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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

AUXAVIAIR CARTER, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

MEDLAB2020, INC. a California corporation,
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 30-2022-01247444-CU-OE-CXC

CLASS ACTION

*[Assigned for all purposes to Judge Lon F.
Hurwitz, Dept. CX-103]*

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

*[Filed concurrently with: Plaintiff's Notice of
Motion and Motion for Preliminary Approval
of Class Action Settlement, Memorandum of
Points and Authorities; Declaration of
Auxaviar Carter in Support of Motion; and
[Proposed] Order Granting Motion.]*

PRELIMINARY APPROVAL HEARING

Date: May 12, 2023

Time: 1:30 p.m.

Dept: CX-103

Complaint filed: February 28, 2022
FAC Filed: May 10, 2022

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1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, the counsel of record for Plaintiff Auxaviar Carter (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement.

2. This is a wage and hour class and Private Attorneys General Act (“PAGA”) (Cal. Lab. Code §§ 2699, *et seq.*) representative action. Plaintiff and putative class members worked in California as hourly-paid, non-exempt employees for Defendant during the class period. Defendant specializes in clinical laboratory providing “fast and accurate test results to both doctors and patients”, with multiple sites throughout the state of California. Plaintiff worked at Defendant’s location in Orange, California.

4. On February 28, 2022, Plaintiff filed a putative wage-and-hour class action complaint against Defendant for: (1) failure to pay minimum and straight-time wages; (2) failure to pay overtime and double overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure

1 to provide accurate itemized wage statements; (7) failure to indemnify for necessary business
2 expenditures; and (8) violation of California’s Unfair Competition Law, California Business and
3 Professions Code §§ 17200, et seq. On May 10, 2022, Plaintiff filed his First Amended Class and
4 Representative Action Complaint, which added a cause of action for civil penalties under PAGA
5 (“Operative Complaint”).

6 DISCOVERY AND INVESTIGATION

7 5. Following the filing of the Complaint, the Parties exchanged documents and
8 information before mediating this action. Defendant produced a 20% sampling of timekeeping and
9 pay records for the class members. Defendant also provided documents of their wage and hour
10 policies and practices during the class period and information regarding the total number of current
11 and former employees in its informal discovery responses.

12 6. After reviewing documents regarding Defendant’s wage and hour policies and
13 practices, and analyzing Defendant’s timekeeping and payroll records, Class Counsel was able to
14 evaluate the probability of class certification, success on the merits, and Defendant’s maximum
15 monetary exposure for all claims. Class Counsel also investigated the applicable law regarding
16 the claims and defenses asserted in the Litigation. Class Counsel reviewed these records and
17 utilized an expert to prepare a damages analysis prior to mediation

18 SETTLEMENT NEGOTIATIONS

19 7. On November 4, 2022, the Parties participated in private mediation with
20 experienced class action mediator, Jeffrey Krivis, Esq. The mediation was conducted via Zoom.
21 The settlement negotiations were at arm’s length and, although conducted in a professional manner,
22 were adversarial. The Parties went into the mediation willing to explore the potential for a
23 settlement of the dispute, but each side was also prepared to litigate their position through trial and
24 appeal if a settlement had not been reached.

25 8. After extensive negotiations and discussions regarding the strengths and
26 weaknesses of Plaintiff’s claims and Defendant’s defenses, the Parties were able to reach a
27 resolution, the material terms of which are encompassed within the Settlement Agreement.
28 Attached as **Exhibit 1** is a true and correct copy of the Joint Stipulation of Class Action Settlement

1 (“Settlement” or “Settlement Agreement”), with the Class Notice attached as Exhibit A.

2 9. The Settlement includes \$20,000.00 allocated to Plaintiff’s claims under PAGA,
3 with 75% (\$15,000.00) of which is being paid to the LWDA and 25% (\$5,000.00) being paid to
4 the Participating PAGA Members. (Settlement, §27(j).) Class Counsel submitted the proposed
5 settlement to the LWDA before filing this Motion for Preliminary Approval.

6 10. The Settlement provides that Defendant will not oppose a fee application of up to
7 33 1/3% (\$96,666.67) of the Gross Settlement Amount, plus out-of-pocket costs not to exceed
8 \$20,000.00. (Settlement, §27(g).)

9 11. I requested several bids from experienced class action settlement administrators to
10 handle the responsibilities of the Settlement Administrator under this Settlement. The Parties
11 accepted the bid of ILYM Group, Inc. ILYM Group, Inc. has multiple years of experience in the
12 field of Class Action Administration, particularly in the wage-and-hour arena. In its bid, ILYM
13 Group, Inc. estimated its administration costs for this matter to be \$12,150.00 if there are 400 class
14 members. A true and correct copy of the bid is attached hereto as Exhibit 2.

15 12. Plaintiff does not have any interest, financial or otherwise, in the third-party
16 administrator, ILYM Group, Inc., or the *cy pres* recipient, Legal Aid at Work.

17 13. No one at Wilshire Law Firm, PLC (meaning the law firm itself and anyone
18 employed at the law firm) has any interest, financial or otherwise, in the third-party administrator,
19 ILYM Group, Inc., or the *cy pres* recipient, Legal Aid at Work.

20 14. Wilshire Law Firm, PLC has no fee-splitting agreement with any other counsel in
21 this case.

22 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

23 15. Class Counsel has conducted a thorough investigation into the facts of this case.
24 Based on the foregoing discovery and their own independent investigation and evaluation, Class
25 Counsel is of the opinion that the Settlement is fair, reasonable, and adequate and is in the best
26 interests of the Settlement Class Members in light of all known facts and circumstances, the risk
27 of significant delay, the defenses that could be asserted by Defendant both to certification and on
28 the merits, trial risk, and appellate risk.

1 16. Based on an analysis of the facts and legal contentions in this case, documents and
2 information from Defendant, I evaluated Defendant's maximum exposure. I took into account the
3 risk of not having the claims certified and the risk of not prevailing at trial, even if the claims are
4 certified. After using the data Defendant provided, including class member timekeeping and
5 payroll records, as well as class member demographics (i.e., the number of class members,
6 workweeks, and average total compensation of the class), with the assistance of a statistics expert,
7 I created a damages model to evaluate the realistic range of potential recovery for the class. The
8 damages model is based on the following benchmarks:

9 Total Class Members: 340
10 Terminated Class Members during 3-year statute: 222
11 Total Workweeks: 8,380
12 Total PAGA Group Members: 340
13 PAGA Pay Periods: 4,459
14 Avg. Hourly Rate: \$26.32

15 17. Based on Plaintiff's discovery and investigation, Class Counsel reached the
16 conclusion that Defendant failed to pay class members for all hours worked, including overtime
17 wages and sick pay at the appropriate regular rate of pay, that it failed to pay for all meal and rest
18 break premiums for a non-compliant meal and rest breaks, and that it failed to reimburse employees
19 for necessary business expenses. Defendant denied these claims.

20 18. Plaintiff alleges that Defendant failed to pay all overtime at the appropriate regular
21 rate of pay. My expert analyzed Defendant's timekeeping and payroll records and found many
22 instances where he concluded that Defendant failed to pay employees their overtime at the
23 appropriate regular rate of pay in the amount of **\$1,123.00**. This is a reasonable damage estimate
24 considering that this issue can be easily certified based on the records.

25 19. Plaintiff alleges that Defendant failed to pay all sick pay at the appropriate regular
26 rate of pay. My expert analyzed Defendant's timekeeping and payroll records and found many
27 instances where he concluded that Defendant failed to pay employees their sick pay at the
28 appropriate regular rate of pay in the amount of **\$486.00**. This is a reasonable damage estimate

1 considering that this issue can be easily certified based on the records.

2 20. With respect to the meal period claim, Plaintiff alleges that Defendant required him
3 and similarly situated class members to either work in lieu of taking meal periods, or their meal
4 periods were untimely or interrupted. My expert analyzed Defendant's timekeeping records and
5 opined that approximately 21.9% of all meal breaks had violations of short, missed, or no meal
6 periods by which no meal premiums were paid for. Potential liability for the meal period claim,
7 which includes shifts 5-6 hours long, shifts over six hours long, shifts over ten hours long, and
8 shifts over 12 hours long, is \$201,357.00, including interest; however, I discounted this figure by
9 80% to account for the difficulty of certifying and proving meal period claims, as well as
10 Defendant's contention that the claim lacks merit (they claim existing meal period waivers
11 impacting a portion of the class), yielding a realistic damage estimate of **\$40,271.40¹**

12 21. With respect to the rest period claim, Plaintiff alleges that Defendant required him
13 and similarly situated class members to work in lieu of taking rest periods, or their rest periods
14 were untimely or interrupted. Assuming a 50% violation rate for the class period based on
15 Plaintiff's and other class members' experience working for Defendant, Defendant's potential
16 liability for the rest period claim is \$449,780.00; however, I discounted this figure by 90% to
17 account for the difficulty of certifying and proving rest period claims, particularly because rest
18 periods do not have to be recorded and to account for the possibility of class members voluntarily
19 choosing to forego a rest period, yielding a realistic damage estimate of **\$44,978.00.**

20 22. With respect to the unreimbursed business expense claim, Plaintiff alleges that
21 Defendant failed to pay for cell phone expenses, at a cost of \$40.00 per month for each class
22 member. Assuming a 50% violation rate for the class period based on Plaintiff's and other class
23 members' experience working for Defendant, Defendant's potential liability for the rest period
24 claim is \$93,344.00; however, I discounted this figure by 90% to account for the difficulty of
25 _____

26 ¹ This discount for risk at certification and trial is reasonable because the Judicial Council
27 of California found that only 21.4% of all class actions were certified either as part of a
28 settlement *or* as part of a contested certification motion. See Findings of the Study of California
Class Action Litigation, 2000-2006, available at [http:// www.courts.ca.gov/documents/class-
action-lit-study.pdf](http://www.courts.ca.gov/documents/class-action-lit-study.pdf).

certifying and proving the reimbursement claim, yielding a realistic damage estimate of **\$9,334.40**.

23. In sum, I estimated that Plaintiff's maximum recovery for the regular rate claims (overtime and sick pay), the meal and rest period violations claims, and the expense reimbursement claim, is \$746,090.00, but, **after factoring in the risk and uncertainty of prevailing at certification and trial, I estimate that Plaintiff's realistic estimated recovery for the non-penalty claims is \$96,192.80.**

24. With respect to Plaintiff's derivative claims for statutory and civil penalties, Plaintiff estimated that Defendant's realistic potential liability is **\$212,643.40**. While Defendant's maximum potential liability for waiting time penalties is \$1,247,634 based on approximately 222 terminated class members during the 3-year statute, \$430,300.00 for inaccurate wage statements based on approximately 34- class members who worked 4,485 pay periods within the 1-year statute, and \$448,500.00 for PAGA violations based on the Court assessing a \$100 penalty for initial violations for all 4,485 pay periods within the 1-year statute, I believe that it would be unrealistic to expect the Court to award the full \$2,126,434.00 in penalties given Defendant's defenses, the contested nature of Plaintiff's claims, and the discretionary nature of penalties. Considering that the underlying claims are realistically estimated to be \$96,192.80, such a disproportionate award would also raise due process concerns. Weighing these factors and applying a discount of 90% to account for the risk and uncertainty of prevailing at trial, I arrived at \$212,643.40 for statutory and civil penalties.

25. **Using these estimated figures, Plaintiff predicted that the realistic maximum recovery for all claims, including penalties, would be \$308,836.20. This means that the \$290,000.00 settlement figure represents 94% of the realistic maximum recovery (\$290,000.00/ \$308,836.20 = 94%).** Considering the risk and uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class.² Indeed, because of the proposed

² See, e.g., *Wise v. Ulta Salon, Cosmetics & Fragrance, Inc.* 2019 WL 3943859 at *8 (E.D. Cal. Aug. 21, 2019) (granting preliminary approval where the proposed allocation to settle class claims was between 9.53 percent of Plaintiff's maximum recovery); *Bravo v. Gale Triangle, Inc.*, 2017 WL 708766 at * 10 (C.D. Cal. Feb 16, 2017) (finding that "a settlement for fourteen percent recovery of Plaintiff's maximum recovery is reasonable"); *In re Omnivision*

1 Settlement, class members will receive timely, guaranteed relief and will avoid the risk of an
2 unfavorable judgment.

3 26. While Plaintiff is confident in the merits of his claims, a legitimate controversy
4 exists as to each cause of action. Plaintiff also recognizes that proving the amount of wages due
5 to each Class Member would be an expensive, time-consuming, and uncertain proposition.

6 27. This Settlement avoids the risks and the accompanying expense of further litigation.
7 Although the Parties had engaged in a significant amount of investigation, informal discovery and
8 class-wide data analysis, the Parties had not yet completed formal written discovery. Plaintiff
9 intended to depose corporate officers and managers of Defendant. Moreover, preparation for class
10 certification and a trial remained for the Parties as well as the prospect of appeals in the wake of a
11 disputed class certification ruling for Plaintiff and/or adverse summary judgment ruling. Had the
12 Court certified any claims, Defendant could move to decertify the claims. As a result, the Parties
13 would incur considerably more attorneys' fees and costs through trial.

14 28. The Net Settlement Amount available for Class Member settlement payments is
15 estimated to be \$129,574.33, for a class of 340 persons.³ **As a result, each Settlement Class**
16 **Member is eligible to receive an average net benefit of approximately \$381.10**

17 29. The proposed Settlement of \$290,000.00, therefore, represents a substantial
18 recovery when compared to Plaintiff's reasonably forecasted recovery. When considering the risks
19 of litigation, the uncertainties involved in achieving class certification, the burdens of proof
20 necessary to establish liability, and the probability of appeal of a favorable judgment, it is clear
21 that the settlement amount of \$290,000.00 is within the "ballpark" of reasonableness, and
22 preliminary settlement approval is appropriate.

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Techs., Inc., 559 F.Supp.2d 1036, 1042 (N.D. Cal. 2008) (approving settlement amount that "is
just over 9% of the maximum potential recovery asserted by either party.").

26 ³ The Net Settlement Amount is: \$129,574.33 (\$290,000.00 minus \$98,275.67 for Class
27 Counsel's attorneys' fees, minus \$20,000.00 for Class Counsel's litigation expenses, minus
28 \$12,150.00 in administration costs, minus \$15,000.00 for the PAGA portion sent to the LWDA,
minus \$5,000.00 for payments to the Participating PAGA Members, and minus \$10,000.00 for
the class representative service award).

1 ENHANCEMENT AWARD FOR PLAINTIFF IS REASONABLE

2 30. Class Counsel represents that Plaintiff devoted a great deal of time and work
3 assisting counsel in the case, communicated with counsel very frequently for litigation and to
4 prepare for mediation, and was frequently in contact with Class Counsel during the mediation.
5 Plaintiff's requested enhancement award is reasonable, particularly in light of the substantial
6 benefits Plaintiff generated for all class members.

7 31. Throughout this Litigation, Plaintiff, who is a former employee of Defendant, has
8 cooperated immensely with my office and has taken many actions to protect the interests of the
9 class. Plaintiff provided valuable information regarding unpaid overtime, meal period, and rest
10 period claims. Plaintiff also informed my office of developments and information relevant to this
11 action, participated in decisions concerning this action, made himself available to answer questions
12 during the mediation, and provided my office with the names and contact information of potential
13 witnesses in this action. Before we filed this case, Plaintiff provided my office with documents
14 regarding the claims alleged in this action. The information and documentation provided by
15 Plaintiff were instrumental in establishing the alleged wage and hour violations alleged in this
16 action, and the recovery provided for in the Settlement Agreement would have been impossible to
17 obtain without Plaintiff's participation.

18 32. At the same time, Plaintiff faced many risks in adding himself as the class
19 representative in this matter. Plaintiff faced actual risks with his future employment, as putting
20 themselves on public record in an employment lawsuit could also very well affect his likelihood
21 for future employment. Furthermore, as part of this Settlement, Plaintiff is executing a general
22 release of all claims against Defendant.

23 33. In turn, class members will now have the opportunity to participate in a settlement,
24 reimbursing them for alleged wage violations they may have never known about on their own or
25 been willing to pursue on their own. If these class members would have each tried to pursue their
26 legal remedies on their own, that would have resulted in each having to expend a significant amount
27 of their own monetary resources and time, which were obviated by Plaintiff putting themselves on
28 the line on behalf of these other class members.

1 34. In the final analysis, this class action would not have been possible without the aid
2 of Plaintiff, who put their own time and effort into this Litigation, sacrificed the value of his own
3 individual claims, and placed themselves at risk for the sake of the class members. The requested
4 enhancement award for Plaintiff for his service as the class representative and for his general
5 release of all individual claims is a relatively small amount of money when the time and effort put
6 into the litigation are considered and in comparison, to enhancements granted in other class actions.
7 The requested incentive award is therefore reasonable to compensate Plaintiff for his active
8 participation in this lawsuit. Indeed, in *Karl Adams, III, et al. v. MarketStar Corporation, et al.*,
9 No. 2:14-cv-02509-TLN-DB, a wage and hour class action alleging that class members were
10 misclassified as exempt outside salespersons, I was co-lead Class Counsel and helped negotiate a
11 \$2.5 million class action settlement for 339 class members, and the court approved a \$25,000.00
12 class representative incentive award for each named Plaintiff.

13 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

14 35. The Settlement provides for attorney's fees payable to Class Counsel in an amount
15 up to one-third (33 1/3%) of the Settlement Amount, for a maximum fees award of \$96,666.67,
16 plus actual costs and expenses not to exceed \$20,000.00. The proposed award of attorneys' fees
17 to Class Counsel, in this case, can be justified under either method – lodestar or percentage
18 recovery. Class Counsel, however, intends to base the proposed award of fees, costs, and expenses
19 on the percentage method as many of the entries in the time records will have to be redacted to
20 preserve attorney-client and attorney work product privileges.

21 36. I am informed and believe that the fee and costs provision is reasonable. The fee
22 percentage requested is less than that charged by my office for most employment cases. My office
23 invested significant time and resources into the case, with payment deferred to the end of the case,
24 and then, of course, contingent on the outcome.

25 37. It is further estimated that my office will need to expend at least another 50 to 100
26 hours to monitor the process leading up to the final approval and payments made to the class. My
27 office also bears the risk of taking whatever actions are necessary if Defendant fails to pay.

28 38. The risk to my office has been very significant, particularly if we would not be

1 successful in pursuing this class action. In that case, we would have been left with no compensation
2 for all the time taken in litigating this case. Indeed, I have taken on a number of class action cases
3 that have resulted in thousands of attorney hours being expended and ultimately having
4 certification denied or the defendant company going bankrupt. The contingent risk in these types
5 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
6 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

7 39. Because most individuals cannot afford to pay for representation in litigation on an
8 hourly basis, Wilshire Law Firm, PLC represents virtually all of its employment law clients on a
9 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
10 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
11 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
12 his case, we cannot afford to represent an individual employee on a contingency basis if, at the end
13 of our representation, all we are to receive is our regular hourly rate for services. It is essential
14 that we recover more than our regular hourly rate when we win if we are to remain in practice so
15 as to be able to continue representing other individuals in civil rights employment disputes.

16 40. As of the drafting of Plaintiff's Motion for Preliminary Approval of Class Action
17 Settlement, my office has incurred around \$17,492.37 in expenses litigating this action, and we
18 anticipate accruing additional costs up to the Final Approval of the Settlement. These expenses
19 were reasonably necessary to the Litigation and were actually incurred by my office. They should
20 be reimbursed in full, up to the maximum amount allowed in the Settlement Agreement.

21 MY EXPERIENCE AND QUALIFICATIONS

22 41. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
23 Report as one of the nation's Best Law Firms in 2022 and is comprised of over 55 attorneys and
24 over 300 employees. Wilshire Law Firm, PLC is actively and continuously practicing in
25 employment litigation, representing employees in both individual and class actions in both state
26 and federal courts throughout California.

27 42. Wilshire Law Firm, PLC is qualified to handle this Litigation because its attorneys
28 are experienced in litigating Labor Code violations in both individual, class action, and

1 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
2 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
3 and data privacy litigation.

4 43. I graduated from the University of California, Los Angeles's College Honors
5 Program in 2004 with Bachelor of Arts degrees in History and Japanese, *magna cum laude* and *Phi*
6 *Beta Kappa*. As an undergraduate, I also received a scholarship to study abroad for one year at
7 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
8 2008.

9 44. My practice is focused on advocating for the rights of consumers and employees in
10 class action litigation and appellate litigation. I am currently the primary attorney in charge of
11 litigating several class action cases in state and federal courts across the United States.

12 45. I have received numerous awards for my legal work. From 2017 to 2020, Super
13 Lawyers selected me as a "Southern California Rising Star," and in 2022 and 2023, I was selected
14 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
15 in 2023. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under 40"
16 attorney. I am also rated 10.0 ("Superb") by Avvo.com.

17 46. I am on the California Employment Lawyers Association ("CELA")'s Wage and
18 Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced
19 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
20 mentored young attorneys through CELA's mentorship program.

21 47. I am also a past member of the Consumer Attorneys of California ("CAOC"). In
22 2020, I was selected for a position on CAOC's Board of Directors. I am also a past member of
23 CAOC's Diversity Committee, and I helped assist the CAOC in defeating bills that harm
24 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
25 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
26 Labor Code § 226.

27 48. As the attorney responsible for day-to-day management of this matter at the
28 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour

1 class actions. Over the last thirteen years, I have managed and assisted with the litigation and
2 settlement of several wage and hour class actions. In those class actions, I performed similar tasks
3 as those performed in the course of prosecuting this action. My litigation experience includes:

- 4 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
5 million in gross recovery to class members for each year since 2020, including over
6 \$37.5 million in 2022.
- 7 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
8 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
9 data breach class action holding that consumer plaintiffs adequately alleged injury
10 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 11 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case
12 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6
13 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional
14 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 15 d. To my knowledge, I am the only attorney to appear on each of the following *Top*
16 *Verdict* lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
17 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- 18 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
19 winning class certification on behalf of hundreds of thousands of consumers for
20 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
21 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 22 f. As lead counsel, I prevailed against Bank of America by: winning class certification
23 on behalf of thousands of employees for California Labor Code violations; defeating
24 appellate review of the court's order certifying the class; defeating summary
25 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
26 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
27 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
28 2018).). The decision certifying the class in *Frausto* is also discussed in *Class*

1 *Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call*
2 *Center Employees for Violation of State Law Wage and Hour Rules*, 35 A.L.R. Fed.
3 3d Art. 8.

- 4 g. I was the primary author of the class certification and expert briefs in *ABM*
5 *Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action
6 for over 40,000 class members for off-the-clock, meal period, split shift, and
7 reimbursement claims. *ABM Industries Overtime Cases* is the first published
8 California appellate authority to hold that an employer’s “auto-deduct policy for
9 meal breaks in light of the recordkeeping requirements for California employers is
10 also an issue amenable to classwide resolution.” (*Id.* at p. 310.)⁴ Notably, the Court
11 of Appeal also held that expert analysis of timekeeping records can also support the
12 predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the
13 case settled for \$140 million, making it one of the largest ever wage and hour class
14 action settlements for hourly-paid employees in California.
- 15 h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d
16 1057. The Ninth Circuit ruled in my client’s favor and held that non-class claims
17 under California’s Private Attorney Generals Act (“PAGA”) cannot be used to
18 calculate the amount in controversy under the Class Action Fairness Act (“CAFA”).
19 This case is cited in several leading treatises such as *Wright & Miller’s Federal*
20 *Practice & Procedure*, and *Newberg on Class Actions*. In October 2016, the U.S.
21 Supreme Court denied review of a case that primarily concerned *Yocupicio*. That
22 effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus
23 support from a brief authored by Andrew J. Pincus.⁵ Considering that leading
24 Supreme Court practitioners from the class action defense bar were very motivated
25 in undermining *Yocupicio* case, but failed, this demonstrates the national importance

26 ⁴ As a California district court observed before the *ABM Industries Overtime* decision,
27 “[t]he case law regarding certification of auto-deduct classes is mixed.” (*Wilson v. TE*
28 *Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL
 1758048, *7.)

⁵ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

of the *Yocupicio* decision.

- i. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (*Id.* at p. *10.)
- j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a reported decision permitting class-wide discovery even though the employer has a lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered defendant to pay for the cost of *Belaire-West* notice.
- k. In 2013, I represented a whistleblower that reported that his former employer was defrauding the State of California with the help of bribes to public employees. The case, a false claims (*qui tam*) action, resulted in the arrest and criminal prosecution of State of California employees by the California Attorney General’s Office.
- l. In 2013, I was part of a team of attorneys that obtained conditional certification for over 2,000,000 class members in a federal labor law case for misclassification of independent contractors that did crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-Plaintiff reported decisions:
 - 1) 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an unaccepted Rule 68 offer doesn’t moot Plaintiff’s claims, and granting Plaintiff’s motion to strike defendant’s affirmative defenses based on *Twombly/Iqbal*).
 - 2) 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
 - 3) 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the

magistrate judge’s discovery ruling which held that “evidence of other sources of income is irrelevant to the question of whether a Plaintiff is an employee within the meaning of the FLSA”).

4) 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because “an FLSA Plaintiff is entitled to discovery from locations where he never worked if he can provide some evidence to indicate company-wide violations”).

j. From 2012 to 2013, I was part of a team of attorneys that obtained class certification for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

49. Christina M. Le is a Senior Attorney at Wilshire Law Firm. She is admitted to practice in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. She graduated from Loyola Law School, Los Angeles, and attended the University of California, Berkeley for his undergraduate studies, where she obtained a Bachelor of Arts in History. She has over 15 years of litigation experience, which includes the successful handling of numerous employment, wage and hour, and class and representative action matters during the latter half of her career in state and federal court through inception through case resolution. Prior to joining Wilshire Law Firm in November 2021, Ms. Le gained invaluable litigation experience working at various Plaintiff and defense firms, including Kristensen Weisberg PLC, Jones Bell LLP, Archer Norris PLC, and Lewis Brisbois Bisgaard & Smith LLP, which is a large firm with a national practice. Ms. Le is a member of NELA, CELA, CAALA, LACBA, and the Vietnamese Bar Association of Southern California. Her current contingent billing rate for this case is \$750.00 per hour, which is commensurate with Ms. Le’s years of experience and work in this practice area.

50. Zachary D. Greenberg is a third-year associate at Wilshire Law Firm, PLC. Zachary was admitted to the State Bar of California in 2020 and has since been admitted to the United States

1 District Court for the Central District of California and the United States Court of Appeals for the
2 Ninth Circuit. Zachary received a Bachelor of Arts in International Business and a Minor in
3 Economics from Western Washington University. He received his Juris Doctor from Loyola Law
4 School. Zachary's practice has been primarily focused on complex class and representative action
5 litigation. His current contingent billing rate for this case is \$450 per hour.

6 51. My current contingent billing rate of \$850.00 per hour is consistent with my practice
7 area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received,
8 legal market and accepted hourly rates:

9 a. In the December 8, 2008 article "Billable Hours Aren't the Only Game in Town
10 Anymore," *NATIONAL LAW JOURNAL*, the following hourly billing rates were
11 reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of
12 wage-and-hour class actions that I opposed when litigating wage-and-hour class
13 actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd
14 Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435,
15 8th Year - \$455. I am a 14th year attorney and Senior Partner, with most of my
16 experience in class action litigation as a primary practice area. Having successfully
17 briefed and argued a published appeal in the Ninth Circuit Court of Appeals
18 involving CAFA and PAGA, having experience certifying large class actions
19 (including *ABM Industries Overtime Cases*, which was decided on appeal), and
20 having received numerous awards for my legal work, my hourly rate should be
21 adjusted upward.

22 b. On May 6, 2022 the Hon. Jay A. Garcia-Gregory of the United States District Court
23 in Puerto Rico approved my \$850 hourly rate when he granted final approval of the
24 class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt.
25 57 (U.S. Dist. Ct. P.R. May 6, 2022).

26 c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court
27 approved my \$800 hourly rate when he granted final approval of the class action
28 settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, No. 30-2019-

01066522-CU-OE-CXC.

- d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District Court granted final approval of the \$1,600,000 class action settlement in *Carlos Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the Court approved my then \$750 hourly rate after finding it was “reasonable, given the qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)
- e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior Court approved my \$750 hourly rate when he granted final approval of the class action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No. 19STCV32396.

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

Executed on April 20, 2023, at Los Angeles, California.

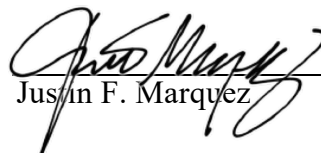

Justin F. Marquez

Exhibit 1

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Attorneys for Defendant
Medlab2020, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

AUXAVIAIR CARTER, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

MEDLAB2020, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 30-2022-01247444-CU-OE-CXC

CLASS ACTION

[Hon. Glenda Sanders, Dept. S26]

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT**

JOINT STIPULATION OF CLASS ACTION SETTLEMENT

This Joint Stipulation of Class Action Settlement (“Joint Stipulation of Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff AUXAVIAIR CARTER, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendant MEDLAB2020, INC. (“Defendant”). Plaintiff and Defendant are sometimes referred to individually as a “Party” or collectively referred to herein as “the Parties.” THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. For purposes of this Settlement, “Complaint” refers to the first amended complaint filed on May 10, 2022.

2. For purposes of this Settlement, this matter, entitled *Carter v. Medlab2020, Inc.*, Case No. 30-2022-01247444, is referred to herein as the “Action.”

3. For purposes of this Settlement, the “Class Period” is September 3, 2017 through the date the Court grants preliminary approval.

4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current and former non-exempt employees of Defendant who worked in California during the Class Period. “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. The Parties’ estimate that the Class included approximately 373 individuals as of November 4, 2022.

5. For purposes of this Settlement, “Class Counsel” means Wilshire Law Firm.

6. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a Class Member worked at Defendant’s locations in California during the Class Period.

7. For purposes of this Settlement, “Response Deadline” means the date sixty (60) days after the Settlement Administrator initially mails the Notice to Settlement Class Members (“Notice”) and the last date on which Settlement Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice, the Response Deadline will be the later of 60 calendar days after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

8. For purposes of the Settlement, “Defendant’s Counsel” means KUNZLER BEAN & ADAMSON, PC.

9. For purposes of this Settlement, “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

10. For purposes of this Settlement, “FLSA”, means the Fair Labor Standards Act.

11. For purposes of this Settlement, “PAGA Allocation” means the portion of the Gross Settlement Amount that the Parties have agreed to allocate to resolution of the Released PAGA Claims. The Parties have agreed that the PAGA Allocation will be \$20,000 from the Gross Settlement Amount. Pursuant to PAGA, Seventy Five Percent (75%), or \$15,000, of the PAGA Allocation will be paid to the Labor and Workforce Development Agency (“LWDA”) (“PAGA Penalty Payment”), and Twenty Five Percent (25%), or \$5,000, of the PAGA Allocation will be included in the Net Settlement Amount for PAGA Employees (“PAGA Settlement Payment”).

12. For purposes of this Settlement, “PAGA Period” means the period between September 3, 2020 through the date preliminary approval is granted.

13. For purposes of this Settlement, “PAGA Employee” means all Class Members that worked during the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement, all PAGA Employees are “aggrieved employees” as defined pursuant to PAGA.

14. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods each PAGA Employee worked during the PAGA Period.

15. For purposes of this Settlement, “PAGA Representative” means Plaintiff.

16. For purposes of this Settlement, “Released PAGA Claims” means all claims for penalties and any other available relief pursuant to PAGA, to the extent asserted in Plaintiff’s administrative exhaustion letter submitted to the LWDA in this Action, arising during the PAGA Period.

17. For purposes of this Settlement, “Settlement Payments” means all of the payments to Settlement Class Members (the “Settlement Class Payments”) and all of the payments to PAGA Employees (the “PAGA Settlement Payment”).

STIPULATED BACKGROUND

18. On February 28, 2022, Plaintiff filed a putative Class Action alleging the following

labelled causes of action: (1) Failure to Pay Minimum and Straight Time Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime and Double Time Wages [Cal. Lab. Code §§510, §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Periods [Cal. Lab. Code §§ 226.7]; (5) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (6) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (7) Failure to Indemnify Employees for Expenditures [Cal. Lab. Code § 2802]; and (8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. On May 10, 2022, Plaintiff filed a First amended Class and Representative Action Complaint adding a claim for Civil Penalties Under PAGA claim [Cal. Lab. Code §§2699, *et seq.*] (collectively the “Action.”) In the Complaint, Plaintiff sought to represent all persons that worked for Defendant in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint and ending when Notice to the Class is sent.

19. Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*] (“PAGA”).

20. Solely for purposes of settling this case, the Parties and their respective counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members have been met and are met. More specifically for settlement purposes only, the Parties stipulate and agree that:

- (a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.
- (b) There are common questions of law and fact including, but not limited to, the following:
 - 1) Whether or not Defendant paid proper wages to the Class;
 - 2) Whether or not Defendant provided meal periods to the Class;
 - 3) Whether or not Defendant provided rest periods to the Class;
 - 4) Whether or not Defendant paid compensation timely upon separation of employment to former Class Members;
 - 5) Whether or not Defendant paid compensation timely throughout Class

Members' employment;

- 6) Whether or not Defendant provided accurate itemized statements to the Class;
- 7) Whether or not waiting-time penalties are available to the Class for violation of California Labor Code § 203;
- 8) Whether or not Defendant maintained requisite records;
- 9) Whether or not Defendant reimbursed all necessary business expenses;
- 10) Whether or not Defendant paid proper meal period pay or rest period pay to the Class; and,
- 11) Whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208.

- (c) Plaintiff's claims are typical of the claims of the Class Members.
- (d) Plaintiff and Class Counsel will fairly and adequately protect the interests of the Class.
- (e) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.
- (f) With respect to the Class, questions of law and fact common to the members of the Class predominate over any questions affecting any individual member in such Class, and that a class action is superior to other available means for the fair and efficient adjudication of the controversy.

21. Should, for whatever reason, the Settlement not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendant expressly reserves its right to oppose claim or class certification in this or any other action should this Settlement not become effective.

22. Defendant denies any liability or wrongdoing of any kind whatsoever associated with the claims alleged in the Complaint, and Defendant further denies that, for any purpose other than settling this lawsuit, the action is appropriate for class or representative treatment. With respect to Plaintiff's claims, Defendant contends, among other things, that Plaintiff and the Class Members have been paid proper wages, have been provided meal periods or they have been made available as required, have been provided rest periods or they have been authorized and permitted as required, did not incur any business expenses that were not reimbursed, have been paid timely wages upon separation of employment, and have been provided with accurate itemized wage statements. Defendant contends, among other things, that it has complied at all times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendant contends that it has complied at all times with the California Business and Professions Code, and the FLSA.

23. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Complaint.

24. Class Counsel has conducted a thorough investigation into the facts of this Action, including an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the Class against Defendant. Based on its own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendant for the consideration and on the terms set forth in this Joint Stipulation of Settlement is fair, reasonable, and adequate and is in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay, the risk the Class will not be certified by the Court, defenses asserted by Defendant, and numerous potential appellate issues. Defendant and Defendant's Counsel also agree that the Settlement is fair and in the best interest of the Class.

25. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.

26. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the Court.

PRIMARY TERMS OF SETTLEMENT

27. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements set forth herein, the Parties agree, subject to the Court's approval, as follows:

- (a) It is agreed by and among the Class and Defendant that this Action and any claims, damages, or causes of action arising out of the disputes which are the subject of this Action, be settled and compromised as between the Class and Defendant, subject to the terms and conditions set forth in this Settlement and the approval of the Court.
- (b) Effective Date: Shall be the date all of the following have occurred: (i) final approval of the settlement is granted by the Court; (ii) the Gross Settlement Amount is fully funded by Defendant; and (iii) Judgment approving the settlement becomes Final. "Final" shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the United States Supreme Court, or, (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no objection is made, or if an objection is withdrawn prior to the date the Court grants final approval, the date the final approval order is signed.
- (c) Gross Settlement Amount: Defendant's maximum total payment under the Settlement, including all attorney's fees and costs, the Service Payment to the named Plaintiff, the costs of settlement administration, the PAGA Allocation, and any other payments provided by this Settlement, is \$290,000.00 ("Gross Settlement Amount"), subject to the Escalator Clause and except that, to the extent that any portions of the Class Members' Settlement Payments constitute wages, Defendant will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions.
- (d) Escalator Clause: In the event of an increase of more than 15% from original

1 estimate of 8,661 workweeks, in the period from September 3, 2017 through date
2 the Court grants preliminary approval (i.e. specifically 9,960 or more workweeks),
3 the settlement amount shall be increased by the percentage that that actual number
4 of workweeks exceeds a 15% increase from the original estimate. The Gross
5 Settlement Amount will not be reduced for any reason.

6 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
7 revert to Defendant.

8 (f) No Claims Required: Class Members will not be required to submit a claim to
9 receive their Settlement payment.

10 (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by
11 deducting from the Gross Settlement Amount (\$290,000.00) the following sums,
12 subject to approval by the Court: (1) attorney's fees (not to exceed 33 1/3% of the
13 Gross Settlement Amount, or \$96,666.67); (2) reasonable litigation costs (not to
14 exceed \$20,000.00); (3) the Service Payment (not to exceed \$10,000.00 to the
15 named Plaintiff); (4) the PAGA Penalty Payment in the amount of \$15,000.00
16 (which is 75% of the PAGA Allocation); and (5) costs of settlement administration
17 (estimated not to exceed \$15,000). Settlement Payments to the Class Members
18 will be calculated by the Settlement Administrator and paid out of the Net
19 Settlement Amount as set forth below.

20 (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the
21 Settlement Class Members' Settlement Payments constitute wages, Defendant will
22 be separately responsible for any **employer** payroll taxes required by law,
23 including the employer FICA, FUTA, and SDI contributions. Except for any
24 employer payroll taxes and as set forth in the Escalator Clause, it is understood and
25 agreed that Defendant's maximum total liability under this Settlement shall not
26 exceed the Gross Settlement Amount. The Settlement Administrator will calculate
27 and submit the Defendant's employer share of payroll taxes after advising
28 Defendant of the total amount owed, in aggregate, as employer-side payroll taxes

and receiving a lump sum payment from Defendant in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

(i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount (less the PAGA Settlement Payments to the LWDA), as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows:
$$\text{[Workweeks worked by a Settlement Class Member]} \div \text{[Sum of all Covered Workweeks worked by all Settlement Class Members]} \times \text{[Net Settlement Amount – all PAGA Settlement Payments to the LWDA]} = \text{individual Settlement Payment for a Settlement Class Member.}$$
 Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. All checks not cashed within 180 days of payment shall be sent to a *cy pres* recipient, Legal Aid at Work, an organization that seeks to protect the rights of workers.

(j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement Administrator minus PAGA Settlement Payments to the LWDA. Class Members will not be permitted to exclude themselves from this portion of the Settlement. The pro-rata share will be determined by comparing the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as follows:
$$\text{[PAGA Pay Periods worked by a PAGA Employee]} \div \text{[Sum of all PAGA Pay Periods worked by all PAGA Employees]} \times \text{[PAGA Settlement Payment]} = \text{individual PAGA Employee's portion of the PAGA Settlement Payment.}$$
 PAGA Settlement

1 Payments to PAGA Employees in the appropriate amounts will be distributed by
2 the Settlement Administrator by mail to the PAGA Employees at the same time
3 Settlement Class Payments issue to the Settlement Class. Un-cashed, unclaimed or
4 abandoned checks, shall be transmitted to the California Controller's Office, as set
5 forth below. The LWDA's PAGA Penalty Payment will issue to the LWDA at the
6 same time Settlement Payments issue to the Settlement Class.

7 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
8 Payments will be allocated as follows: 33 1/3% to wages, 33 1/3% to penalties, and
9 33 1/3% to interest. The PAGA Settlement Payment shares to PAGA Employees
10 will be entirely allocated to penalties. Appropriate federal, state and local
11 withholding taxes will be taken out of the wage allocations, and each Class
12 Member will receive an IRS Form W-2 with respect to this portion of the
13 Settlement Payment. The employer's share of payroll taxes and other required
14 withholdings will be paid as set forth above, including but not limited to the
15 Defendant's FICA and FUTA contributions, based on the payment of claims to the
16 Class Members. IRS Forms 1099 will be issued to each Class Member reflecting
17 the payments for penalties and interest. Class Members are responsible to pay
18 appropriate taxes due on the Settlement Payments they receive. To the extent
19 required by law, IRS Forms 1099 and W-2 will be issued to each Class Member
20 with respect to such payments.

21 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
22 Payments to individual Class Members shall be deemed to be paid to such Class
23 Member solely in the year in which such payments actually are received by the
24 Class Member. It is expressly understood and agreed that the receipt of such
25 Settlement Payments will not entitle any Class Member to additional compensation
26 or benefits under any company bonus, contest or other compensation or benefit
27 plan or agreement in place during the period covered by the Settlement up to and
28 including the date the Settlement becomes effective, nor will it entitle any Class

Member to any increased retirement, 401(k) benefits or matching benefits or deferred compensation benefits. It is the intent that the Settlement Payments provided for in this Settlement are the sole payments to be made by Defendant to the Class Members, and that the Class Members are not entitled to any new or additional compensation or benefits as a result of having received the Settlement Payments (notwithstanding any contrary language or agreement in any benefit or compensation plan document that might have been in effect during the period covered by this Settlement).

(m) Attorney's Fees and Costs: Subject to approval by the Court, Defendant will not object to Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount (\$96,666.67) and reimbursement of litigation costs and expenses not to exceed \$20,000.00.

(n) Service Payment: Subject to Court approval, and in exchange for a general release, Defendant will not object to Class Counsel's application for an additional payment of up to \$10,000.00 to Plaintiff for service as a Class Representative ("Service Payment"). It is understood that the Service Payment is in addition to the individual Settlement Payment to which a Class Representative is entitled to along with the other Class Members. In exchange, Plaintiff has agreed to release all claims, whether known or unknown, under federal law or state law against the Releasees, to the extent permitted by law, through the Class Period ("Plaintiff's Released Claims"). Plaintiff understands that this release includes unknown claims and that she is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

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.

Specifically excluded from Plaintiff's Released Claims are any claims for workers' compensation benefits. The Service Payment will issue at the same time all

1 Settlement Payments are mailed to the Settlement Class.

2 (o) Defendant or the Settlement Administrator will issue an IRS Form 1099 for the
3 Service Payment to the Plaintiff. The Plaintiff will be individually responsible for
4 correctly characterizing this compensation on personal income tax returns for tax
5 purposes and for paying any taxes on the amounts received. Should the Court
6 approve a Service Payment in an amount less than that set forth above, the
7 difference between the lesser amount(s) approved by the Court and the Service
8 Payment amount(s) set forth above shall be added to the Net Settlement Amount.
9 Plaintiff agrees not to opt out or object to the Service Payment as the Class
10 Representative.

11 (p) Settlement Administrator: The Settlement Administrator will be ILYM Group,
12 Inc., or such Settlement Administrator as may be mutually agreeable to the Parties
13 and approved by the Court. Settlement Administration Costs are estimated not to
14 exceed \$15,000. The costs of the Settlement Administrator for work done shall be
15 paid regardless of the outcome of this Settlement.

16 (q) Funding of Settlement Account: Defendant will fund the settlement account 14
17 days after the date the Court grants final approval.

18 (r) Mailing of Settlement Payments: The Settlement Administrator shall cause the
19 Settlement Payments to be mailed to the Class Members within 14 calendar days of
20 the receipt of funding.

21 (s) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
22 material terms of the proposed Settlement, along with instructions about how to
23 object or request exclusion from the propose class action Settlement ("Notice").
24 For each Class Member, there will be pre-printed information on the mailed
25 Notice, based on Defendant's records, stating the Class Member's Covered
26 Workweeks during the Class Period and the estimated total Settlement Payment
27 under the Settlement, including the Settlement Class Payment and the PAGA
28 Settlement Payment that will be distributed irrespective of any exclusion request.

1 The pre-printed information based on Defendant's records shall be presumed to be
2 correct. A Class Member may dispute the pre-printed information on the Notice as
3 to his or her Covered Workweeks during the Class Period. Class Members must
4 submit any dispute regarding the information on the Notice as to his or her
5 Covered Workweeks within the Response Deadline. Unless a disputing Class
6 Member submits documentary evidence in support of his or her dispute, the
7 records of the Defendant will be determinative.

8 (t) Settlement Notice Language: The Notice will issue in English and Spanish.

9 (u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:

10 Class Members submitting a Request for Exclusion will nevertheless receive their
11 pro-rata share of the PAGA Settlement Payment. If the Court approves the
12 compromise of the PAGA Claim, all Class Members are bound by the Court's
13 resolution of that Claim. Plaintiff shall serve a notice of settlement on the
14 California Labor and Workforce Development Agency at or before the time
15 Plaintiff files the motion for preliminary approval.

16 (v) Resolution of Workweek Disputes: If a Class Member disputes the accuracy of
17 Defendant's records used to calculate Covered Workweeks, and the Parties'
18 counsel cannot resolve the dispute informally, the matter will be referred to the
19 Settlement Administrator. The Settlement Administrator will review Defendant's
20 records and any information or documents submitted by the Class Member and
21 issue a non-appealable decision regarding the dispute. The Class Member must
22 submit information or documents supporting his or her position to the Settlement
23 Administrator prior to the expiration of the Response Deadline. Information or
24 documents submitted after the expiration of the Response Deadline will not be
25 considered by the Settlement Administrator, unless otherwise agreed to by the
26 Parties.

27 (w) Right of Class Member to Request Exclusion from the Settlement: Any Class
28 Member may request to be excluded from the Class by mailing a "Request for

Exclusion” from the Settlement within the Response Deadline, stating, as follows or in substantially similar terms:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE *CARTER V. MEDLAB2020, INC.* CLASS ACTION LAWSUIT, ORANGE COUNTY SUPERIOR COURT CASE NO. 30-2022-01247444-CU-OE-CXC. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Any Request for Exclusion must include the name, address, telephone number, last four digits of the Class Member’s Social Security Number, and the signature of the Class Member requesting exclusion. Any such request must be made in accordance with the terms of the Notice, and the Notice will advise Class Members of these requirements. Any Class Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights under this Settlement other than a right to receive a pro-rata share of the portion of the PAGA payment allocated to the Class Members if the Class Member is also PAGA Employee; (ii) shall not be entitled to receive any Settlement Payments under this Settlement other than as stated in Paragraph 26(j); and (iii) shall not be bound by this Settlement or the Court’s Order and Final Judgment other than as it applies to the PAGA Claim.

- (x) Right of Settlement Class Member to Object to The Settlement: Any Class Member may object to the Settlement. To object, the Class Member may (1) appear at the Final Approval Hearing, remotely or in person, to explain any objection, (2) have an attorney object for the Class Member, or (3) submit a simple written brief or statement of objection to the Settlement Administrator. If any Class Member chooses to submit a written objection, the written objection should contain sufficient information to confirm the identity of the objector and the basis of the objection, including (1) the full name of the Settlement Class Member; (2) the signature of the Settlement Class Member; (3) the grounds for the objection;

and (4) be postmarked within the Response Deadline to permit adequate time for processing and review by the Parties of the written statement or objection. Class Counsel shall ensure that any written objections are transmitted to the Court for the Court's review (either by Class Counsel or as an attachment to declaration from the Settlement Administrator). Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must either make a timely complaint in intervention before final judgment or by file a motion to set aside and vacate the class judgment under Code of Civil Procedure § 663 to have standing to appeal entry of judgment approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018). A Class Member who does not object prior to or at the Final Approval Hearing, will be deemed to have waived any objections and will be foreclosed from making any objections (whether at the Final Approval Hearing, by appeal, or otherwise) to the Settlement. If the objecting Class Member does not formally intervene in the action or move to set aside any judgment and/or the Court rejects the Class Member's objection, the Class Member will still be bound by the terms of this Agreement. Class Counsel and Defendant's Counsel may, at least five (5) calendar days (or some other number of days as the Court shall specify) before the final approval hearing, file responses to any written objections submitted to the Court.

THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES

28. Subject to the Court's approval, and subject to reconsideration by the Parties after a competitive bidding process, the Parties have agreed to the appointment of ILYM Group, Inc. to perform the customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice, both in English and Spanish, to the Class Members.

29. The Settlement Administrator will independently review the Covered Workweeks attributed to each Class Member and will calculate the estimated amounts due to each Class Member and the actual amounts due to each Settlement Class Member in accordance with this Settlement. The

1 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
2 Settlement Administrator shall be granted reasonable access to Defendant's records in order to perform its
3 duties.

4 30. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement
5 Amount from Defendant, the Settlement Administrator will issue and send out the Settlement Payment
6 checks to the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in
7 accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's
8 performance of its duties shall be referred to the Court, if necessary, which will have continuing
9 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
10 contemplated by this Settlement have been fully carried out.

11 31. The Settlement Administrator will post the final judgment approving the Settlement on a
12 website maintained by the Settlement Administrator for a period of not less than 90 calendar days after the
13 final judgment is entered. The address of that website will be included in the Notice.

14 **ATTORNEY'S FEES AND COSTS**

15 32. In consideration for resolving this matter and in exchange for the release of all claims by
16 the Class Members, including Plaintiff, and subject to approval by the Court, Defendant will not object to
17 Class Counsel's application for attorney's fees not to exceed 33 1/3% of the Gross Settlement Amount
18 (\$96,666.67 of \$290,000.00) and litigation costs not to exceed \$20,000.00. The amounts set forth above
19 will cover all work performed and all fees and costs incurred to date, and all work to be performed and all
20 fees and costs to be incurred in connection with the approval by the Court of this Settlement and
21 administration of the Settlement. Should Class Counsel request a lesser amount and/or the Court approve
22 a lesser amount(s) of attorney's fees and/or attorneys' costs, the difference between the lesser amount(s)
23 and the maximum amount set forth above shall be added to the Net Settlement Amount. The Parties agree
24 that there is no prevailing party, and the Class and Class Counsel shall not be entitled to any fees or costs
25 other than those awarded out of and deducted from the Gross Settlement Amount. As with the Settlement
26 Payments to the Settlement Class, the attorney's fees and costs approved by the Court shall be distributed
27 by the Settlement Administrator to Class Counsel, within 14 calendar days of the receipt of settlement
28 funds by the Settlement Administrator. In the event that the Court awards less than 25% of the Gross

1 Settlement Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any
2 Final Approval Order and Judgment.

3 **THE NOTICE PROCESS**

4 33. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the
5 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice
6 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in
7 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the
8 Settlement Administrator to forward the Notices to the Class.

9 (a) Within 7 calendar days from the date of preliminary approval of this Settlement by
10 the Court, Defendant shall provide to the Settlement Administrator a class database
11 containing the following information for each Class Member: (1) name; (2) last
12 known address; (3) social security number; and (5) dates of employment at
13 Defendant's locations in California. This database shall be based on Defendant's
14 payroll and other business records and shall be provided in a reasonable format to
15 the Settlement Administrator. Defendant agrees to consult with the Settlement
16 Administrator prior to the production date to ensure that the format will be
17 acceptable to the Settlement Administrator. The Settlement Administrator will run
18 a check of the Class Members' addresses against those on file with the U.S. Postal
19 Service's National Change of Address List; this check will be performed only once
20 per Class Member by the Settlement Administrator. Absent mutual written
21 agreement of counsel for the Parties or Court order, the Settlement Administrator
22 will keep this database confidential and secure and use it only for the purposes
23 described herein, and will return this database to Defendant upon final approval of
24 the settlement or destroy electronic records containing the database after the
25 Settlement is final and all payments are distributed as required under this
26 Agreement.

27 (b) Within 14 calendar days after the Class database is provided to the Settlement
28 Administrator, the Settlement Administrator will mail the Notices to the Class

Members by First Class United States mail.

- (c) Notices returned to the Settlement Administrator as non-deliverable on or before the initial Response Deadline shall be resent to the forwarding address, if any, on the returned envelope. A returned Notice will be forwarded by the Settlement Administrator any time that a forwarding address is provided with the returned mail. If there is no forwarding address, the Settlement Administrator will do a computer search for a new address using the Class Member's social security number or other information. In any instance where a Notice is re-mailed, that Class Member will have until the extended Response Deadline as described above. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice in that instance, stating the extended Response Deadline. Upon completion of these steps by the Settlement Administrator, Defendant and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the affected Class Member. The affected Class Member shall remain a member of the Settlement Class and shall be bound by all the terms of the Settlement and the Court's Order and Final Judgment.
- (d) Class Counsel shall provide to the Court, at least five calendar days prior to the final approval hearing, or such other date as set by the Court, a declaration by the Settlement Administrator of due diligence and confirming mailing of the Notices.

DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS

34. As set forth above, each Class Member will have until the expiration of the applicable Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class Member's Covered Workweek information on the Notice. No disputes will be honored if they are submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute. Each Class Member is responsible to maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

35. The Settlement Administrator shall cause the Settlement Payments to be mailed to the Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and

PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member within that time, and the Class Member's relevant claims will remain released by the Settlement. Settlement Payment checks which have expired will not be reissued.

36. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void date, shall be transmitted to a *cy pres* recipient, Legal Aid at Work, an organization that seeks to protect the rights of workers.

37. Upon completion of its calculation of Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendant's Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A Declaration attesting to completion of all payment obligations will be provided to Class Counsel and Defendant's Counsel and filed with the Court by Class Counsel.

RELEASE BY THE CLASS AND PAGA EMPLOYEES

38. Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee, regardless of whether they have requested exclusion from the Settlement of Class claims, will release claims as follows:

- (a) **Identity of Released Parties.** The released parties are Defendant, and each of its/their former and present direct and/or indirect owners, dba's, affiliates, parents, subsidiaries, brother and sister corporations, divisions, related companies, successors and predecessors, and current and former employees, attorneys, officers, directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees, executors, partners, privies, agents, servants, insurers, representatives, administrators, employee benefit plans, and assigns of said entities (collectively "Releasees").

(b) **Date Release Becomes Active.** The Released Claims and Released PAGA Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, **and** Defendant has paid all amounts owing under the Settlement.

(c) **Claims Released by Settlement Class Members.** Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

- 1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, meal periods, rest periods, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, 2802, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and FLSA ("Released Claims");
- 2) as to any Class Member who cashes their Settlement Payment, the Settlement Administrator shall include language on the Settlement Payments that informs the Class Members that the signing and negotiation of that check shall serve as the Class Member's consent to join the Action

for purposes of releasing all claims arising under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action, implicitly or explicitly;

- (d) **Claims Released by the Class, Including PAGA Employees.** All Class Members, including all PAGA Employees, release the Released PAGA Claims, regardless of whether they have requested exclusion from the Settlement as to Class claims.

EMPLOYMENT BY DEFENDANT

39. Employment of Plaintiff by Defendant is not consideration for, or a condition of, this Settlement.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

40. The Parties shall submit this Joint Stipulation of Class Action Settlement to the Court in support of Plaintiff's unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and reasonableness. Upon execution of this Joint Stipulation of Class Action Settlement, the Parties shall apply to the Court for the entry of an order:

- (a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representatives' service payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Certifying a Class;
- (c) Approving as to form and content the proposed Notice;
- (d) Directing the mailing of the Notice;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing ILYM Group, Inc. as the Settlement Administrator, and order the Settlement Administrator to issue Notices as outlined above.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

41. In conjunction with the hearing of a motion for final approval by the Court of the Settlement provided for in this Joint Stipulation of Settlement, Class Counsel will provide to Defendant's Counsel for review and approval and then submit to the Court a proposed final order and judgment containing provisions sufficient to accomplish the following:

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Service Payment to the Class Representatives;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.
- (e) Adjudging Plaintiff and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action;
- (g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;
- (h) Directing the posting of the final judgment on a website maintained by the Settlement Administrator for a period of not less than 90 calendar days after entry of final judgment.

Any revised final judgments will also be provided to Defendant's Counsel for review and approval before they are submitted to the Court.

NULLIFICATION AND TERMINATION

42. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to

1 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than
2 adjustments made to the attorney's fees and costs or granting of Service Payments; (c) the Court should for
3 any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or
4 rendered void; or (e) the Settlement does not become final for any other reason.

5 43. If 10% or more of the Class Members opt out of this Settlement, then Defendant in its sole
6 discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall provide
7 Defendant's Counsel with the information necessary to effectuate this provision on a regular basis, but no
8 less frequently than on a monthly basis. To terminate this Settlement under this paragraph, Defendant's
9 Counsel must give Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later than 30
10 calendar days after the Response Deadline. If this option is exercised by Defendant, Defendant shall be
11 solely responsible for the costs incurred by the Settlement Administrator for the settlement administration.

12 44. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
13 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
14 proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all
15 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
16 neither entered into nor filed with the Court.

17 **PARTIES' AUTHORITY**

18 45. The signatories hereto hereby represent that they are fully authorized to enter into this
19 Settlement and bind the Parties hereto to the terms and conditions thereof.

20 **MUTUAL FULL COOPERATION**

21 46. The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Settlement including, but not limited to, execution of such documents and taking such other action as
23 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
24 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
25 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
26 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
27 assistance and cooperation of Defendant and Defendant's Counsel, take all necessary steps to secure the
28 Court's preliminary and final approval of this Settlement.

NO PRIOR ASSIGNMENTS

47. The Parties and their respective counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein, and that they are not on notice of any liens as to the Gross Settlement Amount or any right to attorneys' fees or costs.

NO ADMISSION OF LIABILITY

48. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendant. Defendant denies all the claims and contentions alleged by the Plaintiff in this case. The Defendant has entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

ENFORCEMENT ACTIONS

49. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

50. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Class Counsel:

Justin F. Marquez (SBN 262417)
Christina M. Le (SBN 237697)
Zachary D. Greenberg (SBN 331501)
WILSHIRE LAW FIRM
30055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
justin@wilshirelawfirm.com

Counsel for Defendant:

R. Jeremy Adamson (251380)
Chad S. Pehrson (261829)
KUNZLER BEAN & ADAMSON, PC
4225 Executive Square, Suite 600
La Jolla, CA 92017
Telephone: (619) 365-9110
Facsimile: (801) 758-7436

cle@wishirelawfirm.com
zgreenberg@wilshirelawfirm.com
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

jadamson@kba.law
cpehrson@kba.law

CONSTRUCTION

51. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all-day mediation with Jeffrey Krivis, and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

52. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

53. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

54. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

WAIVER OF APPEALS

55. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the Gross Settlement Amount as attorney's fees.

BINDING ON ASSIGNS

56. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS COUNSEL SIGNATORIES

57. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each member of the Class execute this Settlement. The Notice will advise all Class Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall have the same force and effect as if this Settlement were executed by each member of the Class.

COUNTERPARTS

58. This Settlement may be executed in counterparts and by electronic or facsimile signatures, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties.

CONFIDENTIALITY & PUBLIC COMMENT

59. Class Counsel shall not publicize the settlement on its website or in advertising/marketing materials, other than filing documents with the Court. Plaintiff and Class Counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the settlement. If Plaintiff or Class Counsel receives an inquiry about the settlement from the media, they may respond only after the motion for preliminary approval has been filed and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent Defendant from making any required disclosure, including disclosures to Class Members who request information regarding the Action or Settlement. Nothing shall prevent Class Counsel from including a general description of the settlement on their website, without the mention of the names of the parties, the case and/or case number, and the specific business of the Defendant. Nor shall anything in this settlement prevent Class Counsel from (1) stating in any forum that it obtained an award from an employer in the health care industry or (2) referring to this case in a declaration establishing qualification as class counsel in future cases.

FINAL JUDGMENT

60. The Parties agree that, upon final approval of the Settlement, final judgment of this Action

will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: 1/4/2023

DocuSigned by:
Auxaviar Carter
E8872D7E12C44D0...
By: _____
Auxaviar Carter

Plaintiff's Counsel:

Dated: January 5, 2023

Wilshire Law Firm

By: *Justin F. Marquez*
Justin F. Marquez
Christina M. Le
Zachary D. Greenberg
Attorneys for Plaintiff

Defendant:

Dated:

Medlab2020, Inc.

By: _____
Print Name

Signature

Title

Defendant's Counsel:

Dated:

KUNZLER BEAN & ADAMSON, PC

will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiff and Defendant as set forth below:

IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: By: _____
Auxaviair Carter

Plaintiff's Counsel:

Dated: Wilshire Law Firm

By: _____
Justin F. Marquez
Christina M. Le
Zachary D. Greenberg
Attorneys for Plaintiff

Defendant:

Dated: Medlab2020, Inc.

By: Michael Thayer
Print Name

Michael Thayer
Signature

Chief Operating Officer
Title

Defendant's Counsel:

Dated: December 15, 2022 KUNZLER BEAN & ADAMSON, PC

By: 
R. Jeremy Adamson
Attorneys for Defendant

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Exhibit A

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

Auxaviar Carter v. Medlab2020, Inc., Orange County Superior Court
Case No. 30-2022-01247444

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Medlab2020, Inc. (“Defendant”) for alleged wage and hour violations. The Action was filed by Defendant’s former employee Auxaviar Carter (“Plaintiff”) and seeks payment of (1) back wages and other relief for a class of hourly-paid, non-exempt employees (“Class Members”) who worked for Defendant in California during the Class Period (September 3, 2017 to [date]; and (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly paid, non-exempt employees who worked for Defendant in California during the PAGA Period (September 3, 2020 to [date]) (“Aggrieved Employees”).

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

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

The above estimates are based on Defendant’s records showing that **you worked _____ workweeks** during the Class Period and you worked _____ workweeks during the PAGA Period. If you believe that you worked more workweeks during this period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

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

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Defendant, and, if you are an Aggrieved Employee, remain eligible for an individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is [date]	If you don't want to fully participate in the proposed Settlement, you can opt out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by [date]	All Class Members who do not opt out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision on whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.

You Can Participate in the [date] Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on [date]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Class Workweeks/PAGA Workweeks Written Challenges Must be Submitted by [date]	The amount of your Individual Class Payment and PAGA Payment (if any) depends on how many workweeks you worked at least one day during the Class Period and how many workweeks you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and PAGA workweeks you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [date]. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is Defendant's former employee. The Action accuses Defendant of violating California labor laws by failing to pay overtime and double overtime wages, minimum wages, and wages due upon termination, and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Justin F. Marquez, Christina M. Le, and Zachary D. Greenberg of Wilshire Law Firm, PLC ("Class Counsel.")

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired an experienced mediator in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2)

Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable, and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Defendant Will Pay \$290,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses and penalties to be paid to the Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 30 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$96,666.67 (33 1/3% of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$20,000.00 for their litigation expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.
 - B. Up to \$10,000.00 as a Class Representative Award for filing the Action, working with Class Counsel, and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$15,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$15,000.00 for PAGA Penalties that are allocated to the LWDA.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 33 1/3% of each Individual Class Payment to taxable wages ("Wage Portion"), 66 2/3% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms.

Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically canceled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization or foundation ("Cy Pres").
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [date], that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the [date] Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Defendant.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Defendant based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Class Members' Release. Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, and each PAGA Employee, regardless of whether they have requested exclusion from the Settlement of Class claims, will release claims as follows:

The Class Members will be bound by the following release:

Each and every Class Member, on behalf of himself or herself and his or her heirs and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

- 1) any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to all state wage and hour claims (including all claims under the California Labor Code) for unpaid wages, minimum wage, overtime, off-the-clock work, meal periods, rest periods, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1198, 2802, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and FLSA ("Released Claims"); and
- 2) as to any Class Member who cashes their Settlement Payment, the Settlement Administrator shall include language on the Settlement Payments that informs the Class Members that the signing and negotiation of that check shall serve as the Class Member's consent to join the Action for purposes of releasing all claims arising under the Fair Labor Standards Act that are alleged in the Action or related to the claims stated or that could have been stated in the Action, implicitly or explicitly.

10. Aggrieved Employees' PAGA Release. All Class Members, including all Aggrieved Employees, release the PAGA portion of the Settlement, regardless of whether they have requested exclusion from the Settlement as to Class claims.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$15,000.00 by the total number of PAGA Workweeks worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Workweeks worked by each individual Aggrieved Employee.
3. Workweek Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Workweeks you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until [date] to challenge the number of Class Workweeks and/or PAGA Workweeks credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Defendant's calculation of Class Workweeks and/or PAGA Workweeks based on Defendant's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Class and/or PAGA Workweek challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Defendant's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Auxaviar Carter v. Medlab2020, Inc.*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make

the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [date], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least [insert] days before the [date] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website **[need details]** or the Court's website **[need details]**.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is [date]**. 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, *Auxaviair Carter v. Medlab2020, Inc.* and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [date] at [time] in Department S26 of the Orange County Superior Court, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). **[confirm]**. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website [www.etc.] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [**specify whose**] website at [URL of website]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to (<http://www.lacourt.org/casesummary/ui/index.aspx>) [**confirm**] and entering the Case Number for the Action, Case No. 30-2022-01247444-CU-OE-CXC. You can also make an appointment to personally review court documents in the Clerk's Office at the Civil Complex Center Courthouse by calling (657) 622-6878.

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

Class Counsel:

Justin F. Marquez
Christina M. Le
Zachary D. Greenberg
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989
justin@wilshirelawfirm.com
cle@wilshirelawfirm.com
zgreenberg@wilshirelawfirm.com

Settlement Administrator:

ILYM Group, Inc.
[Email Address]
14751 Plaza Dr., Ste J, Tustin, CA 92780
Tel.
Fax.

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you will have no way to recover the money.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.

Exhibit 2

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Carter v. MedLab

Requesting Attorney:	Justin Marquez
E-Mail:	Justin@wilshirelawfirm.com
ILYM Contact:	Sean Hartranft
E-Mail:	Sean@ilymgroupclassaction.com
Contact Number:	949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	400
Estimated Percentage of Undeliverable Mail	20%
NCOA	Yes
Certified Spanish Translations	Yes
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	2	\$300.00
Programming of Class Database	Hourly	\$175.00	2	\$350.00

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

Subtotal \$650.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Staff Hours for Processing Opt-Outs, Disputes & Objections	Hourly	\$70.00	2	\$140.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	4	\$280.00
NCOA	Flat Rate	\$70.00	1	\$70.00
Toll-Free Customer Service	Flat Rate	\$111.40	1	\$111.40
Certified Spanish Translation	Flat Rate	\$1,250.00	1	\$1,250.00
ILYM Group Static Website, Includes Hosting	Flat Rate	\$750.00	1	\$750.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$3,391.40

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING

Fulfillment of Notice, English & Spanish	Per Piece	\$1.75	400	\$700.00
USPS First Class Postage	Per Piece	\$0.60	400	\$240.00
Re-Mails (Forward/Skiptrace Undeliverables)	Per Piece	\$2.00	80	\$160.00
Storage, Photocopies, Deliveries	Flat Fee	\$263.60	1	\$263.60

Subtotal \$1,363.60

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)

Distribution Setup & Management	Hourly	\$150.00	4	\$600.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	4	\$500.00
Check Stub & Release - Print & Mail (including W2/1099)	Per Check	\$1.50	400	\$600.00
Check Mailing Postage	Per Piece	\$0.60	400	\$240.00
Re-Mails (Forward/Skiptrace Undeliverables)	Per Piece	\$2.00	40	\$80.00
Preparation of Taxes (Single State Filing)	Hourly	\$120.00	12	\$1,440.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

***Additional Bank fees may apply*

Subtotal \$4,960.00

CASE CONCLUSION

Data Manager Final Reporting	Hourly	\$100.00	3	\$300.00
Project Manager Final Reporting	Hourly	\$120.00	3	\$360.00
Processing Unclaimed Funds to State Contorller's Office	Flat Fee	\$750.00	1	\$750.00
Declarations	Hourly	\$125.00	3	\$375.00

Subtotal \$1,785.00

Total Case Estimate: \$12,150.00

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Auxaviair Carter v. Medlab2020, Inc., et al.
30-2022-01247444-CU-OE-CXC

I, Sandy S. Sespene, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010. My electronic service address is ssespene@wilshirelawfirm.com.

On April 20, 2023, I served the foregoing **DECLARATION OF JUSTIN F. MARQUEZ IN SUPPORT OF PLAINTIFF’S MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**, on the interested parties by placing a true copy thereof, enclosed in a sealed envelope by following one of the methods of service as follows:

R. Jeremy Adamson (251380)
jadamson@kba.law
 Chad S. Pehrson (261829)
cpehrson@kba.law
 Andrea Coats
acoats@kba.law
KUNZLER BEAN & ADAMSON
 4225 Executive Square, Suite 600
 La Jolla, California 92037
 Telephone: (619) 365-9110
 Facsimile: (801) 758-7436

Attorneys for Defendant

- (X) **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California, by e-mail delivery on the parties listed herein at their most recent known email address or e-mail of record in this action.
- (X) **BY UPLOAD:** I hereby certify that the documents were uploaded by my office to the State of California Labor and Workforce Development Agency Online Filing Site.

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

Executed on April 20, 2023, at Los Angeles, California.


Sandy S. Sespene