

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)
Kyle R. Nordrehaug (State Bar #205975)
Aparajit Bhowmik (State Bar #248066)
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858)551-1223
Facsimile: (858) 551-1232
Email: Kyle@bamlawca.com
Website: www.bamlawca.com

Attorneys for Plaintiffs
[Additional Counsel Continued on Next Page]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO**

FERNANDO G. HERRERA, individually
and on behalf of all others similarly situated,

Plaintiffs,

vs.

ST. PAUL'S EPISCOPAL HOME, INC.; and
DOES 1 through 20, inclusive,

Defendants.

CASE NO.: **37-2021-00050163-CU-OE-CTL**
[Consolidated with Case No.
37-2022-00022641-CU-OE-CTL and Case No.
37-2023-00002553-CU-OE-CTL]

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

Hearing Date: April 4, 2025
Hearing Time: 8:30 a.m.

Judge: Hon. Blaine K. Bowman
Dept.: 74

Date Action Filed: November 30, 2021
Trial Date: Not set

1 **AEGIS LAW FIRM, PC**

SAMUEL A. WONG, State Bar No. 217104

2 KASHIF HAQUE, State Bar No. 218672

JESSICA L. CAMPBELL, State Bar No. 280626

3 9811 Irvine Center Drive, Suite 100

Irvine, California 92618

4 Telephone: (949) 379-6250

Facsimile: (949) 379-6251

5 Email: jcampbell@aegislawfirm.com

6 Jill J. Parker, State Bar No.: 274230

jill@parkerminne.com

7 S. Emi Minne, State Bar No.: 253179

emi@parkerminne.com

8 **PARKER & MINNE, LLP**

700 S. Flower Street, Ste. 1000

9 Los Angeles, CA 90017

Telephone: (310) 882-6833

10 Fax: (310) 889-0822

11 Attorneys for Plaintiffs

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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 for Plaintiffs Fernando Herrera, Victoria Garcia, and Martha Ayala (“Plaintiffs”) in this
4 matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The
5 following facts are within my own personal knowledge, and if called as a witness, I could testify
6 competently to the matters stated herein.

7 2. This declaration is being submitted in support of Plaintiffs’ unopposed motion for
8 preliminary approval of the proposed class action settlement with Defendants St. Paul's Episcopal
9 Home, Inc. (including St. Paul's Senior Homes and Services, St. Paul's Senior Services, St. Paul's
10 Manor, St Paul's Villa, St. Paul's Plaza, St. Paul's McColl Health Center, St. Paul's Community Care
11 Center, St. Paul's Senior Day Services, St. Paul's Child Care Services, St. Paul's Villa, Inc., and/or
12 St. Paul's Retirement Homes Foundation) and Community Eldercare of San Diego, Inc. (dba St.
13 Paul's PACE) (all collectively referred to as “Defendants”), which motion seeks entry of an order:
14 (1) preliminarily approving the proposed settlement of this class action with Defendants (the
15 “Settlement”); (2) for settlement purposes only, conditionally certifying the Class, which is
16 comprised of “all any and all non-exempt employees who worked for Defendants during the Class
17 Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an arbitration agreement
18 containing a class action waiver or who signed arbitration agreements that contained the same
19 language as in the arbitration agreements signed by Plaintiffs Herrera and Ayala”; (3) provisionally
20 appointing Plaintiffs as the representatives of the Class; (4) provisionally appointing Blumenthal
21 Nordrehaug Bhowmik De Blouw LLP, Aegis Law Firm, PC, and Parker & Minne, LLP as Class
22 Counsel; (5) approving the form and method for providing class-wide notice; (6) directing that
23 notice of the proposed settlement be given to the Class; (7) appointing ILYM Group, Inc. as
24 Administrator, and (8) scheduling a final approval hearing date, proposed for August 29, 2025, to
25 consider Plaintiffs’ motion for final approval of the settlement and for approval of attorneys’ fees,
26 expenses and the service awards. Attached hereto as Exhibit #1 is a copy of the fully executed Class
27 Action and PAGA Settlement Agreement (“Agreement”) along with exhibits thereto. The form of
28 the Agreement is based upon the Los Angeles County Superior Court model form for a class and

1 PAGA settlement. This Declaration incorporates by reference the definitions in the Agreement, and
2 all terms defined therein shall have the same meaning as set forth in the Agreement.

3
4 Fairness of Settlement

5 3. As consideration for this Settlement, the non-reversionary Gross Settlement Amount
6 of One Million Two-Hundred Fifty Dollars (\$1,250,000) (the “Gross Settlement Amount”) is to be
7 paid by Defendant, as set forth in the Agreement. The Gross Settlement Amount will settle all
8 issues pending in the Action between the Parties and will be made in full and final settlement of the
9 Released Class Claims in exchange for the payments to Participating Class Members from the Net
10 Settlement Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys'
11 fees and costs, (c) Class Representative Service Payments, and (d) the PAGA Penalties payment
12 allocated 75% to the LWDA and 25% to the Aggrieved Employees. (Agreement at ¶ 1.21.) The
13 following is a table of the key Settlement terms and the proposed deductions:

14 **\$1,250,000** (Gross Settlement Amount)

- 15 - \$45,000 (Plaintiffs’ proposed service awards - not to exceed amount)
16 - \$36,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
17 - \$416,625 (Class Counsel Fees Payment - not to exceed 1/3 of settlement)
18 - \$300,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
19 - \$12,000 (Administration Expenses Payment - not to exceed amount)

20 **\$440,475** (Net Settlement Amount)

21 4. The relief provided in the Settlement will benefit all members of the Class. The
22 Settlement does not grant preferential treatment to Plaintiff or segments of the Class in any way.
23 Payments to the Class Members are all determined under a neutral methodology. Each Participating
24 Class Member will receive the same opportunity to participate in and receive payment through a
25 neutral formula that is based upon the Workweeks for that individual.

26 5. On December 11, 2023, the Parties participated in an all-day mediation with Cynthia
27 Remmers, a respected and experienced mediator of wage and hour class actions. In preparation for
28 the mediation, Defendants provided Class Counsel with payroll, time and employment data, along

1 with other information regarding the Class Members, various internal documents, and other
2 compensation and employment-related materials. Class Counsel analyzed the data with the
3 assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to the
4 mediator. The final settlement terms were negotiated and set forth in the Agreement now presented
5 for this Court's approval. Importantly, Plaintiffs and Class Counsel believe that this Settlement is
6 fair, reasonable and adequate.

7 6. Based upon 169 Class Members who worked an estimated 42,083 work weeks
8 (Agreement at ¶ 4.1), the Gross Settlement Amount provides an average value of \$7,396 per Class
9 Member and \$29 per workweek and after deductions the Net Settlement Amount provides an
10 average recovery of \$2,605.76 per Class Member and a recovery of \$10.46 per workweek. The
11 calculations to compensate for the amount due for the Class at the time of the mediation were
12 calculated by Berger Consulting, Plaintiffs' damage expert. As to the Class whose claims are at
13 issue in this Action, Plaintiff used the expert to analyze the data and determine the potential unpaid
14 wages for the employees. The maximum potential damages were calculated to be \$1,514,988 for
15 the alleged unpaid wages for off-the-clock work at one hour per week, \$16,847 for alleged unpaid
16 meal premiums and sick pay due to the alleged miscalculation of the result rate, \$1,725,130 for
17 alleged meal period damages based upon a 50% potential violation rate for all shifts worked
18 observed in the time records and after deduction for meal premiums paid, \$1,872,350 for alleged
19 rest period damages based upon the same 50% potential violation for shifts worked that was
20 observed for meal period records, \$93,690 for alleged unreimbursed cell-phone expenses at \$5 per
21 month. As a result, the total damage valuation was calculated such that Defendants were subject to
22 a maximum damage claim in the amount of \$5,223,005. As to potential penalties, Plaintiff
23 calculated that potential waiting time penalties were a maximum of \$400,698, and potential
24 maximum wage statement penalties were \$676,000.¹ Defendants vigorously disputed Plaintiffs'

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26 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
27 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate
28 defenses asserted by Defendants, including, a good faith dispute defense as to whether any premium
wages for meal or rest periods or other wages were owed given Defendants' position that Plaintiffs
and Class Members were properly compensated. *See Nordstrom Commission Cases*, 186 Cal. App.

1 calculations and exposure theories. Consequently, the Gross Settlement Amount of \$1,250,000
2 represents more than 23.9% of the maximum value of the alleged damages at issue in this case at the
3 time this Settlement was negotiated.² Importantly, the recent decision that good faith belief of
4 compliance by the employer in *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065
5 (2024), could completely negate the claims for waiting time and wage statement penalties, even if
6 wages were owed to the Class. The above maximum calculations should then be realistically risk-
7 adjusted in consideration for both the risk of class certification and the risk of establishing class-
8 wide liability on all claims. Given the amount of the settlement as compared to the potential value
9 of claims in this case and the defenses asserted by Defendant, this settlement is fair and reasonable.

10
11 Procedural History of the Litigation

12 7. On November 30, 2021, Plaintiff Fernando Herrera filed with the LWDA and served
13 on Defendants a notice under Labor Code section 2699.3 identifying the alleged Labor Code
14 violations to recover civil penalties on behalf of Aggrieved Employees for various Labor Code
15 violations. The PAGA Notice by Plaintiff Fernando Herrera is attached as Exhibit A to the
16 Declaration of Jessica Campbell submitted herewith for the Court's reference. On November 14,
17 2022, Plaintiff Martha Ayala filed with the LWDA and served on Defendants a notice under Labor
18 Code section 2699.3 identifying the alleged Labor Code violations to recover civil penalties on
19 behalf of Aggrieved Employees for various Labor Code violations. The PAGA Notice by Plaintiff
20 Martha Ayala is attached as Exhibit #1 to the Declaration of Jill Parker submitted herewith for the
21 Court's reference. On March 16, 2022, Plaintiff Victoria Garcia filed with the LWDA and served
22 on Defendants a notice under Labor Code section 2699.3 identifying the alleged Labor Code
23 violations to recover civil penalties on behalf of Aggrieved Employees for various Labor Code

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25 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer and employee have a
26 good faith dispute as to whether and when the wages were due.").

27 ² Because the PAGA claim is not a class claim and primarily is paid to the State of California,
28 Plaintiffs have not included the PAGA claim in this discussion of the value of the class claims. The
PAGA claim is addressed in the Decl. Nordrehaug at ¶33.

1 violations. The PAGA Notice by Plaintiff Victoria Garcia is attached hereto as Exhibit #3 for the
2 Court's reference.

3 8. On November 30, 2021, Plaintiff Herrera commenced the Herrera Class Action by
4 filing a class action complaint against Defendants in the Superior Court of the State of California,
5 County of San Diego. Plaintiff Herrera's complaint asserted the following claims: (a) Failure to Pay
6 Minimum Wages; (b) Failure to Pay Overtime Wages; (c) Failure to Provide Meal Periods; (d)
7 Failure to Permit Rest Breaks; (e) Failure to Reimburse Business Expenses; (f) Failure to Provide
8 Accurate Itemized Wage Statements; (g) Failure to Pay All Wages Due Upon Separation of
9 Employment; (h) Violation of Business and Professions Code §§ 17200, et seq.; and (i)
10 Enforcement of Labor Code §§ 2968, et seq. ("PAGA"). On June 13, 2022, Plaintiff Victoria Garcia
11 filed a representative complaint against Defendants in the Superior Court of the State of California,
12 County of San Diego asserting a single cause of action for violation of PAGA, Case No.
13 37-2022-00022641 (hereinafter, "Garcia PAGA Action"). On January 19, 2023, Plaintiff Ayala
14 filed a class action complaint against Defendants in the Superior Court of the State of California,
15 County of San Diego (hereinafter, "Ayala Class Action"). The Ayala Class Action asserted the
16 following claims: (a) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid
17 Minimum Wages); (b) Violation of California Labor Code §§ 510, 1194, and 1198 (Unpaid
18 Overtime Wages); (c) Violation of California Labor Code § 226.7 & 512(a) (Unpaid Meal Period
19 Premiums); (d) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums); (e)
20 Violation of California Labor Code § 226(a) (Failure to Issue Compliant Wage Statements); (f)
21 Violation of California Labor Code §§ 201 and 203 (Final Wages Not Timely Paid); (g) Violation of
22 California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses); (h) Violation of
23 California Business and Professions Code § 17200 et seq.; (i) Violation of California Labor Code §
24 2698, et seq. (California Labor Code Private Attorneys General Act of 2004).

25 9. On June 12, 2024, the Garcia PAGA Action and the Ayala Class Action were
26 consolidated with the lower numbered Herrera Class Action as the lead action. The "Operative
27 Complaint" means the consolidated complaint encompassing Plaintiffs' Class and PAGA claims,
28 consolidated in conjunction with this Agreement on June 12, 2024.

1 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
2 including informal discovery and the production of documents, class data, and other information,
3 allowing for the full and complete analysis of liabilities and defenses to the claims in the Action.
4 The information for mediation obtained by Plaintiffs included: (1) data concerning the class; (2)
5 payroll data and time punch data for the Class covering 90 employees, 25,683 shifts and 5,753
6 workweeks; (3) Defendants' wage and hour policies; (4) the employment files for the Plaintiffs; and,
7 (5) samples of wage statements provided by Defendant. As such, Class Counsel received the data
8 and information for the Class, which was sufficient for Plaintiffs' expert to prepare the valuations of
9 the claims for the Class.

10 11. Class Counsel has extensive experience in litigating wage and hour class actions in
11 California. The Parties have vigorously litigated the Action since inception. During the course of
12 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiffs and
13 Defendants have engaged in significant research and investigation in connection with the Action.
14 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
15 and utilized an expert to perform an analysis of the data and valuation of the claims.

16 12. Plaintiffs and Defendants agreed to discuss resolution of the Action through a
17 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
18 documents and information in connection with the Action. On December 11, 2023, the Parties
19 participated in an all-day mediation with Cynthia Remmers, a respected and experienced mediator
20 of wage and hour class actions, but were unable to resolve the matter. Through continued
21 negotiations after this mediation, the Parties agreed to settle the Action based upon a mediator's
22 proposal which was memorialized in the form of a Memorandum of Understanding. The Parties
23 then negotiated the final terms of the settlement as set forth in the Agreement. At all times, the
24 negotiations were arm's length and contentious.

25 13. Although a settlement has been reached, Defendants deny any liability or
26 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for
27 any purpose other than settlement, the Action is appropriate for class and/or representative
28 treatment. Defendants contend, among other things, that they have complied at all times with the

1 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,
2 Defendants contend that class certification is inappropriate for any reason other than for settlement.
3 Plaintiffs contends that Defendants violated California wage and hour laws. Plaintiffs further
4 contend that the Action is appropriate for class certification on the basis that the claims meet the
5 requisites for class certification. Without admitting that class certification is proper, Defendants
6 have stipulated that the above Class may be certified for settlement purposes only. (Agreement at ¶
7 2.8.) The Parties agree that certification for settlement purposes is not an admission that class
8 certification is proper. Further, the Agreement is not admissible in this or any other proceeding as
9 evidence that the Class could be certified absent a settlement. Solely for purposes of settling the
10 Action, the Parties stipulate and agree that the requisites for establishing class certification with
11 respect to the Class are satisfied.

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

24
25 Settlement Terms and Plan of Allocation

26 15. The Gross Settlement Amount is One Million Two-Hundred Fifty Dollars
27 (\$1,250,000). (Agreement at ¶ 1.21.) Under the Settlement, the Gross Settlement Amount consists
28 of the following elements: (1) payment of the Individual Class Payments to the Participating Class

1 Members; (2) Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment; (3)
2 Administration Expenses Payment; (4) the Class Representative Service Payments to the Plaintiffs;
3 and (5) the PAGA Penalties payment. (Agreement at ¶ 1.21.) The Gross Settlement Amount does
4 not include Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement
5 Amount shall be all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

6 16. Defendants shall fund the Gross Settlement Amount and the amount necessary to pay
7 payroll taxes no later than thirty (30) days after the Effective Date. (Agreement at ¶ 4.3.) The
8 distribution of Individual Class Payments to Participating Class Members along with the other
9 Court-approved distributions shall be made within 14 days after the Defendants fund the settlement.
10 (Agreement at ¶ 5.1.)

11 17. The amount remaining in the Gross Settlement Amount after the deduction of
12 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class
13 Representative Service Payments, the Class Counsel Fees Payment, the Class Counsel Litigation
14 Expenses Payment, and the Administration Expenses Payment (called the "Net Settlement
15 Amount") shall be allocated to Class Members as their Individual Class Payments. (Agreement at
16 ¶¶ 1.27 and 3.2.) From the Net Settlement Amount, the Individual Class Payment for each
17 Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the
18 total number of Workweeks worked by all Participating Class Members during the Class Period and
19 (b) multiplying the result by each Participating Class Member's Workweeks. (Agreement at ¶
20 3.2(e).) Workweeks will initially be based on Defendant's records, however, Class Members will
21 have the right to challenge the number of Workweeks.

22 18. Class Members may choose to opt-out of the Settlement by following the directions
23 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) The Class Notice provides that Class Members
24 shall have forty-five (45) days from the date that the Class Notice is mailed to them (the "Response
25 Deadline") to request exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.44,
26 8.5, 8.7.) All Class Members who do not "opt out" will be deemed Participating Class Members
27 who will be bound by the Settlement and will be entitled to receive an Individual Class Payment.
28 (Agreement at ¶ 8.5(c).) All Aggrieved Employees, including those who submit an opt-out request,

1 will still be paid their allocation of the PAGA Penalties and will remain subject to the release of the
2 Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 6.3 and 8.5(d).)
3 Finally, the Class Notice will advise the Class Members of their right to object to the Settlement
4 and/or dispute their Workweeks. (Agreement at ¶¶ 8.6 and 8.7, Ex. A.)

5 19. A Participating Class Member must cash his or her Individual Class Payment check
6 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
7 180 days will be voided and any funds represented by such checks sent to a Court-approved
8 nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) (“Cy
9 Pres Recipient”). (Agreement at ¶ 5.4.) The Parties propose the Monarch School as the Cy Pres
10 Recipient. The Monarch School serves unhoused students and their families who live in San Diego
11 County and therefore qualifies as a child advocacy program within the meaning of C.C.P. section
12 384.

13 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the
14 settlement in this action (“Administrator”). (Agreement at ¶ 1.2.) The Administrator will be paid
15 for settlement administration in an amount not to exceed \$12,000. (Agreement at ¶ 3.2(c).) ILYM
16 Group provided an estimate of \$10,750 for administration expenses.

17 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
18 a sum not to exceed one-third of the Gross Settlement Amount, as the Class Counsel Fees Payment.
19 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
20 Class Counsel Litigation Expenses Payment in an amount not to exceed \$36,000. (Agreement at ¶
21 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$15,000
22 to each Plaintiff as the Class Representative Service Payments. (Agreement at ¶ 3.2(a).)

23 22. Subject to Court approval, the PAGA Penalties will be paid from the Gross
24 Settlement Amount for PAGA penalties under the California Private Attorneys General Act, Cal.
25 Labor Code Section 2698, *et seq.* (“PAGA”). The PAGA Penalties are \$300,000, to be allocated
26 75% (\$225,000) to the LWDA PAGA Payment and 25% (\$75,000) to the Individual PAGA
27
28

1 Payments.³ (Agreement at ¶ 3.2(d).) The Individual PAGA Payments will be calculated by (a)
2 dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA
3 Penalties (\$75,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees
4 and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. (Agreement at ¶
5 3.2(d).) As set forth in the accompanying proof of service, the LWDA has been served with this
6 motion and the Agreement.

7
8 Risks of Continued Litigation and Standards for Approval

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

16 24. Here, a number of defenses asserted by Defendants present serious threats to the
17 claims of the Plaintiffs and the other Class Members. Defendants contended that it is not the legal
18 employer. Defendants asserted that Defendants' practices complied with all applicable Labor laws.
19 Defendants argued that Class Members were paid for all time worked and that work time was
20 properly recorded. Defendants maintained there was no miscalculation of the regular rate when
21 meal premiums and sick wages to the Plaintiffs and the Class. Defendants contends that its meal
22 and rest period policies fully complied with California law and that Defendants did not fail to
23 provide the opportunity for legally required meal and rest breaks. Defendants asserted there were
24 legally compliant waivers allowed for the health care industry. Defendants could also argue that the
25 payment of significant meal premiums were evidence of lawful practices. Defendants contend that

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27
28 ³ The 75/25 allocation is required by Labor Code § 2699, because this action filed before June 2024 is not subject to the amended version of Labor Code § 2699.

1 there was no failure to pay for business expenses and any cell phone usage was merely convenient
2 and voluntary such that reimbursement was not legally required. Defendants contend that there was
3 no failure to provide suitable seating as legally required. Finally, Defendants have an argument that
4 the Supreme Court decision in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened
5 Plaintiffs' claims, on liability, value, and class certifiability as to the meal and rest period claims.
6 Defendants also argue that based on its facially lawful practices, Defendants acted in good faith and
7 without willfulness, which if accepted would negate the claims for waiting time penalties and/or
8 inaccurate wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065
9 (2024) ("if an employer reasonably and in good faith believed it was providing a complete and
10 accurate wage statement in compliance with the requirements of section 226, then it has not
11 knowingly and intentionally failed to comply with the wage statement law.") If successful,
12 Defendants' defenses could eliminate or substantially reduce any recovery to the Class. While
13 Plaintiffs believe that these defenses could be overcome, Defendants maintain these defenses have
14 merit and therefore present a serious risk to recovery by the Class.

15 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
16 be unable to obtain a certified class and maintain the certified class through trial, and thereby not
17 recover on behalf of any employees other than themselves. At the time of the mediation,
18 Defendants forcefully opposed the propriety of class certification, arguing that individual issues
19 precluded class certification. Further, as demonstrated by the California Supreme Court decision in
20 *Duran v. U.S. Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome
21 for a class-wide recovery even where the class has been certified. While other cases have approved
22 class certification in wage and hour claims, class certification in this action was hotly disputed and
23 the maintenance of a certified class through trial 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 Plaintiffs 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. Plaintiffs will apply to the Court for Class Representative Service Payments in
28 consideration for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶

1 3.2(a).) Plaintiffs performed their duties admirably by working with Class Counsel over the course
2 of litigation, and are giving a general release for this service award. The Declaration of the Plaintiff
3 is submitted herewith in support. At this stage, the requested service award is within the accepted
4 range of awards for purposes of preliminary approval. *See e.g. Andrews v. Plains All Am. Pipeline*
5 *L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested service
6 awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist.
7 LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein v.*
8 *Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where
9 average class member payment was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL
10 4473183, *7 (S.D.Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six plaintiffs in
11 overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal. 2007)
12 (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in enhancements).

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

24 29. Based on the foregoing data and their own independent investigation and evaluation,
25 Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the
26 terms set forth in the Agreement is fair, reasonable, and adequate and is in the best interest of the
27 Class in light of all known facts and circumstances, including the risk of significant delay, defenses
28 asserted by Defendants, and numerous potential appellate issues. There can be no doubt that

1 Counsel for both Parties possessed sufficient information to make an informed judgment regarding
2 the likelihood of success on the merits and the results that could be obtained through further
3 litigation.

4
5 Class Certification Issues

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

10 Any and all non-exempt employees who worked for Defendants during the Class
11 Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an
12 arbitration agreement containing a class action waiver or who signed arbitration
13 agreements that contained the same language as in the arbitration agreements signed
14 by Plaintiffs Herrera and Ayala.

15 (Agreement at ¶ 1.5.)

16 a. **Numerosity** - Here, Plaintiffs asserts that the 169 current and former
17 employees that comprise the Class can be identified based on Defendants' records and are
18 sufficiently numerous for class certification.

19 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
20 questions of law and fact are present, specifically the common questions of whether Defendants'
21 practices were lawful, whether Defendants failed to provide meal and rest periods to Class
22 Members, whether Class members were lawfully compensated for all hours worked, whether
23 Defendants miscalculated the regular rate when paying Class Member meal premium and sick pay
24 wages, whether Defendants failed to provide required expense reimbursement, and whether Class
25 Members are entitled to damages and penalties as a result of these practices. Plaintiffs contend that
26 certification of this Class is appropriate because Defendants allegedly engaged in uniform practices
27 with respect to the Class Members. As a result, these common questions of liability could be
28

1 answered on a class wide basis. Defendants dispute that common questions predominate but will not
2 oppose such a finding for purposes of this Settlement only.

3 c. **Typicality** - In this Action, Plaintiffs contend that the typicality requirement
4 is fully satisfied. Plaintiffs, like every other member of the Class, were allegedly employed by
5 Defendants as non-exempt employees, and, like every other member of the Class, were subject to
6 the same employment practices. Plaintiffs, like every other member of the Class, also claims owed
7 compensation as a result of the Defendants' uniform company policies and practices. Thus, the
8 claims of Plaintiffs and the members of the Class arise from the same course of conduct by
9 Defendants, involve the same issues, and are based on the same legal theories. Defendants dispute
10 that the typicality requirement is satisfied but does not oppose a finding of typicality for purposes of
11 this Settlement only.

12 d. **Adequacy** - Plaintiffs contends that the Class Members are adequately
13 represented here because Plaintiffs and representing counsel (a) do not have any conflicts of interest
14 with other class members, and (b) will prosecute the case vigorously on behalf of the class. This
15 requirement is met here. First, Plaintiffs are well aware of their duties as the representatives of the
16 Class and have actively participated in the prosecution of this case to date. Plaintiffs effectively
17 communicated with Class Counsel, provided documents and information to Class Counsel, and
18 participated in the investigation and resolution of the Action. The personal involvement of the
19 Plaintiffs was essential to the prosecution of the Action and the monetary settlement reached.
20 Second, Plaintiffs retained competent counsel who are experienced in employment class actions and
21 who have no conflicts. Third, there is no antagonism between the interests of the Plaintiffs and
22 those of the Class. Both the Plaintiffs and the Class Members seek monetary relief under the same
23 set of facts and legal theories. Under such circumstances, there can be no conflicts of interest, and
24 adequacy of representation is satisfied for purposes of this Settlement.

25 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
26 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
27 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
28 experience. We have handled hundreds of class actions and complex cases and have acted both as

1 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully
2 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
3 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
4 employment law class actions, including claims for misclassification, overtime, expense
5 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
6 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
7 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
8 adequate counsel by the courts throughout California. We have been approved as experienced class
9 counsel by both state and federal courts in California in contested class certification proceedings. A
10 true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The Class in this
11 settlement is defined as “any and all non-exempt employees who worked for Defendants during the
12 Class Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an arbitration
13 agreement containing a class action waiver or who signed arbitration agreements that contained the
14 same language as in the arbitration agreements signed by Plaintiffs Herrera and Ayala.” I have
15 reviewed my firm’s cases and representation of other plaintiffs and there is no conflict or
16 representation which would prevent my firm from representing the interests of the Class this case.
17 My firm only represents employees, and not employers. My firm has never represented Defendants
18 nor any affiliate of the Defendants. My firm’s only interest in the subject matter of this litigation is
19 to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class
20 and the claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of
21 other employees and classes as the claims are all against different and distinct employers. I can
22 think of no conflict that would arise in our representation of the Class and our adequate
23 representation of the Class is evidenced by the successful prosecution of the class claims to reach an
24 excellent recovery for the Class. Moreover, neither the Plaintiffs nor Class Counsel have any
25 affiliation with the proposed Administrator for this settlement. Thus, the adequacy requirement for
26 my firm is satisfied for purposes of this Settlement.

27 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
28

1 respective counsel and to be approved by the Court, includes all relevant information. (See Exhibit
2 "A" to the Agreement.) In accordance with the Agreement, Defendants will provide to the
3 Administrator a confidential electronic spreadsheet containing the Class Data. (Agreement at ¶ 4.2.)
4 Within 14 days after receiving the Class Data, the Administrator will mail the Class Notice to all
5 Class Members via first-class U.S. Mail using the most current mailing address information
6 available. (Agreement at ¶ 8.4(b).) The Class Notice will include, among other information: (i)
7 information regarding the Action; (ii) the impact on the rights of the Class Members if they do not
8 opt out, including a description of the applicable release; (iii) information to the Class Members
9 regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class
10 Payment for each of the Class Members; (iii) the amount of attorneys' fees and expenses to be
11 sought; (v) the amount of the Plaintiffs' service award request; and (vi) the anticipated expenses of
12 the Administrator. The Class Notice will state that the Class Members shall have forty-five (45)
13 days from the date that the Class Notice is mailed to them (the "Response Deadline") to request
14 exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.44, 8.5, 8.7.) Class
15 Members shall be given the opportunity to object to the Settlement and the request for attorneys'
16 fees and expenses, and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class
17 Members who do not submit a timely and proper request to opt-out will automatically receive a
18 payment of their Individual Class Payment. This notice program was designed to meaningfully
19 reach the Class Members and it advises them of all pertinent information concerning the Settlement.

20
21 33. The PAGA Claim -

22 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
23 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
24 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
25 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
26 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
27 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
28 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of

1 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
2 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
3 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
4 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
5 class members." (LWDA Response at p.4).

6 b. **Valuation of the PAGA Claim.** For mediation, Plaintiffs calculated the
7 value of the alleged PAGA claim as to Aggrieved Employees for civil penalties to be between
8 \$2,844,950 and \$5,689,900 for a single violation in every one of the 56,899 pay periods at issue in
9 the PAGA Period, depending on whether the violation was \$50 per pay period as in the case of
10 Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code
11 § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate
12 per pay period but without stacking.⁴ The PAGA allocation in the Settlement is the amount of
13 \$300,000. This allocation is justified by several important considerations. First, the PAGA claim
14 was subject to the same risks as the underlying class claims. Second, Defendants asserted additional
15 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.
16 Defendants argued that significant PAGA penalties would be unlikely and would be reduced under
17 such particular "circumstances" under Cal. Labor Code §2699(e)(2) and/or "would result in an
18 award that is unjust, arbitrary and oppressive, or confiscatory" under Cal. Labor Code §2699(e)(2).
19 Defendants could also argue that no penalties prior to the PAGA notification should be awarded,
20 and I am aware of one trial court which has so ruled. These additional defenses present a risk to the
21 PAGA claim and the potential that some or all of the PAGA penalties sought may not be awarded.
22 Third, in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment
23 which only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA
24

25 ⁴ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
26 The valuation of between \$2,844,950 and \$5,689,900 is the civil penalty amount without stacking.
27 If stacking is permitted, then the valuation increases with each additional penalty added to each pay
28 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, and the recent amendments to the
PAGA statute cast further doubt on stacking of penalties.

1 penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiff
2 prevailed on the PAGA claim. Even if we assume that violations for all 56,899 pay periods were
3 established, using the valuation from *Carrington* results in a potential recovery of only \$284,495
4 under PAGA. This means that the PAGA allocation in the Agreement is a reasonable percentage of
5 this potential PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery
6 under the reasoning of the LWDA in *O'Connor v. Uber*.

7 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
8 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
9 PAGA settlements as compared to the total settlement amount. Indeed, Courts typically approve
10 PAGA settlement amounts in the range of between 0.27 to 2 percent of the total settlement. See
11 *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA Payment of
12 \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*, 2014 U.S.
13 Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5 million class
14 settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015) (PAGA
15 Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist Lexis
16 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of \$1,750,000
17 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D. Cal. 2011)
18 (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund settlement);
19 *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012) (approving PAGA
20 payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement); *Hopson v.*
21 *Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation that was
22 .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*, 10-cv-00324-AWI-SKO,
23 Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000, with \$10,000 allocated to
24 the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420 GAF (PLAx), Dkt. 139 & 141
25 (C.D. Cal.) (court approved a settlement in an amount of \$8.25 million, with \$82,500 allotted to the
26 PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class
27 settlement of \$2 million, with \$10,000 allocated to PAGA); *Martino v. Ecolab Inc.*, No.
28 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties or 0.48% of \$21,000,000

1 settlement amount); *East v. Comprehensive Educational Services Inc.*, Fresno Superior Court Case
2 No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or 0.13% of \$7,595,846
3 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage Company*, Los Angeles
4 Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA penalties or 0.22% of
5 \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No. 5:15CV01551 (C.D.
6 Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000 settlement amount);
7 *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017) (\$15,000 allotted as PAGA
8 penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM Mortgage Inc.*, Orange
9 County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as
10 PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San
11 Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties
12 or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino
13 Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of
14 \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino
15 Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of
16 \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No.
17 BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount);
18 *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA
19 penalties or 0.34% of \$1,450,000 settlement amount).

20
21 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
22 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
23 reasonable, and at the time of final approval, my firm will present lodestar to further support the
24 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
25 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
26 of the class action awards obtained by Class Counsel in similar employment actions throughout the
27 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
28 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles

1 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
2 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
3 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
4 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
5 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil
6 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
7 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
8 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
9 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
10 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
11 third award in a wage and hour class settlement. On December 3, 2020, in *Blackshear v. California*
12 *Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-00245842) Judge Christopher
13 Krueger awarded BNBD a one-third fee award in a wage and hour class settlement. On June 2,
14 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case No. BC709666), Judge Amy
15 D. Hogue awarded Class Counsel a one-third fee award in a wage and hour class settlement. On
16 November 8, 2021, in *Securitas Wage and Hour Cases* (Los Angeles Superior Court Case No.
17 JCCP4837) Judge David Cunningham awarded a one-third fee award in a wage and hour class
18 settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases* (Los Angeles Superior
19 Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award in a wage and hour
20 class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior
21 Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage
22 and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los
23 Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee
24 award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management*
25 *LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger
26 awarded a one-third fee award in a wage and hour class action settlement. On August 10, 2022, in
27 *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-
28 00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage

1 and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San
2 Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-
3 third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy*
4 *Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz awarded
5 a one-third fee award in a wage and hour class action settlement. On February 1, 2023, in *Hogan v.*
6 *AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge
7 Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28,
8 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-
9 591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class action
10 settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior Court Case
11 No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and hour class
12 settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino County
13 Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee award in a
14 wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures* (Sacramento
15 County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee
16 award in a wage and hour class settlement. On August 5, 2023, in *Correia v. Gallo Glass Company*
17 (Stanislaus County Superior Court Case No. CV-21-006459) Judge Sonny Sandhu approved a one-
18 third fee award in a wage and hour class settlement. On September 15, 2023, in *Moran v. Sharp*
19 *Healtcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge Richard Whitney
20 awarded a one-third fee award in a wage and hour class settlement. On October 10, 2023, in *Arango*
21 *v. Schlumberger Technology*, (Orange County Case No. 30-2019-01056839-CU- OE-CXC), Judge
22 William Claster approved a one-third fee award in a wage and hour class action. On October 16,
23 2023, in *Flores v. Walmart*, (San Bernardino County Superior Court Case No. CIVDS2023061)
24 Judge Joseph T. Ortiz awarded a one-third fee award in a wage and hour class settlement. On
25 October 20, 2023, in *Pond v. Glen Ivy Hot Springs* (Riverside County Superior Court Case No.
26 CVRI2104986), Judge Harold W. Hopp awarded a one-third fee award in a wage and hour class
27 settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County Superior
28 Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage and

1 hour class settlement. On November 20, 2023, in *Steele v. Legoland California* (San Diego County
2 Superior Court Case No. 37-2021-00052868), Judge Carolyn M. Caietti awarded a one-third fee
3 award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's*
4 *Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner
5 approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third
6 of the common fund is therefore reasonable in light of the fees that have been awarded in other
7 similar cases.

8
9 35. Class Representative Service Payments - The reasonableness of the requested service
10 award is also established by reference to the amounts that other California courts have found to be
11 reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*,
12 Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service
13 award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17,
14 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.
15 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
16 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
17 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
18 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service awards
19 to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No. BC417335,
20 Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award); *Buckmire v.*
21 *Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June, 11,
22 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
23 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
24 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
25 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
26 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
27 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
28 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*

1 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
2 2011)(awarding \$10,000 service award together with additional compensation for their general
3 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
4 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
5 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
6 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
7 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
8 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
9 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
10 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
11 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
12 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
13 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
14 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,
15 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS
16 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award);
17 *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding
18 \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside
19 County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security*
20 *Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service
21 award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County
22 Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security*
23 *Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23,
24 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior
25 Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The*
26 *Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1,
27 2018) (awarding \$10,000 service award).

36. Potentially Related Other Actions - I am not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement. (Agreement at ¶ 2.9.)

37. Administration - After seeking bids from qualified administrators, the estimate from ILYM Group was selected, as it provided for an estimate of \$10,750 to perform the settlement administration for up to 200 individuals, with any difference between the actual expenses and the budget of \$12,000 to be retained in the Net Settlement Amount for distribution to the Class. I have used ILYM Group successfully as the administrator in more than twenty class settlements in the last couple years and know them to be competent and experienced. My firm has no relationship or connection with ILYM Group, and thus no conflict of interest exists. Submitted in support of the motion is the Declaration of Anthony Rogers of ILYM Group which includes the estimate for administration from ILYM Group for this matter.

Service on the LWDA:

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

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 10th day of March, 2025, at La Jolla, California.

By: /s/ Kyle Nordrehaug
 Kyle R. Nordrehaug, Esq.
 Attorney for Plaintiffs

EXHIBIT #1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Fernando Herrera (“Herrera”), Victoria Garcia (“Garcia”), and Martha Ayala (“Ayala”) (all collectively referred to as “Plaintiffs”) and Defendants St. Paul’s Episcopal Home, Inc. (including St. Paul’s Senior Homes and Services, St. Paul’s Senior Services, St. Paul’s Manor, St. Paul’s Villa, St. Paul’s Plaza, St. Paul’s McColl Health Center, St. Paul’s Community Care Center, St. Paul’s Senior Day Services, St. Paul’s Child Care Services, St. Paul’s Villa, Inc., and/or St. Paul’s Retirement Homes Foundation) and Community Eldercare of San Diego, Inc. (dba St. Paul’s PACE) (all collectively referred to as “Defendants”). Plaintiffs and Defendants are collectively referred to herein as the “Parties,” or individually as a “Party.”

1. DEFINITIONS

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

- 1.1. “Action” means: (1) Plaintiff Fernando G. Herrera’s class-action lawsuit alleging wage and hour violations against Defendants captioned *Herrera v. St. Paul’s Episcopal Home, Inc.*, San Diego County Superior Court Case No. 37-2021-00050163-CU-OE-CTL (“*Herrera Class Action*”) initiated on November 30, 2021; (2) Plaintiff Victoria Garcia’s lawsuit seeking penalties pursuant to the Private Attorneys General Act, Labor Code §§ 2698 *et seq.*, against Defendants captioned *Garcia v. St. Paul’s Episcopal Home, Inc.*, San Diego County Superior Court Case No. 37-2022-00022641-CU-OE-CTL; and (3) Plaintiff Martha Ayala’s class-action lawsuit alleging wage and hour violations against Defendants captioned *Ayala v. Community Eldercare of San Diego*, San Diego County Superior Court Case No. 37-2023-00002553-CU-OE-CTL, which have been consolidated in San Diego County Superior Court with the *Herrera Class Action* designated as the lead case.
- 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employees” means any and all non-exempt employees who worked for Defendants during the PAGA Period (i.e. November 30, 2020 to September 21, 2024), irrespective of whether they signed an arbitration agreement containing a class action waiver.
- 1.5. “Class” means any and all non-exempt employees who worked for Defendants during the Class Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an arbitration agreement containing a class action waiver or who signed arbitration

agreements that contained the same language as in the arbitration agreements signed by Plaintiffs Herrera and Ayala.

- 1.6. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, and Aparajit Bhowmik of Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”); Samuel A. Wong, Kashif Haque, and Jessica L. Campbell of Aegis Law Firm, PC (“Aegis”); and Jill J. Parker and S. Emi Minne of Parker & Minne, LLP (“P&M”).
- 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/PAGA Data” means Class Member and Aggrieved Employee identifying information in Defendants’ possession including each Class Member’s and/or Aggrieved Employee’s name, last-known mailing address, Social Security number, email address (if known and available to Defendants), and dates of employment for the purposes of calculating the number of Class Period 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.
- 1.10. “Address Search” means the Administrator’s investigation and search for current Class Member and/or Aggrieved Employee 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 and Aggrieved Employees 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 with a Spanish translation in the form, without material variation (other than formatting changes to facilitate printing by the Administrator), attached as Exhibit A and incorporated by reference into this Agreement.
- 1.12. “Class Period” means the period of time from November 30, 2017 through September 21, 2024.
- 1.13. “Class Representatives” means Fernando Herrera and Martha Ayala, the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as Class Representatives.

- 1.14. "Class Representative Service Payment" means the service payment made to Plaintiffs Herrera and Ayala as Class Representatives in order to compensate for, *inter alia*, initiating the Action, performing work in support of the Action, and undertaking the risk of liability for Defendants' expenses.
- 1.15. "Court" means the Superior Court of California, County of San Diego.
- 1.16. "Defendants" mean St. Paul's Episcopal Home, Inc. (including St. Paul's Senior Homes and Services, St. Paul's Senior Services, St. Paul's Manor, St Paul's Villa, St. Paul's Plaza, St. Paul's McColl Health Center, St. Paul's Community Care Center, St. Paul's Senior Day Services, St. Paul's Child Care Services, St. Paul's Villa, Inc., and/or St. Paul's Retirement Homes Foundation) and Community Eldercare of San Diego, Inc. (dba St. Paul's PACE).
- 1.17. "Defense Counsel" means Marie Burke Kenny and Ashley N. Fasano of Procopio, Cory, Hargreaves & Savitch LLP.
- 1.18. "Effective Date" means the date by when both of the following have occurred (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.19. "Final Approval" means the Court's order and judgment 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.
- 1.20. "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.
- 1.21. "Gross Settlement Amount" means One Million Two-Hundred Fifty Thousand Dollars (\$1,250,000), which is the total amount to be paid by Defendants 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 Payments, PAGA 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.

- 1.22. “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.
- 1.23. “Individual PAGA Payment” means the Aggrieved Employee’s *pro rata* share of twenty-five percent (25%) of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.24. “Judgment” means the Court’s order and 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.
- 1.25. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.26. “LWDA PAGA Payment” means the seventy-five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.27. “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, PAGA 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.
- 1.28. “Non-Participating Class Member” means a Class Member who opts out of the Class portion of the Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.29. “Operative Complaint” means the consolidated complaint encompassing Plaintiffs’ Class and PAGA claims, consolidated in conjunction with this Agreement on June 12, 2024.
- 1.30. “PAGA Pay Period” means any pay period during which an Aggrieved Employee was employed by Defendants for at least one day during the PAGA Period.
- 1.31. “PAGA Period” means the period of time from November 30, 2020 through September 21, 2024.
- 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).
- 1.33. “PAGA Notices” collectively means Plaintiff Fernando Herrera’s November 30, 2021 letter to Defendants and the LWDA, Plaintiff Victoria Garcia’s March 16, 2022

letter to Defendants and the LWDA, and Plaintiff Martha Ayala's November 15, 2022 letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a). As a condition of the Settlement, Plaintiff Herrera agrees to submit an amended PAGA notice letter to the LWDA to add all Labor Code violations alleged in Plaintiff Garcia and Plaintiff Ayala's PAGA notices, hereinafter referred to as "Amended PAGA Notice."

- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties of \$300,000 to be paid from the Gross Settlement Amount, allocated twenty-five percent (25%) to the Aggrieved Employees (\$75,000) and the seventy-five percent (75%) to LWDA (\$225,000) in settlement of Plaintiffs' PAGA claims.
- 1.35. "PAGA Representative" means Plaintiff Victoria Garcia.
- 1.36. "PAGA Representative Service Payment" means the service payment made to Plaintiff Garcia as PAGA 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 Plaintiff Garcia.
- 1.37. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.38. "Plaintiffs" mean Fernando Herrera, Victoria Garcia, and Martha Ayala, the named plaintiffs in the Action.
- 1.39. "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.
- 1.40. "Released Class Claims" means all class claims being released as described in Paragraph 6.2 below.
- 1.41. "Released PAGA Claims" means all PAGA claims being released as described in Paragraph 6.3 below.
- 1.42. "Released Parties" means: Defendants and their present and former parent companies, subsidiaries, affiliates, divisions, and joint ventures, and all of their past and present shareholders, officers, directors, employees, agents, servants, owners, members, executors, administrators, general partners, limited partners, real or alleged alter egos, predecessors, successors, transferees, assigns, registered representatives, attorneys, insurers, partners, profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective trustees, administrators, agents, employees, attorneys, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals.

- 1.43. “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class portion of the Settlement signed by the Class Member.
- 1.44. “Response Deadline” means forty-five (45) calendar days after the Administrator mails the Class Notice 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, (b) submit his or her Objection to the Settlement, or (c) submit Challenges to Workweeks and/or PAGA Pay Periods. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the expiration of the Response Deadline.
- 1.45. “Settlement” means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.
- 1.46. “Workweek” means any week during the Class Period in which a Class Member was employed by Defendants as a Class Member for at least one day.

2. RECITALS

- 2.1. On November 30, 2021, Plaintiff Herrera commenced the *Herrera* Class Action by filing a class action complaint against Defendants in the Superior Court of the State of California, County of San Diego. Plaintiff Herrera's complaint asserted the following claims:
- (a) Failure to Pay Minimum Wages;
 - (b) Failure to Pay Overtime Wages;
 - (c) Failure to Provide Meal Periods;
 - (d) Failure to Permit Rest Breaks;
 - (e) Failure to Reimburse Business Expenses;
 - (f) Failure to Provide Accurate Itemized Wage Statements;
 - (g) Failure to Pay All Wages Due Upon Separation of Employment;
 - (h) Violation of Business and Professions Code §§ 17200, et seq.; and
 - (i) Enforcement of Labor Code §§ 2968, et seq. (“PAGA”).
- 2.2. On June 13, 2022, Plaintiff Victoria Garcia (“Plaintiff Garcia”) filed a representative complaint against Defendants in the Superior Court of the State of California, County of San Diego asserting a single cause of action for violation of PAGA, Case No. 37-2022-00022641 (hereinafter, “*Garcia* PAGA Action”).
- 2.3. On January 19, 2023, Plaintiff Ayala filed a class action complaint against Defendants in the Superior Court of the State of California, County of San Diego (hereinafter, “*Ayala* Class Action”). The *Ayala* Class Action asserted the following claims:
- (a) Violation of California Labor Code §§ 1194, 1197, and 1197.1 (Unpaid Minimum Wages);

- (b) Violation of California Labor Code §§ 510, 1194, and 1198 (Unpaid Overtime Wages);
- (c) Violation of California Labor Code § 226.7 & 512(a) (Unpaid Meal Period Premiums);
- (d) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (e) Violation of California Labor Code § 226(a) (Failure to Issue Compliant Wage Statements);
- (f) Violation of California Labor Code §§ 201 and 203 (Final Wages Not Timely Paid);
- (g) Violation of California Labor Code § 2800 and 2802 (Unreimbursed Business Expenses);
- (h) Violation of California Business and Professions Code § 17200 et seq.;
- (i) Violation of California Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004).

2.4. On December 11, 2023, the Parties participated in an all-day mediation presided over by Cynthia Remmers, a respected mediator of wage and hour representative and class actions. The Parties were unable to resolve the matter at mediation, but remained in settlement negotiations. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based upon a mediator's proposal which was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.

2.5. In conjunction with this Agreement, on June 12, 2024, the *Garcia* PAGA Action and the *Ayala* Class Action were consolidated with the lower numbered *Herrera* Class Action as the lead action.

2.6. Defendants deny the allegations in the Action and deny any and all liability, including any liability for the violations of the California Labor Code Plaintiffs allege against Defendants. Defendants contend that, during the Class Period and PAGA Period, they have continually made good faith efforts to comply with applicable California and federal law with respect to the wage and hour-related claims asserted in the Action. Among other things, Defendants required their hourly employees to accurately report all hours worked in their timekeeping system to ensure employees were paid fully for all wages, including minimum, overtime and double-time wages, and provided employees with an opportunity to report any off-the-clock work or otherwise adjust their time records to ensure their time records were accurate. Defendants kept complete payroll records and timely paid wages to hourly employees based on the actual hours reported by them in Defendants' timekeeping system during and upon termination of employment. Defendants provided hourly employees with a reasonable opportunity to take compliant meal periods and authorized and permitted hourly employees to take compliant rest periods. In addition, Defendants provided hourly employees with an opportunity to report any involuntary non-compliant meal or rest periods and paid premium pay to employees for any reported or known involuntary non-compliant meal or rest periods.

Defendants have asserted and continue to assert that the claims alleged by Plaintiffs have no merit and do not give rise to any liability, damages, restitution, penalties or other payments. 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 Action. Defendants contend that they have complied with all applicable state, federal and local laws. In the event this Settlement is not approved by the Court, Defendants retain all rights to defend themselves in this matter and to take any available actions in defense of them.

- 2.7. Defendants recognize the defense of Class and PAGA litigation would be prolonged and expensive, requiring substantial amounts of time, energy, and resources devoted to the defense of the litigation, especially if the findings are appealed. Litigation is also carried out in a public forum and can create a stressful experience for all parties involved. As a not-for-profit organization dedicated to serving the spiritual, physical, and social needs of older adults through independent, assisted living, and skilled nursing communities, Defendants prefer to continue focusing on their mission and serve their communities. By reaching a settlement, Defendants are able to resolve the case and take funds that would otherwise go to litigation and reinvest them in their mission. Prior to mediation, Plaintiffs obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Action of Plaintiffs or the Class and Aggrieved Employees have merit or that Defendants bear any liability to Plaintiffs or the Class and Aggrieved Employees on those claims or any other claims, or as an admission by Plaintiffs 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 reserve all available defenses to the claims in the Action.
- 2.9. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any other pending class or PAGA 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 \$1,250,000 and no more as the Gross Settlement Amount. This amount is all-inclusive of all payments contemplated in this Settlement, 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 Plaintiffs: Class Representative Service Payments to the Class Representatives and a PAGA Representative Service Payment to the PAGA Representative of not more than \$15,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives and PAGA Representative are entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments and a PAGA Representative Service Payment that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments and PAGA Representative Service Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves the Class Representative Service Payments and/or PAGA 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 Payments and PAGA Representative Service Payment using IRS Form 1099s. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments and PAGA Representative Service Payment. In addition, Plaintiff Ayala is separately settling her individual claims for (1) whistleblower retaliation; (2) wrongful termination; and (3) discrimination, harassment, and retaliation in violation of the Fair Employment and Housing Act ("FEHA") ("Ayala's Non-Wage Claims"). The payment for the settlement of the Ayala's Non-Wage Claims is not being made in consideration of the settlement and dismissal of the Class and PAGA claims in the Action.

(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 \$416,625, and a Class Counsel Litigation Expenses Payment of not more than \$36,000. Class Counsel Fees Payment awarded shall be allocated forty percent (40%) to Aegis, forty percent (40%) to BNBD and twenty percent (20%) to P&M. Defendants will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel

Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation 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.

- (c) To the Administrator: An Administration Expenses Payment not to exceed \$12,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$12,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$300,000 to be paid from the Gross Settlement Amount, with seventy-five percent (75%) (\$225,000) allocated to the LWDA PAGA Payment and twenty-five percent (25%) (\$75,000) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (\$75,000) by the total number of PAGA Pay Periods worked by all Aggrieved Employees 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.
 - 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. Ten percent (10%) 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 Forms. Ninety percent (90%) 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. Based on its records, Defendants estimate that the Class Members worked approximately 42,083 workweeks during the Class Period up until April 9, 2024.
- 4.2. Class/PAGA Data. Not later than twenty (20) days after the Court grants Preliminary Approval of the Settlement, Defendants will deliver the Class/PAGA Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' and Aggrieved Employees' privacy rights, the Administrator must maintain the Class/PAGA Data in confidence, use the Class Data/PAGA only for purposes of this Settlement and for no other purpose, and restrict access to the Class/PAGA Data to Administrator employees who need access to the Class/PAGA Data to effect and perform under this Agreement. Defendants have a continuing duty to immediately notify Class Counsel if it discovers that the Class/PAGA Data omitted Class Member or Aggrieved Employee identifying information and to provide corrected or updated Class/PAGA Data as soon as reasonably feasible. Without any extension of the deadline by which Defendants must send the Class/PAGA Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class/PAGA Data.
- 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 thirty (30) days after the Effective Date.

5. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

- 5.1. Within fifteen (15) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the PAGA Representative Service Payment, and the Class Representative Service Payments.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members and Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than one hundred eighty (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 Settlement Payments to all Participating Class Members (including those for whom a 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 a Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. If a Participating Class Member's or Aggrieved Employee's check is not cashed within one hundred twenty (120) days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next sixty (60) days, 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 an Address Search for all other Class Members and Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Address Search. The Administrator need not take further steps to deliver checks to Class Members and Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member or Aggrieved Employee whose original check was lost or misplaced, requested by the Class Member or Aggrieved Employee prior to the void date.
- 5.4. For any Class Member or Aggrieved Employee whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("*Cy Pres* Recipient"). The Parties shall meet and confer in good faith to mutually agree to the selection of the *Cy Pres* Recipient. Upon the selection of a *Cy Pres* Recipient, the Parties, Class Counsel and Defense Counsel shall represent that they have no interest or relationship, financial or otherwise, with the intended *Cy Pres* Recipient.
- 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.** Upon the occurrence of the Effective Date and the full funding of the entire Gross Settlement Amount and employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, Aggrieved Employees, Class Counsel, and the LWDA will release claims against all Released Parties as follows:
 - 6.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge Released Parties from all claims, transactions, or occurrences that

occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint and the Amended PAGA Notice (“Plaintiffs’ Release”). Plaintiffs’ Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers’ compensation benefits that arose at any time, or based on facts occurring after the Effective Date of this Agreement. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agree, nonetheless, that Plaintiffs’ Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs’ discovery of them.

- (a) Plaintiffs’ Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs’ Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

- (b) Plaintiff Ayala’s Other Claims. Plaintiff Ayala has also asserted the following claims against Defendants in her individual capacity: (1) whistleblower retaliation; (2) wrongful termination; and (3) discrimination, harassment, and retaliation in violation of FEHA. Ayala’s Non-Wage Claims are the subject of a separate settlement agreement. Class Counsel will be filing a declaration with the Court affirming that the consideration given for Ayala’s Non-Wage Claims is unrelated to and separate from the settlement of her Class claims and PAGA claims and is based on separate facts and claims.

- 6.2. Release by Participating Class Members (“Class Release”). All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, shall release Released Parties from (i) all claims, rights, demands, liabilities and causes of action that were alleged, or reasonably could have been alleged, based on the facts stated in the Action, during the Class Period, based upon the following categories of allegations: failure to pay minimum, overtime or doubletime wages (including for rounding, time-shaving, reporting time, on-call time, off-the-clock work, time spent undergoing mandatory testing or training of any kind, time spent undergoing COVID-19 temperature checks, health screenings or vaccinations), failure to include bonuses, commissions, shift differentials, or other incentive pay in the regular rate of pay for overtime or doubletime, failure to properly pay all accrued, unused vacation or paid time off, failure to provide meal periods, failure to provide rest periods, failure to pay meal or period premiums at the regular rate of pay, failure to provide required paid sick leave, failure to pay paid sick leave at the regular rate of pay, failure to provide accurate itemized wage statements, failure to

maintain accurate records, failure to reimburse business expenses, failure to provide suitable seating, failure to timely pay wages during employment, and failure to pay all wages due upon termination of employment (“Alleged Violations”); (ii) all claims for violations of the Industrial Welfare Commission Wage Orders, California Labor Code, and California’s unfair business practices laws that arise from the Alleged Violations; and (iii) as any potential penalties, interest or attorneys’ fees associated with these causes of action under California or federal law. Except as set forth in this Paragraph 6.2 of this Agreement, Participating Class Members, including Plaintiff Ayala and Plaintiff Herrera, do not release any other claims, including claims for vested benefits, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period. Participating Class Members, except for Plaintiff Ayala and Plaintiff Herrera, do not release any claims for wrongful termination or violation of the Fair Employment and Housing Act.

6.3. Release by Aggrieved Employees (“PAGA Release”). All Aggrieved Employees and the State of California and 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 all claims for attorneys’ fees or PAGA penalties based on Labor Code violations that were specifically alleged in Plaintiff Herrera’s Amended PAGA Notice to the LWDA (to be filed as a condition of this Settlement) including failure to pay minimum, overtime or doubletime wages (including for rounding, time-shaving, reporting time, on-call time, off-the-clock work, time spent undergoing mandatory testing or training of any kind, time spent undergoing COVID-19 temperature checks, health screenings or vaccinations), failure to include bonuses, commissions, shift differentials, or other incentive pay in the regular rate of pay for overtime or doubletime, failure to properly pay all accrued, unused vacation or paid time off, failure to provide meal periods, failure to provide rest periods, failure to pay meal or period premiums at the regular rate of pay, failure to provide required paid sick leave, failure to pay paid sick leave at the regular rate of pay, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to reimburse business expenses, failure to provide suitable seating, failure to timely pay wages during employment, failure to pay all wages due upon termination of employment, and violations of the California Labor Code that were alleged in Plaintiff Herrera’s Amended PAGA Notice to the LWDA.

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. Defendants’ Responsibilities. Within fourteen (14) business days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator and *Cy Pres* Recipient. In the Declaration, Defendants shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

- 7.2. Plaintiffs' Responsibilities. At least seven (7) business days before Plaintiffs' Motion for Preliminary Approval is due to be filed with the Court, Plaintiffs 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/PAGA 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 Aggrieved Employees; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, Aggrieved Employees, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class Members, Aggrieved Employees, the *Cy Pres* Recipient, and/or the Administrator. In their Declarations, Plaintiffs and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement
- 7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 7.4. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION

- 8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice to all Class Members and/or Aggrieved Employees; conducting a National Change of Address search to update Class Member and/or Aggrieved Employee addresses before mailing the Class Notices; re-mailing Class Notices that are returned to the Class Member's and/or Aggrieved Employee's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members and/or Aggrieved Employees; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notices 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/PAGA Data, the Administrator shall notify Class Counsel and Defense Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class/PAGA Data.
 - (b) Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class/PAGA Data, the Administrator will send to all Class Members and Aggrieved Employees identified in the Class/PAGA Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation 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/or Aggrieved Employee, 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 and Aggrieved Employee addresses using the National Change of Address database.

- (c) Not later than seven (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 an 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 and Aggrieved Employees whose Class Notice is returned by the USPS a second time.
- (d) The deadlines for Class Members' and Aggrieved Employees' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline otherwise provided in the Class Notice for all Class Members and Aggrieved Employees whose notice is re-mailed. The Administrator will inform the Class Member or Aggrieved Employee 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/PAGA 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 and/or Aggrieved Employees. If the Parties agree, such persons will be Class Members and/or Aggrieved Employees entitled to the same rights as other Class Members and Aggrieved Employees, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class portion of the 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 fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Class portion of the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- (b) The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable.

or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

- (c) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Class Release in Paragraph 6.2 of the Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.
- (d) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. If a Class Member submits both a Request for Exclusion and an objection, only the Request for Exclusion will be accepted and the objection will be void.

8.6. Challenges to Calculation of Workweeks. Each Class Member and Aggrieved Employee shall have until the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks (if any) and PAGA Pay Periods (if any) allocated to the Class Member and/or Aggrieved Employee in the Class Notice. The Class Member or Aggrieved Employee may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member or Aggrieved Employee to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks or PAGA Pay Periods contained in the Class Notice are correct so long as they are consistent with the Class/PAGA Data. The Administrator's determination of each Class Member's and Aggrieved Employees' allocation of Workweeks and/or PAGA 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 PAGA 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 Payments.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection,

Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members and Aggrieved Employees including the date, time and location for the Final Approval Hearing and copies of the 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, PAGA Representative Service Payment and Class Representative Service Payments, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member and Aggrieved Employee 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 seven (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 the Settlement submitted (whether valid or invalid).
- (c) Workweek and/or PAGA 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 or Aggrieved Employee challenges over the calculation of Workweeks and/or PAGA 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 PAGA Pay Periods received and/or resolved, and checks mailed

for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- (e) Administrator’s Declaration. Not later than seven (7) business days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within ten (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 seven (7) business 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 seven (7) business days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendants estimate that the Class Members worked a total of 42,083 workweeks through April 9, 2024. Defendants estimate the number of PAGA Pay Periods through April 9, 2024 is 56,899. Should the number of Workweeks worked by Class Members in the Class Period increase by more than ten percent (10%) of the estimate stated herein in Paragraph 4.1 (i.e. if the workweeks exceed 46,292), Defendants, at their option, can either choose to: (1) cut off the end date for the Class Period as of the date on which the number of workweeks reaches 46,292, or (2) increase the Gross Settlement Amount on a proportional basis equal to the percentage increase in number of workweeks worked by the Class Members above the 10% (i.e., if there was an 11% increase in the number workweeks during the Class Period, Defendants would agree to increase the Gross Settlement Amount by 1%). Should the PAGA Pay Periods ultimately increase by more than 10% (i.e., if the pay periods exceed 62,589), Defendants, at their option, can either choose to: (1) cut off the end date for the PAGA Period as of the date on which the number of pay periods reaches 62,589, or (2) increase the PAGA Payment on a proportional basis equal to the percentage increase in number of pay periods worked by the PAGA Members above the 10% (i.e., if there was 11% increase in the number

pay periods during the PAGA Period, Defendants would agree to increase the PAGA Payment by 1%).

10. DEFENDANT’S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified in the Exclusion List exceeds five percent (5%) of the total of all Class Members, Defendants may, but are not obligated to, 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 Settlement Administration Expenses incurred as of the date Defendants make this election to withdraw. Defendants must notify Class Counsel and the Court of their election to withdraw not later than fourteen (14) 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 sixteen (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”). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) business 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 five (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 the Class Representative Service Payments, PAGA 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 Court will enter Judgment in this Action barring all Participating Class Members and Aggrieved Employees from prosecuting against any of the Released Parties, any individual or class, or representative, including PAGA representative, claims released herein pursuant to this Agreement, upon satisfaction of all payments and obligations hereunder. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement

under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

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

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members or Aggrieved Employees), 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 Payments, PAGA 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 or the Amended PAGA Notice have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs 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 Plaintiffs reserve 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 Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs 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 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. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. No Tax Advice. Neither Plaintiffs, 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. 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/PAGA Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class/PAGA 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 ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class/PAGA Data received from Defendants. Notwithstanding this provision, Class Counsel is entitled to retain an archival copy of all pleadings, motion papers, deposition transcripts, hearing transcripts, legal memoranda,

correspondence, expert reports, mediation briefs, attorney work product, and consultant and expert work product, even if such materials contain Class/PAGA Data.

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

To Plaintiffs and the Class:

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

Samuel A. Wong
Kashif Haque
Jessica L. Campbell
Aegis Law Firm, PC
9811 Irvine Center Drive, Suite 100
Irvine, CA 92618
Tel.: (949) 379-6250
Fax: (949) 379-6251
Email: jcampbell@aegislawfirm.com

Jill J. Parker
S. Emi Minne
Parker & Minne, LLP
700 S. Flower Street, Ste. 1000
Los Angeles, CA 90017
Tel.: (310) 882-6833
Fax: (310) 889-0822

Email: jill@parkerminne.com
emi@parkerminne.com

To Defendants:

Marie Burke Kenny
Ashley N. Fasano
Procopio, Cory, Hargreaves & Savitch LLP
525 B Street, Suite 2200
San Diego, CA 92101
Tel.: (619) 238-1900
Fax: (619) 235-0398
E-mail: marie.kenny@procopio.com
Ashley.fasano@procopio.com

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

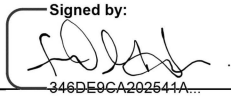
13.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the mediation on December 11, 2023, until the earlier of the Effective Date or the date this Agreement shall no longer be of any force or effect.

13.20. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, considering all relevant factors, both current and potential.

14. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 2/22/2025 | 8:41 PM PST

Signed by:

346DE9CA202541A...

Plaintiff Fernando Herrera

Dated: _____

Plaintiff Victoria Garcia

Email: jill@parkerminne.com
emi@parkerminne.com

To Defendants:

Marie Burke Kenny
Ashley N. Fasano
Procopio, Cory, Hargreaves & Savitch LLP
525 B Street, Suite 2200
San Diego, CA 92101
Tel.: (619) 238-1900
Fax: (619) 235-0398
E-mail: marie.kenny@procopio.com
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The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Fernando Herrera

Dated: 02/20/2025



Plaintiff Victoria Garcia

Dated: 02/20/2025

Martha Ayala
Martha Ayala (Feb 20, 2025 21:46 PST)

Plaintiff Martha Ayala

Dated: _____

Michael McHale
Present/CEO
For Defendant St. Paul's Episcopal Home, Inc. and Community
Eldercare of San Diego, Inc. (dba St. Paul's PACE)

Dated: _____

Samuel A. Wong
Aegis Law Firm, PC
Attorneys for Plaintiff Fernando G. Herrera

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Victoria Garcia

Dated: February 21, 2025

Jill J. Parker

Jill J. Parker
Parker & Minne, LLP
Attorneys for Plaintiff Martha Ayala

Dated: _____

Marie Burke Kenny
Procopio, Cory, Hargreaves & Savitch LLP
Attorney for Defendants St. Paul's Episcopal Home, Inc. and
Community Eldercare of San Diego

Dated: _____

Plaintiff Martha Ayala

Signed by:

Dated: February 19, 2025

Michael McHale

E12462B44754420...

Michael McHale

Present/CEO

For Defendant St. Paul's Episcopal Home, Inc. and Community
Eldercare of San Diego, Inc. (dba St. Paul's PACE)

Dated: _____

Samuel A. Wong

Aegis Law Firm, PC

Attorneys for Plaintiff Fernando G. Herrera

Dated: _____

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik De Blouw LLP

Attorney for Plaintiff Victoria Garcia

Dated: _____

Jill J. Parker

Parker & Minne, LLP

Attorneys for Plaintiff Martha Ayala

Dated: February 18, 2025

DocuSigned by:

Marie Burke Kenny

63F49C8AAEE864GD...

Marie Burke Kenny

Procopio, Cory, Hargreaves & Savitch LLP

Attorney for Defendants St. Paul's Episcopal Home, Inc. and
Community Eldercare of San Diego

Dated: _____

Plaintiff Martha Ayala

Dated: _____

Michael McHale
Present/CEO
For Defendant St. Paul's Episcopal Home, Inc. and Community
Eldercare of San Diego, Inc. (dba St. Paul's PACE)

Dated: _____



Samuel A. Wong
Aegis Law Firm, PC
Attorneys for Plaintiff Fernando G. Herrera

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Victoria Garcia

Dated: _____

Jill J. Parker
Parker & Minne, LLP
Attorneys for Plaintiff Martha Ayala

Dated: _____

Marie Burke Kenny
Procopio, Cory, Hargreaves & Savitch LLP
Attorney for Defendants St. Paul's Episcopal Home, Inc. and
Community Eldercare of San Diego

Dated: _____

Plaintiff Martha Ayala

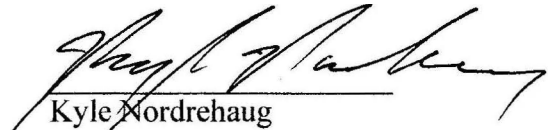
Dated: _____

Michael McHale
Present/CEO
For Defendant St. Paul's Episcopal Home, Inc. and Community
Eldercare of San Diego, Inc. (dba St. Paul's PACE)

Dated: _____

Samuel A. Wong
Aegis Law Firm, PC
Attorneys for Plaintiff Fernando G. Herrera

Dated: 2/25/25



Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiff Victoria Garcia

Dated: _____

Jill J. Parker
Parker & Minne, LLP
Attorneys for Plaintiff Martha Ayala

Dated: _____

Marie Burke Kenny
Procopio, Cory, Hargreaves & Savitch LLP
Attorney for Defendants St. Paul's Episcopal Home, Inc. and
Community Eldercare of San Diego

EXHIBIT A

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

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION

Herrera v. St. Paul's Episcopal Home, Inc. Superior Court of the State of California,
County of San Diego, Case No. 37-2021-00050163-CU-OE-CTL¹

YOU MAY BE ENTITLED TO RECEIVE MONEY FROM A CLASS AND REPRESENTATIVE ACTION SETTLEMENT. YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER OR NOT YOU ACT. PLEASE READ THIS NOTICE.

The California Superior Court, County of San Diego, has granted preliminary approval of a proposed settlement (“Settlement”) in the above-captioned class and representative action lawsuit (“Action”). Because your rights may be affected by this Settlement is important that you read this Notice of Proposed Settlement of Class Action (“Notice”) carefully. **You will not be retaliated against you for actions you take with respect to the proposed Settlement.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT INCLUDE THE FOLLOWING:	
DO NOTHING	You will receive a payment from the Settlement. No action is required. In exchange, you will give up your right to assert the claims against Defendants that are covered by this Settlement (defined below).
EXCLUDE YOURSELF	You can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. <u>You will not receive a payment from the class portion of the Settlement.</u>² This is the only option that allows you to file your own lawsuit against Defendants for the claims released in this Settlement. The Opt-out Deadline is [REDACTED].
OBJECT	You may object to the class portion of this Settlement. The Court may or may not agree with your objection. This will not exclude you from receiving a payment from the Settlement.

WHAT IS IN THIS NOTICE

1. Why Should I Read This Notice? Page 2
2. What is the Case About?..... Page 2
3. What Are the Terms of the Settlement? Page 3
4. What Claims Do I Release Under the Settlement? Page 4
5. How Much Will I Be Paid? Page 6
6. How Can I Get A Payment?..... Page 6
7. What if I Don't Want to Be a Part of the Settlement? Page 7
8. How Do I Object to the Settlement? Page 7
9. Can I Attend the Final Approval Hearing?..... Page 9
10. How Can I Get More Information? Page 9

¹ This case was consolidated with Case No. 37-2022-00022641-CU-OE-CTL and 37-2023-00002553-CU-OE-CTL on June 12, 2024.

² Regardless of whether you exclude yourself from the Settlement, you may still receive a portion of the settlement for release of the penalty claim under the Private Attorneys General Act, Labor Code sections 2698-2699.6 (“PAGA”).

1. Why Should I Read this Notice?

You have received this Notice because the personnel records of Defendants St. Paul's Episcopal Home, Inc.³ and Community Eldercare of San Diego⁴ ("Defendants") indicate that you are a member of the settlement class and/or the group covered by the Private Attorneys General Act ("PAGA") settlement in this Action ("PAGA group").

The **settlement class** is comprised of all non-exempt employees who worked for Defendants during the Class Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an arbitration agreement containing a class action waiver or who signed an arbitration agreement that contained the same language as in the arbitration agreements signed by Plaintiffs Herrera and Ayala ("Class Members").

The **PAGA group** is comprised of all non-exempt employees who worked for Defendants during the PAGA Period (i.e. November 30, 2020 to September 21, 2024), irrespective of whether they signed an arbitration agreement containing a class action waiver ("Aggrieved Employees").

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement. There was a Preliminary Approval hearing on <<INSERT PRELIMINARY APPROVAL DATE>>, in San Diego County Superior Court. At that time, the Court preliminarily approved the Plaintiffs to serve as the Class Representatives, and the law firms of Blumenthal Nordrehaug Bhowmik De Blouw LLP, Aegis Law Firm, PC, and Parker & Minne, LLP to serve as Class Counsel. The Court determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. The Court also ordered that you receive this Notice. The Court did not make any determination regarding the merits of the Action.

The Court will hold a Final Approval Hearing on [REDACTED], 2025, at [REDACTED] a.m. in Department 74 of San Diego County Superior Court, located at 330 West Broadway, San Diego, CA 92101. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately two months after the Final Approval Hearing. If there are objections or appeals, resolving them can take time and significantly delay the Settlement. Please be patient.

2. What is the Case About?

Plaintiffs Fernando Herrera, Victoria Garcia, and Martha Ayala ("Plaintiffs") assert the following alleged violations of the California Labor Code and Business and Professions Code against Defendants: (1) failure to pay minimum wages, (2) failure to pay overtime wages, (3) failure to provide required meal periods or premium pay in lieu thereof, (4) failure to provide required rest periods or premium pay in lieu thereof, (5) failure to reimburse employees for required expenses, (6) failure to provide accurate itemized wage statements, (7) failure to provide wages when due, and (8) unfair competition. Plaintiffs also seek penalties under the Private Attorneys General Act,

³ Including St. Paul's Senior Homes and Services, St. Paul's Senior Services, St. Paul's Manor, St Paul's Villa, St. Paul's Plaza, St. Paul's McColl Health Center, St. Paul's Community Care Center, St. Paul's Senior Day Services, St. Paul's Child Care Services, St. Paul's Villa, Inc., and/or St. Paul's Retirement Homes Foundation.

⁴ Doing business as St. Paul's PACE.

Cal. Labor Code §§ 2698, *et seq.* (“PAGA”), which allows a private citizen to pursue civil penalties on behalf of the State of California Labor Workforce Development Agency (“LWDA”) related only to the Released PAGA Claims (defined below).

Defendants deny the allegations in the Action and deny any and all liability, including any liability for the violations of the California Labor Code Plaintiffs allege against Defendants. Defendants contend that, during the Class Period and PAGA Period, they have continually made good faith efforts to comply with applicable California and federal law with respect to the wage and hour-related claims asserted in the Action. Among other things, Defendants required hourly employees to accurately report all hours worked in their timekeeping system to ensure employees were paid fully for all wages, including minimum, overtime and double-time wages, and provided employees with an opportunity to report any off-the-clock work or otherwise adjust their time records to ensure their time records were accurate. Defendants kept complete payroll records and timely paid wages to hourly employees based on the actual hours reported by them in Defendants’ timekeeping system during and upon termination of employment. Defendants provided hourly employees with a reasonable opportunity to take compliant meal periods and authorized and permitted hourly employees to take compliant rest periods. In addition, Defendants provided hourly employees with an opportunity to report any involuntary non-compliant meal or rest periods and paid premium pay to employees for any reported or known involuntary non-compliant meal or rest periods.

Defendants have asserted and continue to assert that the claims alleged by Plaintiffs have no merit and do not give rise to any liability, damages, restitution, penalties or other payments. Nonetheless, Defendants recognize the defense of class action litigation would be prolonged and expensive, requiring substantial amounts of time, energy, and resources devoted to the defense of the litigation, especially if the findings are appealed. By reaching a settlement, Defendants are able to resolve the case and reinvest funds that would otherwise go to litigation in its mission.

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

3. What Are the Terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an “all in” amount of One Million Two-Hundred Fifty Thousand Dollars (\$1,250,000) (the “Gross Settlement Amount”) to fund the Settlement of the Action. The following payments, subject to Court approval at the Final Approval Hearing, will be deducted from the Gross Settlement Amount:

- Administration Expenses Payment. The Settlement Administrator will be paid the costs of administration in an amount not exceed \$12,000.
- Attorneys’ Fees and Costs. Class Counsel will be paid one-third (1/3) of the Gross Settlement Amount, which presently equals \$416,625, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$36,000.
- Class Representative Service Payments. Plaintiffs will be paid Class Representative

Service Payments in an amount not more than \$15,000 to each Plaintiff.

- PAGA Penalties. The Parties agree that \$300,000 shall be allocated to the settlement of Plaintiffs' claim under PAGA claim, with \$225,000 (75%) to be paid to State of California's LWDA, and the remaining \$75,000 (25%) to be distributed to the Aggrieved Employees.

The remaining portion of the Gross Settlement Amount after all deductions, i.e. the "Net Settlement Amount," shall be distributed to Class Members who do not request exclusion from the Settlement ("Participating Class Members"). The Net Settlement Amount is estimated to be at least \$_____.

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

Tax Matters. Ten Percent (10%) of each Participating Class Member's Individual Class Payment is in settlement of wage claims (the "Wage Portion"). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Ninety Percent (90%) of each Participating Class Member's Individual Class Payment is in settlement of claims for alleged claims for non-wages, expense reimbursement, interest and penalties due to employees (collectively the "Non-Wage Portion"). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendants' Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

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 monies will be transmitted to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384(b) ("Cy Pres Recipient"). Subject to Court approval, the Parties have proposed _____ to be this *Cy Pres* Recipient.

4. What Claims Do I Release Under the Settlement?

Released Class Claims. Effective on the date when Defendants fully fund the entire Gross Settlement Amount and funds 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, shall release Released Parties⁵ from (i) all claims, rights, demands, liabilities and

⁵ "Released Parties" means the Defendants and their present and former parent companies, subsidiaries, affiliates, divisions, and joint ventures, and all of their past and present shareholders, officers, directors, employees, agents, servants, owners, members, executors, administrators, general partners, limited partners, real or alleged alter egos, predecessors, successors, transferees, assigns, registered representatives, attorneys, insurers, partners, profit sharing, savings, health and other employee benefit plans of any nature, the successors of such plans and those plans' respective

causes of action that were alleged, or reasonably could have been alleged, based on the facts stated in the Action, during the Class Period, based upon the following categories of allegations: failure to pay minimum, overtime or doubletime wages (including for rounding, time-shaving, reporting time, on-call time, off-the-clock work, time spent undergoing mandatory testing or training of any kind, time spent undergoing COVID-19 temperature checks, health screenings or vaccinations), failure to include bonuses, commissions, shift differentials, or other incentive pay in the regular rate of pay for overtime or doubletime, failure to properly pay all accrued, unused vacation or paid time off, failure to provide meal periods, failure to provide rest periods, failure to pay meal or period premiums at the regular rate of pay, failure to provide required paid sick leave, failure to pay paid sick leave at the regular rate of pay, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to reimburse business expenses, failure to provide suitable seating, failure to timely pay wages during employment, and failure to pay all wages due upon termination of employment (“Alleged Violations”); (ii) all claims for violations of the Industrial Welfare Commission Wage Orders, California Labor Code, and California’s unfair business practices laws that arise from the Alleged Violations; and (iii) as any potential penalties, interest or attorneys’ fees associated with these causes of action under California or federal law.

This means that, if you do not timely and formally exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or any other Released Party regarding the Released Class Claims resolved by this Settlement. It also means that all of the Court’s orders in the Action will apply to you and legally bind you.

Released PAGA Claims. Effective on the date when Defendants fully fund 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 State of California and 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 all claims for attorneys’ fees or PAGA penalties based on Labor Code violations that were specifically alleged in Plaintiff Herrera’s Amended PAGA Notice to the LWDA (to be filed as a condition of this Settlement) including failure to pay minimum, overtime or doubletime wages (including for rounding, time-shaving, reporting time, on-call time, off-the-clock work, time spent undergoing mandatory testing or training of any kind, time spent undergoing COVID-19 temperature checks, health screenings or vaccinations), failure to include bonuses, commissions, shift differentials, or other incentive pay in the regular rate of pay for overtime or doubletime, failure to properly pay all accrued, unused vacation or paid time off, failure to provide meal periods, failure to provide rest periods, failure to pay meal or period premiums at the regular rate of pay, failure to provide required paid sick leave, failure to pay paid sick leave at the regular rate of pay, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to reimburse business expenses, failure to provide suitable seating, failure to timely pay wages during employment, failure to pay all wages due upon termination of employment, and violations of the California Labor Code that were alleged in Plaintiff Herrera’s Amended PAGA Notice to the LWDA.

trustees, administrators, agents, employees, attorneys, fiduciaries, and other persons acting on their behalf, and each of them, and the predecessors and successors, assigns and legal representatives of all such entities and individuals.

Regardless of whether an individual opts out of the Settlement, all Aggrieved Employees will be deemed to have released Defendants of all Released PAGA Claims.

5. How Much Will I Be Paid?

The Individual Class Payment for each Participating Class Member 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.⁶

Defendants' records reflect that you worked <<____>> Workweeks during the Class Period (November 30, 2017 through September 21, 2024).

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

The Individual PAGA Payment for each Aggrieved Employee will be calculated by (a) dividing 25% of the PAGA Penalties by the total number of Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employees' Pay Periods.

[Defendants' records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (November 30, 2020 through September 21, 2024). 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 Notice no later than the Response Deadline, which is _____ [45 days after the mailing of the Notice, plus 14 days if 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.

The actual amount you may receive likely will be different and will depend on a number of factors. If no amount is stated for your Individual PAGA Payment, this means you are not eligible for an Individual PAGA Payment because you did not work during the PAGA Period according to Defendants' records.

6. How Can I Get a Payment?

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 Notice. You do not have to do anything to receive a payment.

⁶ "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.

If your address has changed, you must immediately contact the Administrator to inform them of your correct address to ensure you receive your payment. The Administrator is: ILYM Group, (800) .

If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

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 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 Individual PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of whether they submit a request for exclusion. There is no option to “opt out” of the PAGA portion of the Settlement.

To opt out of the class portion of the settlement, you must submit to the Administrator a written, signed and dated request for exclusion (“opt-out”) postmarked no later than the Response Deadline which is [45 days after the mailing of the Notice, plus 14 days if re-mailing]. You may also fax your request to opt out to or email 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 *Herrera v. St. Paul's Episcopal Home, Inc.* lawsuit. The request to opt-out should state the Class Member's full name, address, and telephone number or email address. Please include the name and number of the case, which is *Herrera v. St. Paul's Episcopal Home, Inc.*, Case No. 37-2021-00050163-CU-OE-CTL. The request to opt-out must be completed and signed by you. No other person may opt-out for a living Class Member.

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 Released Class Claims, described above.

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Aggrieved Employees have no right to object to the PAGA portion of the Settlement. At least sixteen (16) court days before the Final Approval Hearing, scheduled for , Class Counsel and Plaintiffs will file in Court a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and a request stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under “Class Notices” for *Herrera v. St. Paul's Episcopal Home, Inc.* or on the Court's website via by entering Case No. 37-2021-

00050163 in the Register of Actions search page for the San Diego County Superior Court (<https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>).

A Participating Class Member who disagrees with any aspect of the Settlement or the Motion for Final Approval may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____ [45 days after mailing of Notice, plus 14 days if re-mailing].** 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, *Herrera v. St. Paul's Episcopal Home, Inc.*, Case No. 37-2021-00050163-CU-OE-CTL, and include your name, current address, telephone number, email address, and approximate dates of employment for Defendants and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: ILYM Group

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. If you do wish to appear at the hearing, check the Court's website for the most current information concerning appearances and procedures at the Court - <https://www.sdcourt.ca.gov/virtualhearings>. You may also have the option to appear at the hearing by audio or video. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

The addresses for Parties' counsel are as follows:

CLASS COUNSEL:

Samuel A. Wong

Kashif Haque

Jessica L. Campbell

Aegis Law Firm, PC

9811 Irvine Center Drive, Suite 100

Irvine, CA 92618

Tel.: (949) 379-625

Fax: (949) 379-6251

Email: jcampbell@aegislawfirm.com

Kyle Nordrehaug

Blumenthal Nordrehaug Bhowmik DeBlouw

2255 Calle Clara

La Jolla, CA 92037

Tel.: (858) 551-1223

Fax: (858) 551-1232

E-Mail: kyle@bamlawca.com

Jill J. Parker

Parker & Minne, LLP

700 S. Flower Street, Ste. 1000

Los Angeles, CA 90017

Tel.: (310) 882-6833

Fax: (310) 889-0822

Email: jill@parkerminne.com

COUNSEL FOR DEFENDANTS:

Marie Burke Kenny
Ashley N. Fasano
Procopio, Cory, Hargreaves & Savitch LLP
525 B Street, Suite 2200
San Diego, CA 92101

9. Can I Attend the Final Approval Hearing?

The Court will hold a Final Approval Hearing at 8:30 a.m. (Pacific Standard Time) on [REDACTED], in Department 74 of the Superior Court of California, County of San Diego, located at 330 West Broadway, San Diego, California 92101, before Judge Blaine K. Bowman. 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 of the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. 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. Check the Court's website for the most current information concerning appearances and procedures at the Court - <https://www.sdcourt.ca.gov/virtualhearings>.

The Court may reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Herrera v. St. Paul's Episcopal Home, Inc.* In addition, hearing dates can be accessed by entering Case No. 37-2021-00050163 in the Register of Actions search page for the San Diego County Superior Court (<https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>).

10. How Can I Get More Information?

You may call the Administrator at [REDACTED], email the Administrator at [REDACTED], or write to *Herrera v. St. Paul's Episcopal Home, Inc.* Administrator, c/o [REDACTED].

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You may receive a copy of the Agreement, the Judgment, the Motion for Final Approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Herrera v. St. Paul's Episcopal Home, Inc.* where these documents will be posted as they become available.

You may also get more details by examining the Court's file on the Internet via the Register of Actions for the San Diego County Superior Court (<https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>) and entering the Case No. 37-2021-00050163. If you wish to view the Court files in person, you must go to the Clerk's Office at the Hall of Justice, 330 West Broadway, San Diego, CA 92101.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

FERNANDO G. HERRERA, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

ST. PAUL’S EPISCOPAL HOME, INC.; and
DOES 1 through 20, inclusive,

Defendants.

CASE NO.: **37-2021-00050163-CU-OE-CTL**
[Consolidated with Case No. 37-2022-
00022641-CU-OE-CTL and Case No. 37-
2023-00002553-CU-OE-CTL]

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date:
Hearing Time:

Judge: Hon. Blaine K. Bowman
Dept.: 74

Date Action Filed: February 10, 2022
Trial Date: Not set

1 This matter, having come before the Honorable Blaine K. Bowman of the Superior Court
2 of the State of California, in and for the County San Diego, on _____[DATE], for the
3 motion by Plaintiffs Fernando Herrera, Victoria Garcia, and Martha Ayala (“Plaintiffs”) for
4 preliminary approval of the class settlement with Defendants St. Paul’s Episcopal Home, Inc.
5 (including St. Paul’s Senior Homes and Services, St. Paul’s Senior Services, St. Paul’s Manor, St
6 Paul’s Villa, St. Paul’s Plaza, St. Paul’s McColl Health Center, St. Paul’s Community Care
7 Center, St. Paul’s Senior Day Services, St. Paul’s Child Care Services, St. Paul’s Villa, Inc.,
8 and/or St. Paul’s Retirement Homes Foundation) and Community Eldercare of San Diego, Inc.
9 (dba St. Paul’s PACE) (all collectively referred to as “Defendants”). The Court, having considered
10 the briefs, argument of counsel and all matters presented to the Court and good cause appearing,
11 hereby GRANTS Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement.

12 **IT IS HEREBY ORDERED:**

13 1. The Court preliminarily approves the Class Action and PAGA Settlement
14 Agreement (“Agreement”) attached as Exhibit ____ to the Declaration of Kyle Nordrehaug in
15 Support of Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement. This is based
16 on the Court’s determination that the Settlement set forth in the Agreement is within the range of
17 possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil
18 Procedure and California Rules of Court, rule 3.769.

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

21 3. The Gross Settlement Amount is One Million Two-Hundred Fifty Thousand
22 Dollars (\$1,250,000). It appears to the Court on a preliminary basis that the settlement amount
23 and terms are fair, adequate and reasonable as to all potential Class Members when balanced
24 against the probable outcome of further litigation and the significant risks relating to certification,
25 liability and damages issues. It further appears that investigation and research have been
26 conducted such that counsel for the Parties are able to reasonably evaluate their respective
27 positions. It further appears to the Court that settlement at this time will avoid substantial

1 additional costs by all Parties, as well as avoid the delay and risks that would be presented by the
2 further prosecution of the Action. It further appears that the Settlement has been reached as the
3 result of serious and non-collusive, arms-length negotiations. The Court therefore preliminarily
4 finds that the Settlement is fair, adequate, and reasonable when balanced against the probable
5 outcome of further litigation and the significant risks relating to certification, liability, and
6 damages issues.

7 4. The Agreement specifies an attorneys' fees award not to exceed one-third of the
8 Gross Settlement Amount, an award of litigation expenses incurred, not to exceed \$36,000, and
9 proposed Class Representative Service Payments to the Plaintiffs in an amount not to exceed
10 \$15,000 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
11 of any service award, until the Final Approval Hearing.

12 5. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
13 certification of a class for settlement purposes only. This stipulation will not be deemed
14 admissible in this or any other proceeding should this Settlement not become final. For settlement
15 purposes only, the Court conditionally certifies the following Class: "any and all non-exempt
16 employees who worked for Defendants during the Class Period (i.e. November 30, 2017 to
17 September 21, 2024), and did not sign an arbitration agreement containing a class action waiver or
18 who signed arbitration agreements that contained the same language as in the arbitration
19 agreements signed by Plaintiffs Herrera and Ayala."

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

1 counsel for the Class is qualified to act as counsel for the Class and the Plaintiffs are adequate
2 representatives of the Class.

3 7. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Blumenthal Nordrehaug Bhowmik De Blouw LLP, Aegis Law Firm,
5 PC, and Parker & Minne, LLP as Class Counsel for the Class.

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

17 9. The Court hereby appoints ILYM Group, Inc. as Administrator. No later than
18 twenty (20) days after preliminary approval of the Settlement by the Court, Defendants shall
19 provide to the Administrator an electronic spreadsheet with the Class Data. The Administrator
20 will perform address updates and verifications as necessary prior to the mailing of the Class
21 Notice. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14)
22 days after receiving the Class Data, the Administrator will mail the Class Notice Packets to all
23 Class Members via first-class U.S. Mail. Before mailing Class Notices, the Administrator shall
24 update Class Member addresses using the National Change of Address database.

25 10. The Court hereby preliminarily approves the proposed procedure for exclusion
26 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
27 from the Class as provided in the Class Notice by following the instructions for requesting
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1 exclusion from the Class that are set forth in the Class Notice. All Requests for Exclusion must be
2 postmarked by no later than the Response Deadline, which is forty (45) calendar days after the
3 date of the mailing of the Class Notice and be received by the Administrator. If the Class Notice
4 Packet is re-mailed, the Response Deadline will be extended an additional 14 days. Any such
5 person who chooses to opt out of and be excluded from the Class will not be entitled to any
6 recovery under the Settlement and will not be bound by the class portion of the Settlement or have
7 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
8 shall be bound by all determinations of the Court, the Agreement and the Judgment. A Request
9 for Exclusion may only opt out that particular individual, and any attempt to affect an opt out of a
10 group, class, or subclass of individuals is not permitted and will be deemed invalid. Subject to the
11 Court's final approval of the Settlement, the Aggrieved Employees will be paid their allocation of
12 the PAGA Penalties and will remain bound by the release of the Released PAGA Claims.

13 11. Any Class Member who has not opted out ("Participating Class Member") may
14 appear at the final approval hearing and may object or express the Member's views regarding the
15 Settlement and may present evidence and file briefs or other papers that may be proper and
16 relevant to the issues to be heard and determined by the Court as provided in the Notice.
17 Participating Class Members will have until the Response Deadline, which is forty-five (45)
18 calendar days from the date of the mailing of the Class Notices, to submit their written objections
19 to the Administrator in accordance with the instructions in the Class Notice. If the Class Notice
20 Packet is re-mailed, the Response Deadline for written objections will be extended an additional
21 14 days. Alternatively, Participating Class Members may appear at the Final Approval Hearing to
22 make an oral objection.

23 12. A Final Approval Hearing shall be held before this Court on _____
24 _____, 8:30 a.m. in Department 74 at the San Diego County Superior Court to
25 determine all necessary matters concerning the Settlement, including: whether the proposed
26 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
27 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
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1 Order and Judgment should be entered herein; whether the plan of allocation contained in the
2 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
3 finally approve attorneys' fees and costs, the service awards, and the expenses of the
4 Administrator. All papers in support of the motion for final approval and for attorneys' fees, costs
5 and service awards, to be heard at the Final Approval Hearing, shall be filed with the Court and
6 served on all counsel no later than sixteen (16) court days before the hearing.

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

19 14. In the event the Settlement does not become effective in accordance with the terms
20 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
21 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
22 and the Parties shall revert to their respective positions as of before entering into the Agreement,
23 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
24 including all available defenses and affirmative defenses, and arguments that any claim in the
25 Action could not be certified as a class action and/or managed as a representative action. In such
26 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
27 referred to in litigation for any purpose.

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

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

7 **IT IS SO ORDERED.**

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9 Dated: _____

HON. BLAINE K. BOWMAN
JUDGE, SUPERIOR COURT OF CALIFORNIA

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

FERNANDO G. HERRERA, individually and
on behalf of all others similarly situated,

Plaintiff,

vs.

ST. PAUL’S EPISCOPAL HOME, INC.; and
DOES 1 through 20, inclusive,

Defendants.

CASE NO.: **37-2021-00050163-CU-OE-CTL**
[Consolidated with Case No. 37-2022-
00022641-CU-OE-CTL and Case No. 37-
2023-00002553-CU-OE-CTL]

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

Hearing Date:
Hearing Time:

Judge: Hon. Blaine K. Bowman
Dept.: 74

Date Action Filed: February 10, 2022
Trial Date: Not set

1 The motion of Plaintiffs Fernando Herrera, Victoria Garcia, and Martha Ayala
2 (“Plaintiffs”) for an order finally approving the Class Action and PAGA Settlement Agreement
3 (“Agreement”) with Defendants St. Paul’s Episcopal Home, Inc. (including St. Paul’s Senior
4 Homes and Services, St. Paul’s Senior Services, St. Paul’s Manor, St Paul’s Villa, St. Paul’s Plaza,
5 St. Paul’s McColl Health Center, St. Paul’s Community Care Center, St. Paul’s Senior Day
6 Services, St. Paul’s Child Care Services, St. Paul’s Villa, Inc., and/or St. Paul’s Retirement Homes
7 Foundation) and Community Eldercare of San Diego, Inc. (dba St. Paul’s PACE) (all collectively
8 referred to as “Defendants”) and for an award of attorneys’ fees and costs, service payments, and
9 the fees of the Administrator duly came on for hearing on _____ before the Honorable
10 Blain K. Bowman.

11 **I.**

12 **FINDINGS**

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

- 15 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 16 2. This Court has jurisdiction over the subject matter of this litigation pending before
17 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
18 including the Class.
- 19 3. Based on a review of the papers submitted by Plaintiffs and a review of the
20 applicable law, the Court finds that the Gross Settlement Amount of One Million Two-Hundred
21 Fifty Thousand Dollars (\$1,250,000) and the terms set forth in the Agreement are fair, reasonable,
22 and adequate.
- 23 4. The Court further finds that the Settlement was the result of arm’s length
24 negotiations conducted after Class Counsel had adequately investigated the claims and became
25 familiar with the strengths and weaknesses of those claims. In particular, the amount of the
26 Settlement, the significant risks relating to certification, liability, and damages issues, and the
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1 assistance of an experienced mediator in the settlement process, among other factors, support the
2 Court's conclusion that the Settlement is fair, reasonable, and adequate.

3 **Preliminary Approval of the Settlement**

4 5. On _____, the Court granted preliminary approval of the Settlement. At
5 this same time, the Court approved conditional certification of the Class for settlement purposes
6 only.

7 **Notice to the Class**

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

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

3 **Fairness of Settlement**

4 8. The Agreement is entitled to a presumption of fairness. *Dunk v. Ford Motor Co.*
5 48 Cal.App.4th 1794, 1801 (1996).

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

10 b. Plaintiffs' investigation and discovery have been sufficient to allow the
11 Court and counsel to act intelligently.

12 c. Counsel for both parties are experienced in similar employment class action
13 litigation. All counsel recommended approval of the Agreement.

14 d. The percentage of objectors and requests for exclusion is small. ____
15 objections were received. _____ requests for exclusion were received.

16 e. The participation rate was high. _____ Participating Class Members will
17 be mailed a settlement payment, representing ____% of the overall Class.

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

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

25 **Attorneys' Fees and Costs**

26 11. An award of \$416,625 for attorneys' fees, representing one-third of the Gross
27 Settlement Amount, and \$_____ for litigation costs and expenses, is reasonable, in
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1 light of the contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the
2 results achieved by Class Counsel. The requested award has been supported by Class Counsel's
3 lodestar and billing statement.

4 **Class Representative Service Payments**

5 12. The Agreement provides for Class Representative Service Payments of not more
6 than \$15,000 each to the Plaintiffs, subject to the Court's approval. The Court finds that Class
7 Representative Service Payments in the amount of \$_____to each of the Plaintiffs are
8 reasonable in light of the risks and burdens undertaken by the Plaintiffs in the litigation and for
9 their time and effort in bringing and prosecuting this matter on behalf of the Class.

10 **Administration Expenses Payment**

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

18 **PAGA Penalties**

19 14. The Agreement provides for PAGA Penalties out of the Gross Settlement Amount
20 of \$300,000, which shall be allocated with 75% (\$225,000) allocated to the LWDA PAGA
21 Payment and 25% (\$75,000) allocated to the Individual PAGA Payments to be distributed to the
22 Aggrieved Employees. The Administrator will calculate each Individual PAGA Payment by (a)
23 dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA
24 Penalties (\$75,000) by the total number of PAGA Pay Periods worked by all Aggrieved
25 Employees and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods.
26 "Aggrieved Employees" are any and all non-exempt employees who worked for Defendants
27 during the PAGA Period (i.e. November 30, 2020 to September 21, 2024), irrespective of whether
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1 they signed an arbitration agreement containing a class action waiver. The Court finds the PAGA
2 Penalties to be reasonable. All Aggrieved Employees will be sent their share of the PAGA
3 Penalties and will be subject to the release of the Released PAGA Claims as set forth below,
4 whether or not they opt out of the Settlement.

5 **II.**

6 **ORDERS**

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

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

10 All any and all non-exempt employees who worked for Defendants during the
11 Class Period (i.e. November 30, 2017 to September 21, 2024), and did not sign an
12 arbitration agreement containing a class action waiver or who signed arbitration
13 agreements that contained the same language as in the arbitration agreements
14 signed by Plaintiffs Herrera and Ayala.

15 16. All persons who meet the foregoing definition are members of the Class, except for
16 those individuals who filed a valid request for exclusion (“opt out”) from the Class. [INSERT
17 REFERENCE TO IDENTIFY ANY OPT OUTS].

18 17. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
19 best interest of the Class. Defendants shall fund the Gross Settlement Amount and the amount
20 necessary to pay Defendants’ share of payroll taxes thereon within thirty (30) days of the Effective
21 Date.

22 18. Class Counsel are awarded attorneys' fees in the amount of \$416,625 and costs in
23 the amount of \$_____. In accordance with the Agreement, the attorneys’ fees award shall be
24 allocated 40% to Blumenthal Nordrehaug Bhowmik De Blouw LLP, 40% to Aegis Law Firm, PC,
25 and 20% to Parker & Minne, LLP. Class Counsel shall not seek or obtain any other compensation
26 or reimbursement from Defendants, Plaintiffs or members of the Class.

27 19. The payment of the Class Representative Service Payment in the amount of
28 \$_____ to each of the Plaintiffs is approved.

1 20. The payment of \$_____ to the Administrator for their fees and expenses
2 is approved.

3 21. The PAGA Penalties in the amount of \$300,000 are approved and shall be allocated
4 in accordance with the Agreement.

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

19 23. Notice of entry of this Final Approval Order and Judgment shall be given to all
20 Parties by Class Counsel on behalf of Plaintiffs and all Class Members. The Final Approval Order
21 and Judgment shall be posted on Class Counsel's website as set forth in the Class Notice to the
22 Class. It shall not be necessary to send notice of entry of this Final Approval Order and Judgment
23 to individual Class Members. Pursuant to Labor Code section 2699, subdivision (l)(2), Class
24 Counsel shall submit a copy of this Final Approval Order and Judgment to the LWDA within 10
25 days after its entry.

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

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

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

9 26. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
10 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
11 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
12 arising from or in connection with the distribution of settlement benefits.

13 27. The Parties are authorized to agree to and to adopt such amendments, modifications
14 and expansions of the Agreement and all exhibits attached thereto which are consistent with this
15 Final Approval Order and Judgment and as approved by the Court.

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

18 29. Effective on the date when Defendants fully fund the entire Gross Settlement
19 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
20 Payments, all Participating Class Members, on behalf of themselves and their respective former
21 and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, shall
22 release Released Parties from (i) all claims, rights, demands, liabilities and causes of action that
23 were alleged, or reasonably could have been alleged, based on the facts stated in the Action,
24 during the Class Period, based upon the following categories of allegations: failure to pay
25 minimum, overtime or doubletime wages (including for rounding, time-shaving, reporting time,
26 on-call time, off-the-clock work, time spent undergoing mandatory testing or training of any kind,
27 time spent undergoing COVID-19 temperature checks, health screenings or vaccinations), failure
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1 to include bonuses, commissions, shift differentials, or other incentive pay in the regular rate of
2 pay for overtime or doubletime, failure to properly pay all accrued, unused vacation or paid time
3 off, failure to provide meal periods, failure to provide rest periods, failure to pay meal or period
4 premiums at the regular rate of pay, failure to provide required paid sick leave, failure to pay paid
5 sick leave at the regular rate of pay, failure to provide accurate itemized wage statements, failure
6 to maintain accurate records, failure to reimburse business expenses, failure to provide suitable
7 seating, failure to timely pay wages during employment, and failure to pay all wages due upon
8 termination of employment (“Alleged Violations”); (ii) all claims for violations of the Industrial
9 Welfare Commission Wage Orders, California Labor Code, and California’s unfair business
10 practices laws that arise from the Alleged Violations; and (iii) as any potential penalties, interest or
11 attorneys’ fees associated with these causes of action under California or federal law. Except as set
12 forth in this Paragraph 6.2 of the Agreement, Participating Class Members, including Plaintiff
13 Ayala and Plaintiff Herrera, do not release any other claims, including claims for vested benefits,
14 unemployment insurance, disability, social security, workers’ compensation, or claims based on
15 facts occurring outside the Class Period. Participating Class Members, except for Plaintiff Ayala
16 and Plaintiff Herrera, do not release any claims for wrongful termination or violation of the Fair
17 Employment and Housing Act.

18 30. Effective on the date when Defendants fully fund the entire Gross Settlement
19 Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class
20 Payments, all Aggrieved Employees and the State of California and LWDA are deemed to release,
21 on behalf of themselves and their respective former and present representatives, agents, attorneys,
22 heirs, administrators, successors, and assigns, the Released Parties from all claims for attorneys’
23 fees or PAGA penalties based on Labor Code violations that were specifically alleged in Plaintiff
24 Herrera’s Amended PAGA Notice to the LWDA (to be filed as a condition of this Settlement)
25 including failure to pay minimum, overtime or doubletime wages (including for rounding, time-
26 shaving, reporting time, on-call time, off-the-clock work, time spent undergoing mandatory testing
27 or training of any kind, time spent undergoing COVID-19 temperature checks, health screenings
28

1 or vaccinations), failure to include bonuses, commissions, shift differentials, or other incentive pay
2 in the regular rate of pay for overtime or doubletime, failure to properly pay all accrued, unused
3 vacation or paid time off, failure to provide meal periods, failure to provide rest periods, failure to
4 pay meal or period premiums at the regular rate of pay, failure to provide required paid sick leave,
5 failure to pay paid sick leave at the regular rate of pay, failure to provide accurate itemized wage
6 statements, failure to maintain accurate records, failure to reimburse business expenses, failure to
7 provide suitable seating, failure to timely pay wages during employment, failure to pay all wages
8 due upon termination of employment, and violations of the California Labor Code that were
9 alleged in Plaintiff Herrera's Amended PAGA Notice to the LWDA.

10 31. With this final approval of the Settlement, the Court permanently bars all
11 Participating Class Members and Aggrieved Employees from prosecuting against any of the
12 Released Parties, any individual or class, or representative, including PAGA representative, claims
13 released pursuant to the Parties' Agreement.

14 32. As of the Effective Date and upon full funding of the Gross Settlement Amount by
15 Defendants, Plaintiffs release and discharge the Defendants and the Released Parties from the
16 Plaintiffs' Release as set forth fully in the Agreement.

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

18
19 Dated: _____

20 _____
21 HON. BLAINE K. BOWMAN
22 JUDGE, SUPERIOR COURT OF CALIFORNIA
23
24
25
26
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28

EXHIBIT #2

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

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

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

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

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

Admitted: 1973, Illinois; 1976, California

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

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

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

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

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

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

Admitted: 1999, California

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

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

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

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

Aparajit Bhowmik

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

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

Admitted: 2006, California

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

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

Awards: Rising Star 2015

Nicholas J. De Blouw

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

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

Admitted: 2011, California

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

Piya Mukherjee

Associate Attorney

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

Admitted: 2010, California

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

Victoria Rivapalacio

Associate Attorney

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

Admitted: 2011, California

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

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

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

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

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

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

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

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

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

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

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

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

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

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

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

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

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

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

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

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

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

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

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

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

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

EXHIBIT #3

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

March 16, 2022

CA2583

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

St. Paul's Episcopal Home, Inc.
Certified Mail #70211970000003067320
Randall Sanner
328 Maple Street
San Diego, CA 92103

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 11070(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 St. Paul’s Episcopal Home, Inc. in California and classified as non-exempt employees during the time period of March 16, 2021 until a date as determined by the Court. Our offices represent Plaintiff Victoria Garcia (“Plaintiff”) and other Aggrieved Employees in a lawsuit against St. Paul’s Episcopal Home, Inc. (“Defendant”). Plaintiff has been employed by Defendant in California as a non-exempt employee in the position of Assistant Dietary Specialist since June of 2017 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 break (and pay the meal and rest break premiums at the correct regular rates of pay), 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. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other

Aggrieved Employees with their wages, including the “Retro Pay” payments, which were regular wage payments. Plaintiff further contends that Defendant failed to provide accurate wage statements to Plaintiff, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, Plaintiff and 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 correct 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 other 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) as when the hours were added up they did not equal the actual amount of hours worked each pay period. 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 1 1070(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.