|------------------------------------------------------|----------|----------|---|----------|
| <b>CASE CONCLUSION</b>                               |          |          |   |          |
| Data Manager Final Reporting                         | Hourly   | \$100.00 | 1 | \$100.00 |
| Project Manager Final Reporting                      | Hourly   | \$120.00 | 1 | \$120.00 |
| Process Unclaimed Funds to State Controller's Office | Flat Fee | \$250.00 | 1 | \$250.00 |
| Declaration                                          | Hourly   | \$125.00 | 1 | \$125.00 |

**Subtotal \$595.00**

|  |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  |  |
|--|--|--|--|--|

**Sub-Total: \$5,661.10**  
**NOT TO EXCEED: \$5,250.00**

# **Terms and Conditions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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