

MELMED LAW GROUP, P.C.

Jonathan Melmed (SBN 290218)

jm@melmedlaw.com

Laura M. Supanich (SBN 314805)

lms@melmedlaw.com

1801 Century Park East, Suite 850

Los Angeles, California 90067

Telephone: (310) 824-3828

Facsimile: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

JUSTINA BALDERRAMA, an individual, on
behalf of herself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No. **30-2022-01256174-CU-OE-CXC**

**SUPPLEMENTAL DECLARATION OF
JONATHAN MELMED IN SUPPORT OF
MOTION FOR ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 30, 2026

Time: 2:00 P.M.

Dept: CX105

Judge: Hon. Melissa R. McCormick

Complaint Filed: April 22, 2022

First Amended Complaint Filed: July 19, 2022

Trial Date: None Set

1 I, Jonathan Melmed, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California. I am counsel for
3 Plaintiff Justina Balderrama (“Plaintiff”), individually, and on behalf of all others similarly situated,
4 and on behalf of the Aggrieved Employees. As such, I am familiar with the file in this matter and if
5 called as a witness I could and would competently testify to the following facts of my own personal
6 knowledge.

7 2. It is my understanding that on July 24, 2025, the Court issued its Tentative Ruling
8 specifying various topics to be addressed in a supplemental briefing. A true and correct copy of
9 that Tentative Ruling is attached hereto as **Exhibit 1**.

10 **Item 1: PAGA Payment to Plaintiff.**

11 3. Plaintiff will receive her portion of the PAGA Payment based on the number of pay
12 periods she worked for Defendant during the PAGA Period. This amount will not be known until
13 the class data has been reviewed by the Settlement Administrator. However, as the estimated net
14 per pay period value of the PAGA portion of the settlement is \$1.19, and Plaintiff is estimated to
15 have worked 16 pay periods during the PAGA Period, she will likely receive an additional \$19.04
16 as her portion of the PAGA Payment.

17 4. Plaintiff is not anticipated to receive any payment for individual claims.

18 **Item 2: Plaintiff’s Incentive Award.**

19 5. Although reasonable and diligent efforts have been made to locate California
20 appellate court authority on this issue, there is California federal court authority for the proposition
21 that a heightened enhancement award amount can be supported if the named Plaintiff is signing a
22 general release. *Guerrero v. United States Gypsum Co.* No. 3:21-cv-01502-RBM-JLB, 2022 U.S.
23 Dist. LEXIS 233930 at *5 (S.D. Cal. Dec. 30, 2022) (approving Plaintiff’s request for a “General
24 Release” payment of \$10,000.00 in exchange for Plaintiff executing a general release of known and
25 unknown claims); *Willner v. Manpower, Inc.*, No. 11-cv-02846-JST, 2015 U.S. Dist. LEXIS 80697
26 (N.D. Cal. June 20, 2015) (“Factors weighing in favor of an award greater than \$5,000 in this case
27 include...the broad general release [named Plaintiff] has signed...”); *Bennett v. SimplexGrinnell LP*

No. 11-cv-01854-JST, 2015 U.S. Dist. LEXIS 192870 (N.D. Cal. Sept. 3, 2015) (supporting the amount of the enhancement awards to named Plaintiff by stating “The Class Representatives have also executed a general release as to all potential claims they may have against SimplexGrinnel, which is not required of other class members.”) While the foregoing authorities are not binding on this Court, Plaintiff submits them as persuasive authority demonstrating that California federal courts have recognized the propriety of heightened enhancement awards when named plaintiffs enter general releases of claims, and therefore respectfully requests the enhancement award be approved in full.

Item 3: Plaintiff’s Counsel’s 1/3 Attorney Fee Request.

6. Plaintiff’s Counsel intends to file a Motion for Attorneys’ Fees with information supporting its attorney fee request, including information related to its total lodestar expended in this case, at the time of filing the Motion for Final Approval.

Item 4: Related Actions.

7. On April 14, 2026, Defendant filed a declaration with this Court describing whether it is aware of any class, representative, or other collective action(s) in any court that asserts claims similar to those in this action. The declaration is viewable under Register of Action (ROA) 168. A true and correct copy of the declaration is attached hereto as **Exhibit 2**.

Item 5: Individual PAGA Payments.

8. After a review of the records, Plaintiff estimates the estimated average net PAGA payment will be \$26.04, the estimated maximum net PAGA payment will be \$78.13, and the estimated lowest net PAGA payment will be \$1.19.

Item 6: Released Class Claims.

9. The Parties have amended the Settlement Agreement to make the following changes to the Released Claims definition: (i) removing the phrase “and/or PAGA notice to the California Labor and Workforce Development Agency”; (ii) “including” was changed to “i.e.”; and (iv) numbers 10 and 11 were removed. A true and correct copy of the Redlined Second Amended Settlement Agreement is attached hereto as **Exhibit 3**. A true and correct copy of the Fully Executed

1 Second Amended Settlement Agreement is attached hereto as **Exhibit 4**. The Parties further revised
2 the Class Notice to reflect the same. A true and correct copy of the Class Notice is attached hereto
3 as **Exhibit 5**. A true and correct copy of the Redlined Class Notice is attached hereto as **Exhibit 6**.

4 **Item 7: Released PAGA Claims.**

5 10. The Parties have amended the Settlement Agreement to make the following changes
6 to the PAGA Released Claims definition: the word “including” was changed to “i.e.”. See **Exhibits**
7 **3, 4, 5, & 6**.

8 **Item 8: Paragraphs 7.2 & 8.9**

9 11. The Parties amended the Settlement Agreement to revise the reference in the third to
10 last sentence in paragraph 7.2 to the Settlement Administrator making “the final decision” on
11 disputes, and removed the last paragraph of paragraph 8.9. See **Exhibits 3, 4, 5, & 6**.

12 **Item 9: Reimbursement for Costs.**

13 12. Plaintiff has removed mailing and postage costs, revising Plaintiff’s Counsel’s actual
14 costs to date as \$11,664.20. Attached hereto as **Exhibit 7** is a true and correct copy of Plaintiff’s
15 Counsel’s revised litigation expenses incurred to date. Plaintiff will provide a final expense report
16 to this Court of all actual costs incurred at the time of final approval. Further, Plaintiff has attached
17 a true and correct copy of the mediation invoice hereto as **Exhibit 8**.

18 **Item 10: Class Notice**

19 13. The Parties revised the Class Notice consistent with the above. See **Exhibits 5 & 6**.

20 14. The Parties revised the fourth paragraph of Section 4 of the Class Notice to be
21 consistent with the changes to the Settlement Agreement as described above. See **Exhibits 5 & 6**.

22 15. The Parties revised the first paragraph of Section 5 of the Class Notice to be
23 consistent with the Settlement Agreement. See **Exhibits 5 & 6**.

24 16. The Parties revised Section 6.2 of the Class Notice to clarifying that Class Members
25 who wish to opt out of the settlement should send their requests for exclusion to the Settlement
26 Administrator by mail. See **Exhibits 5 & 6**.

1 17. The Parties revised Section 6.3 of the Class Notice to clarify that Class Members
2 wishing to object to the settlement should mail their objections to the Settlement Administrator. See
3 **Exhibits 5 & 6.**

4 18. The Parties revised first sentence of the second paragraph of section 6.2 to state:
5 “You may also appear and object at the final approval hearing, which is scheduled for” See
6 **Exhibits 5 & 6.**

7 19. The Parties revised the Class Notice to remove the last paragraph of Section 6.3 See
8 **Exhibits 5 & 6.**

9 20. The Parties revised the first sentence of Section 8 of the Class Notice to state: If the
10 court grants final approval of the settlement, within seven (7) days thereafter, the Settlement
11 Administrator will post a copy of that order and final judgment on its website” See **Exhibits 5**
12 **& 6.**

13 21. The Parties revised Section 10 of the Class Notice to state “its” rather than “it.” See
14 **Exhibits 5 & 6.**

15 22. The Parties revised the Share Form to reference the class action and PAGA
16 settlement. A true and correct copy of the redlined version of the Share Form is attached hereto as
17 **Exhibit 9.** A true and correct copy of the clean version of the Share Form is attached hereto as
18 **Exhibit 10.** Plaintiff notes to the Court that adding “PAGA” to the Objection Form and Exclusion
19 Form may be misleading to the Class Members, as there is no ability to request exclusion from or
20 object to the PAGA portion of the settlement. However, per the Court’s instructions, the Parties
21 revised the Objection Form and Exclusion Form to reference the class action and PAGA settlement.
22 A true and correct copy of the redlined version of the Exclusion Form is attached hereto as **Exhibit**
23 **11.** A true and correct copy of the clean version of the Exclusion Form is attached hereto as **Exhibit**
24 **12.** A true and correct copy of the redlined version of the Objection Form is attached hereto as
25 **Exhibit 13.** A true and correct copy of the clean version of the Objection Form is attached hereto
26 as **Exhibit 14.**

23. The Parties revised the Share Form to remove the second to last paragraph. See **Exhibits 9 & 10.**

24. The Parties revised the Exclusion Form to remove the following language: (1) “IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT, DO NOT FILL OUT THIS FORM.”; and (2) “AND DO NOT WANT TO RECEIVE A SETTLEMENT PAYMENT,”. See **Exhibits 11 & 12**.

25. The Parties have removed the following language from the Objection Form, “IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND RECEIVE A SETTLEMENT PAYMENT, DO NOT FILL OUT THIS FORM.” The Parties have further formatted the Objection Form to fit on one page with space for an objection to be stated at the bottom. See **Exhibits 13 & 14**.

Items 23-24: Proposed Order

26. The Parties revised the Proposed Order to include a proposed Final Approval Hearing date. A true and correct copy of the Revised Proposed Order is attached hereto as **Exhibit 15**. A true and correct copy of the Redlined Revised Proposed Order is attached hereto as **Exhibit 16**.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct this on 17th day of April 2026, at Los Angeles, California.

By:


Jonathan Melmed, Esq.

Exhibit 1

**LAW & MOTION CALENDAR
TENTATIVE RULINGS**

July 24, 2025

**Judge Melissa R. McCormick
Dept. CX105**

Department CX105 hears law and motion on Thursdays at 2:00 p.m.

Court reporters: Official court reporters typically are not provided in this department for any proceedings. If the parties desire the services of a court reporter, the parties should follow the procedures set forth on the court's website at www.occourts.org.

Tentative rulings: The court endeavors to post tentative rulings on the court's website by 9:00 a.m. the day of the hearing. Tentative rulings may not be posted in every case. Please do not call the department for tentative rulings if tentative rulings have not been posted.

Submitting on tentative rulings: If all parties intend to submit on the tentative ruling and do not desire oral argument, please advise the courtroom clerk or courtroom attendant by calling (657) 622-5305. Please do not call the department unless all parties submit on the tentative ruling. If all parties submit on the tentative ruling and so advise the court, the tentative ruling will become the court's final ruling and the prevailing party shall give notice of the ruling.

Appearances and public access: Appearances, whether in person or remote, must comply with Civil Procedure Code section 367.75, California Rule of Court 3.672, Orange County Superior Court Local Rule 375, and Orange County Superior Court Appearance Procedure and Information—Civil Unlimited and Complex (pub. 9/9/22).

Unless the court orders otherwise, remote appearances will be conducted via Zoom. All counsel and self-represented parties appearing via Zoom must check in through the court's civil remote appearance website before the hearing begins. Check-in instructions are available on the court's website.

The public may attend hearings by coming to court or via remote access as described above.

Photographing, filming, recording and/or broadcasting court proceedings are prohibited unless authorized pursuant to California Rule of Court 1.150 or Orange County Superior Court Local Rule 180.

Non-appearances: If nobody appears for the hearing and the court has not been notified that all parties submit on the tentative ruling, the court shall determine whether the matter is taken off calendar or the tentative ruling becomes the final ruling. The court also might make a different order. See *Lewis v. Fletcher Jones Motor Cars, Inc.* (2012) 205 Cal.App.4th 436, 442 n.1.

NO.	CASE NAME	MATTER
1	Balderrama v. Omni Enterprise Inc. 2022-01256174	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers (as well as the Second Supplemental Melmed Declaration (ROA 153) and the Matlock Declaration (ROA 155)), filed in support of plaintiff's motion for preliminary approval of a \$325,000 class action and PAGA settlement. The court has the following questions and comments:

		<u>As to the settlement:</u> 1. In its March 20, 2025 order (ROA 147), the court ordered plaintiff to provide the named plaintiff's anticipated total amount to be received (including for any individual claims and excluding any enhancement payment). Plaintiff's counsel states plaintiff is "likely to receive an additional \$1,091.20 as her portion of the Net Settlement Amount." Supp. Melmed Decl. (ROA 151) ¶ 3. Is plaintiff anticipated to receive an individual PAGA payment? If so, in what amount? Is plaintiff anticipated to receive any payment for individual claims? If so, in what amount? 2. In its March 20, 2025 order (ROA 147), the court stated that absent unique circumstances, the court is unlikely to approve an enhancement payment in excess of \$5,000. The court stated that if unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings. The circumstances described in plaintiff's counsel's declaration (Supp. Melmed Decl. (ROA 151) ¶¶ 5-11) and in plaintiff's declaration (Balderrama Decl. (ROA 151)) are not unique. The court remains unlikely to approve an enhancement payment in excess of \$5,000 for this case. In addition, plaintiff states that the enhancement payment she seeks is also "justif[ied]" because the payment is in part to compensate her for "enter[ing] into a general release of all [her] claims against Defendant which is significantly broader than the release being given by members of the Class." Balderrama Decl. (ROA 151) ¶ 7. An enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. The court is unlikely to approve a settlement that provides an enhancement award in exchange for a general release. 3. In its March 20, 2025 order (ROA 147), the court stated that absent unique circumstances, it is unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount. The court stated that plaintiff's counsel should address in the supplemental filing whether any such unique circumstances exist here. The circumstances identified in plaintiff's counsel's declaration (Supp. Melmed Decl. (ROA 151) ¶¶ 12-15) are not unique. The court remains unlikely to approve
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		attorneys' fees in excess of 30% of the gross settlement amount for this case. 4. Defendant should advise, in a declaration filed with the court, whether, after making reasonable inquiry, it is aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declaration shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case. 5. In its March 20, 2025 order (ROA 147), the court ordered the parties to provide the high, low and average PAGA payments. Plaintiff's counsel states the "average/maximum individual PAGA payment will be approximately \$26.04." Supp. Melmed Decl. (ROA 151) ¶ 19. How can the average and the maximum individual PAGA payments be the same? 6. In its March 20, 2025 order (ROA 147), the court stated that the "Released Claims" provision was overbroad. The court stated that the release of the class members' claim must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint. The "Released Claims" provision in the amended settlement agreement remains overbroad. Amended Settlement Agreement ¶ 1.37. The following revisions should be made: (i) the phrase "and/or PAGA notice to the California Labor and Workforce Development Agency" should be removed; (ii) "including" should be changed to "i.e.,"; and (iv) numbers 10 and 11 should be removed. 7. In its March 20, 2025 order (ROA 147), the court stated that the "PAGA Released Claims" provision was overbroad. The court stated that releases for aggrieved employees other than plaintiff should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter to the LWDA. The word "including" should be changed to "i.e.,". 8. In its March 20, 2025 order (ROA 147), the court stated that paragraphs 7.2 and 8.9 of the settlement agreement should be revised to state: (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute. The reference in the third to last sentence in paragraph 7.2 of the amended settlement agreement to the settlement
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		administrator making "the final decision" on disputes should be revised, and the last paragraph of paragraph 8.9 of the amended settlement agreement should be removed. 9. Plaintiff's counsel seeks reimbursement for mailing and postage costs (Supp. Melmed Decl. (ROA 151) Ex. 6), which are not recoverable and should be removed. Plaintiff's counsel should submit an invoice substantiating the mediation charge. <u>As to the notice:</u> 10. The notice should be revised consistent with the above. 11. The fifth sentence in the fourth paragraph of section 4 regarding the settlement administrator's "final decision" on disputes should be removed. 12. The first paragraph of section 5 of the notice regarding the effective date of the releases is inconsistent with the amended settlement agreement and should be revised. 13. Section 6.2 should state how a person seeking exclusion should "send" the request for exclusion to the settlement administrator. 14. Section 6.3 should state how a person seeking to object should "file" their objection with the settlement administrator. 15. The first sentence of the second paragraph of section 6.3 should be revised to state: "You may also appear and object at the final approval hearing, which is scheduled for" 16. The last paragraph of section 6.3 should be removed. 17. The first sentence of section 8 should be revised to state: "If the court grants final approval of the settlement, the settlement administrator will" 18. In section 10, "it" should be changed to "its." 19. The settlement share form, the exclusion form and the objection form should all be revised to include "and PAGA" after "class action" and before "settlement" throughout the documents. 20. The second to last paragraph on the settlement share form (after the settlement administrator's contact information) should be removed as it is inconsistent with the amended settlement agreement. 21. The following sentences/phrases should be removed from the exclusion form: (i) "IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND RECEIVE A CLASS SETTLEMENT PAYMENT, <u>DO NOT</u> FILL
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		OUT THIS FORM"; and (ii) "AND DO NOT WANT TO RECEIVE A SETTLEMENT PAYMENT." 22. The following sentences/phrases should be removed from the objection form: (i) "IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND RECEIVE A CLASS SETTLEMENT PAYMENT, <u>DO NOT</u> FILL OUT THIS FORM"; and (ii) the first 5 sentences of the paragraph under the settlement administrator's contact information. In addition, the objection form should be formatted to fit on one-page with space for an objection to be stated at the bottom of the page. <u>As to the proposed order:</u> 23. The proposed order should be revised consistent with the above. 24. The proposed final approval hearing date should be revised to state a date in the future. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing. The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to <u>January 8, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. See also Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. <u>If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review.</u> The parties shall also provide redlined copies of any revised documents. Plaintiff is ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
2	Castillo v. CTC Global Corporation 2022-01292774	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers filed in support of plaintiff's motion for preliminary approval of a \$300,000 class action and PAGA settlement. The court has the following questions and comments: 1. Were the motion papers served on the LWDA? Plaintiff must file with the court a proof of service identifying the specific documents served on the LWDA, when plaintiff served the documents, and how service was effected. <u>As to the settlement:</u>

		2. As it appears the first amended complaint filed in this case on May 29, 2025 (ROA 123) includes the claims alleged in <i>Castillo v. CTC Global Corporation</i>, Case No. 2023-01305000, will Case No. 2023-01305000 be dismissed? If so, when? If not, how do the parties intend to resolve Case No. 2023-01305000? 3. The parties should provide the estimated high and low payments to class members, and the estimated high, low and average PAGA payments. 4. Plaintiff should provide plaintiff's anticipated total compensation to be received (including for any individual claims and excluding any enhancement payment). 5. The "Released Parties" provision in paragraph 1.41 is overbroad. "[A]ttorneys" and "insurers" should be removed. 6. The first sentence of paragraph 5 of the settlement agreement appears to state that only plaintiff and Class Members will provide releases, i.e., not Aggrieved Employees? Is that the parties' intent? 7. The "Release by Participating Class Members Who Are Not Aggrieved Employees" provision is overbroad. Settlement Agreement ¶ 5.2. The release of the class members' claim must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint, i.e., the first amended complaint filed May 29, 2025. The phrase "and ascertained in the course of the Action" should be removed. 8. The "Release by Non-Participating Class Members Who Are Aggrieved Employees" provision is overbroad. Settlement Agreement ¶ 5.3. Releases for aggrieved employees other than plaintiffs should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint (i.e., the first amended complaint filed May 29, 2025) and the notice letter(s) to the LWDA. The phrase "and ascertained in the course of the Action" should be removed. 9. Is there a release for "Participating Class Members Who Are Aggrieved Employees"? If so, where is it in the settlement agreement? 10. The Response Deadline paragraph 1.43 should include disputes. 11. Paragraph 7.6 of the settlement agreement should be revised to state: (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may
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		review any decision made by the settlement administrator regarding a claim dispute. Paragraph 7.8.4 should also be revised accordingly. 12. While the court will not determine the amount of attorneys' fees to be awarded until final approval, the court is unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount absent unique circumstances. Plaintiff's counsel should address in the supplemental filing whether any such unique circumstances exist here. 13. Plaintiff's counsel seeks costs including charges for copies, scanning and mailing, which are not recoverable and should be removed. Plaintiff's counsel should also submit invoices substantiating the consulting and mediation charges. 14. While the court will not determine the amount of any enhancement award to be paid to plaintiff until final approval, the court is unlikely to approve an enhancement award in excess of \$5,000 absent unique circumstances. Plaintiff should address in the supplemental filing whether any such unique circumstances exist here. 15. What is the amount of not-to-exceed settlement administration fees? The settlement agreement states \$11,000 (Settlement Agreement ¶ 3.2.3). The settlement administrator's invoice (Moore Decl. (ROA 109) Ex. B) states \$8,000 and \$8,850. This discrepancy should be addressed in the supplemental filings. <u>As to the notice:</u> 16. The notice should be revised consistent with the above. 17. The title of the notice and throughout should include "and PAGA" after "class" and before "settlement." 18. In the fourth paragraph on page 1 of the notice, the second "workweeks" should be changed to "pay periods," and "or pay periods" should be inserted after "workweeks" in the second sentence of the same paragraph. See Settlement Agreement ¶ 3.2.5.1. 19. The following sentence should be removed from the fifth paragraph on page 1 of the notice: "You will be deemed to have carefully read and understood it." 20. In section 1 on page 4 of the notice, the word "strongly" should be removed. 21. In section 2 of the notice, the word "lengthy" should be removed in the first paragraph and the word "strongly" should be removed in the second paragraph.
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		22. The notice should state the amount of not-to-exceed settlement administration fees in section 3(b) and the settlement administrator should be identified in section 3(i). 23. The effective dates of the releases stated in sections 3(j) and 3(k) are inconsistent with the settlement agreement. 24. Section 4 of the notice regarding resolution of disputes should be revised as stated above. 25. Section 6 of the notice should state the exclusion form may be faxed, emailed or mailed to the settlement administrator. 26. The second sentence of the first paragraph of section 7 of the notice should be removed. 27. The phrase starting with "for example" in the first sentence of the second paragraph of section 7 should be removed. 28. Section 7 of the notice should state the objection form may be faxed, emailed or mailed to the settlement administrator. 29. Section 9 of the notice should state the judgment will be posted on the settlement administrator's website for at least 180 days. 30. The notice should advise the aggrieved employees that they will be bound by the PAGA release even if they do not cash their checks. 31. The court prefers that the notice be accompanied by a separate exclusion form and separate objection form. The settlement agreement and notice should be revised accordingly. 32. Should the notice packet be translated into any language(s) other than Spanish? <u>As to the proposed order (ROA 118):</u> 33. The proposed order should be revised consistent with the above. 34. Counsel's information should be removed from the caption page. 35. The title of the proposed order and throughout should include "and PAGA" after "class" and before "settlement." 36. The court department (CX105) should be updated throughout the document. 37. Paragraph 1 should include the court's preliminary findings that the settlement is fair, adequate and
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		reasonable, and in the best interests of the class members. Paragraph 6 should accordingly be removed. 38. In paragraph 3, the word "preliminarily" should be added before "appoints" and the phrase "and designates" should be removed. 39. In paragraph 5, the word "preliminarily" should be added before "appointed." 40. In paragraph 5 the word "confirms" should be replaced with "preliminarily appoints." 41. The following paragraph should be added to the proposed order: "The court orders the parties and the settlement administrator to carry out their duties and obligations in accordance with terms of the settlement agreement." 42. The proposed order should state the gross settlement amount, the PAGA allocation, and the not-to-exceed amounts for plaintiff's enhancement award, attorneys' fees, litigation costs and settlement administration costs. 43. The settlement agreement and any amendments thereto and the class notice packet (including a certified Spanish-language translation) should be attached to the proposed order as exhibits. 44. The proposed order should include a provision the court will retain jurisdiction to enforce the settlement pursuant to Civil Procedure Code section 664.6. 45. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing. The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to <u>January 8, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. See <i>also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. <u>If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review.</u> The parties shall also provide redlined copies of any revised documents. Plaintiff is ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
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3	Castillo v. CTC Global Corporation 2023-01305000	<u>Status Conference in Case No. 2023-01305000</u> In light of the court's concurrent ruling on plaintiff's motion for approval of a class action and PAGA settlement in Case No. 2022--1292772, the July 24, 2025 status conference in Case No. 2023-01305000 is continued to <u>January 8, 2026 at 2:00 p.m.</u> in Department CX105. Clerk to give notice.
4	Gonzalez-Aplin v. PRJKT Concessions, Inc. 2020-01139806	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for preliminary approval of a \$350,000 class action and PAGA settlement. Subject to plaintiff's submission of the documents identified below, the court grants the motion as follows: \$10,000.00 for plaintiff's enhancement payment (not to exceed); \$116,666.67 for attorneys' fees (not to exceed to 33.33% of gross settlement amount); \$20,000.00 for litigation costs (not to exceed); \$10,000.00 for settlement administration costs (not to exceed); and \$25,000.00 total PAGA penalties (\$18,750.00 to LWDA). Plaintiff is ordered to file and serve by <u>July 31, 2025</u> a copy of the proposed order with all exhibits attached, including a copy of the settlement agreement, a <u>fully executed</u> copy of Amendment No. 1 thereto, and a <u>revised notice</u> (in English and Spanish) that corrects the court department (CX105) throughout the document. The final approval hearing is scheduled for <u>February 19, 2026 at 2:00 p.m.</u> in Department CX105. The motion for final approval shall be filed at least 16 court days before the hearing. See Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service.
5	Hannet v. Serendipity Hearing, Inc. 2021-01216930	<u>Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiffs' motion for preliminary approval of a \$325,000 class action and PAGA settlement. The court has the following questions and comments: <u>As to the settlement:</u>

		1. The amendment to the settlement agreement is not signed by the parties and appears to be missing text at the bottom of page 5. Supp. Rauchwerger Decl. (ROA 173) Ex. 4. 2. The settlement agreement states the settlement is intended to settle Case No. 2021-01229201, but the releases in the amendment to the settlement agreement refer only to Case No. 2021-01216930 (Supp. Rauchwerger Decl. (ROA 173) Ex. 4), and Case No. 2021-01229201 remains pending. How and when do the parties intend to resolve <i>Hannett v. Serendipity Hearing, Inc.</i>, Case No. 2021-01229201? 3. In its March 27, 2025 order (ROA 164), the court ordered the parties to provide the estimated high, low and average PAGA payments. The Supplemental Brief (ROA 177 at 4:6) states the estimated high PAGA payment is \$60.32. The Supplemental Rauchwerger Declaration (ROA 173 at ¶ 7) states the estimated high PAGA payment is \$121.44. This discrepancy should be addressed in the supplemental filing. 4. In its March 27, 2025 order (ROA 164), the court ordered the parties to provide each plaintiff's anticipated total compensation to be received (including for any individual claims and excluding any enhancement payment). Plaintiffs have provided their estimated individual class and PAGA payments in the supplemental filing, but they have not stated whether they anticipate receiving any compensation for any individual claims. This issue should be addressed in the supplemental filing. 5. In its March 27, 2025 order (ROA 164), the court stated that the "Release by Participating Class Members" provision was overbroad. The court stated that the release of the class members' claim must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint(s). The "Release by Participating Class Members" provision in the amendment to the settlement agreement remains overbroad. Supp. Rauchwerger Decl. (ROA 173) Ex. 4 (¶ E). The phrase "including but not limited to" should be replaced with "which are the." The phrase "which are premised upon the aforementioned wage and hour violations" should be removed, as it is unclear to what it refers and it appears redundant of prior text in the same paragraph. 6. In its March 27, 2025 order (ROA 164), the court stated that the "Release by Aggrieved Employees" provision was overbroad. The court stated that releases for aggrieved employees other than plaintiffs should not
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		release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint(s) and the notice letter(s) to the LWDA. The "Release by Aggrieved Employees" provision in the amendment to the settlement agreement remains overbroad. Supp. Rauchwerger Decl. (ROA 173) Ex. 4 (¶ F). The phrase "including but not limited to" should be replaced with "which are the." The phrase "which are premised upon the aforementioned wage and hour violations" should be removed, as it is unclear to what it refers and it appears redundant of prior text in the same paragraph. 7. In its March 27, 2025 order (ROA 164), the court stated that while it will not determine the amount of attorneys' fees to be awarded until final approval, the court is unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount absent unique circumstances. The court stated that plaintiffs' counsel should address in the supplemental filing whether any such unique circumstances exist here. The circumstances described in plaintiffs' counsel's declaration (Supp. Parker-Fawley Decl. (ROA 169) ¶ 2) are not unique. The court remains unlikely to approve attorneys' fees in excess of 30% of the gross settlement amount in this case. 8. In its March 27, 2025 order (ROA 164), the court stated that while it will not determine the amount of any enhancement awards to be paid to plaintiffs until final approval, the court is unlikely to approve per plaintiff enhancement awards in excess of \$5,000 absent unique circumstances. The court stated that plaintiffs should address in the supplemental filing whether any such unique circumstances exist here. Neither plaintiff has done so, and the circumstances described in plaintiffs' counsel's declaration (Supp. Parker-Fawley Decl. (ROA 169) ¶ 3) are not unique. The court remains unlikely to approve per plaintiff enhancement awards in excess of \$5,000 in this case. 9. The settlement agreement has not been amended to address the exclusion and objection forms. Settlement Agreement ¶¶ 8.5.1, 8.7.2. <u>As to the notice:</u> 10. The notice should be revised consistent with the above. 11. The court department (CX105) should be updated throughout the notice. 12. The notice states that the exclusion and objection forms "may (but are not required)" to be used. Supp. Rauchwerger Decl. (ROA 173) Ex. 4. The exclusion and objection forms state that they "must" be used. <i>Id.</i> This
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		discrepancy should be addressed in the supplemental filing. 13. On the exclusion form, the bolded paragraph after the settlement administrator's mailing address should be removed, as it is redundant of other statements on the form. The exclusion form should be reformatted to fit on one page. 14. On the objection form, the paragraph after the settlement administrator's mailing address should be removed, as it is redundant of other statements on the form. The objection form should be reformatted to fit on one page. <u>As to the proposed order (ROA 171):</u> 15. The proposed order should be revised consistent with the above. 16. The court department (CX105) should be updated throughout the document. 17. The references the Supplemental Rauchwerger Declaration and its exhibits should be removed, as the same documents should be attached to and identified in the proposed order. 18. In its March 27, 2025 order (ROA 164), the court stated that the settlement agreement and any amendments thereto and the class notice packet (including a certified Spanish-language translation) should be attached to the proposed order as exhibits. The settlement agreement is not attached to the proposed order (ROA 171). The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to <u>January 15, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. <i>See also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. <u>If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review.</u> The parties shall also provide redlined copies of any revised documents. Plaintiffs are ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiffs must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
6	Hannet v. Serendipity Hearing, Inc. 2021-01229201	<u>Status Conference in Case No. 2021-01229201</u> In light of the court's concurrent ruling on plaintiffs' motion for approval of a class action and PAGA settlement in Case No. 2021-01216930, the July 24, 2025 status conference in Case

		No. 2021-01229201 is continued to <u>January 15, 2026 at 2:00 p.m.</u> in Department CX105. Clerk to give notice.
7	Kondori v. Mission Imports 2022-01295280	<u>Plaintiffs' Motion for Approval of PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiffs' motion for approval of a \$395,000 PAGA settlement. The court has the following questions and comments: <u>As to the settlement:</u> 1. In its April 24, 2025 order (ROA 72), the court noted that plaintiffs' counsel stated that plaintiffs would dismiss the class claims as part of the settlement. Genish Decl. (ROA 63) ¶ 14. The court inquired as to when the request for dismissal of the class claims and accompanying declaration would be filed. The Supplemental Blanchard Declaration (ROA 83) states that a request for dismissal of the class claims will be filed after plaintiffs' first amended complaint adding a new, additional defendant (Foothill Ranch Imports, LLC) has been filed. Supp. Blanchard Decl. (ROA 83) at 2:1-6. What relevance does the filing of a first amended complaint have to dismissal of the class claims? 2. In its April 24, 2025 order (ROA 72), the court noted that the LWDA letter states plaintiffs were employed by "Mission Auto Parts," which is not party to the lawsuit or included in the settlement agreement. The court asked what Mission Auto Parts is, and whether plaintiffs' LWDA letter is sufficient if it did not identify the defendant in the lawsuit. 4/24/25 Order (ROA 73) No. 3. The Supplemental Blanchard Declaration (ROA 83 at 2:7-15) states, on information and belief, that Mission Auto Parts is not a legal entity nor a dba for Mission Imports or Foothill Ranch Imports, LLC, but that the parties "deemed" the LWDA notice letter sufficient because it was sent to the correct address for Mission Imports "and was understood by Mission Imports to be intended for them." Attorney Blanchard also states that defendant's declaration "to be filed by Defendant on the same date" as Attorney Blanchard's declaration (i.e., July 11, 2025) also addresses this issue. As an initial matter, Attorney Blanchard's explanation of Mission Auto Parts' status, stated on information and belief, is insufficient. In addition, the court file does not contain a declaration filed by defendant on July 11, 2025 or any time after the court issued the April 24, 2025 order. The parties are ordered to address this issue with appropriate evidence in the supplemental filing. 3. In its April 24, 2025 order (ROA 72), the court noted that the settlement agreement defines the "Aggrieved

		Employees” as: “All current and former hourly, non-exempt employees and commissioned employees who worked for Mission Imports and Foothill Ranch Imports, LLC from October 31, 2021 through January 19, 2024.” The court asked (i) whether “commissioned employees” are hourly, nonexempt employees, and (ii) as Foothill Ranch Imports, LLC is not a party to the lawsuit and is not included in the release, why that entity was included in the definition of “Aggrieved Employees.” The Supplemental Blanchard Declaration states that “[t]he class consists entirely of nonexempt employees, some of whom are paid hourly and others of whom are paid on a commission basis.” If that is the case, the definition of “Aggrieved Employees” should be revised to specifically identify “commissioned nonexempt” employees as part of the defined group. Regarding Foothill Ranch Imports, LLC, the Supplemental Blanchard Declaration states that “[i]n the course of mediation and settlement, it was agreed among the Parties that the settlement would also encompass another dealership location with the same ownership, the same executive management, and substantial overlap in wage and hour policies and practices.” The court denied the parties’ request for an order permitting the filing of a first amended complaint adding Foothill Ranch Imports, LLC for lack of a sufficient explanation for the court to conclude the requested amendment should be allowed at this juncture. 7/11/25 Order (ROA 75). The court stated that its denial was without prejudice to the parties submitting additional information supporting their request with the supplemental filings. The parties have not submitted any additional information. The parties should address in the supplemental filing, among other issues: (1) whether either plaintiff worked for Foothill Ranch Imports, LLC, and if so, when; (2) the claims or potential claims purportedly alleged against Foothill Ranch Imports, LLC; (3) the discovery plaintiffs conducted with respect to claims or potential claims against Foothill Ranch Imports, LLC; (4) how plaintiffs’ counsel valued the claims or potential claims against Foothill Ranch Imports, LLC; (5) the number of aggrieved employees employed by Mission Imports during the PAGA Period, the number employed by Foothill Ranch Imports, LLC during the PAGA Period, and the number employed by both during the PAGA Period; and (6) the amount Foothill Ranch Imports, LLC is paying to settle any claims or potential claims against it. 4. In its April 24, 2025 order, the court stated that the PAGA release was overbroad. The court stated that releases for aggrieved employees other than plaintiffs
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		should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter(s) to the LWDA. The first two sentences of section C of the amendment to the settlement agreement should be replaced with a release consistent with the April 24, 2025 order and this order. 5. In its April 24, 2025 order, the court stated that absent unique circumstances, the court is unlikely to approve an attorneys' fees award that exceeds 30% of the gross settlement amount. The court stated that plaintiffs' counsel should address in the supplemental filings whether any such unique circumstances exist here. The circumstances described in plaintiffs' counsel's declaration (Supp. Blanchard Decl. (ROA 83) at 3:19-4:4) are not unique. The court remains unlikely to approve an attorneys' fees award that exceeds 30% of the gross settlement amount in this case. 6. In its April 24, 2025 order, the court ordered plaintiffs to state their total anticipated consideration (including for any individual claims and excluding any enhancement payment). Plaintiffs have not provided the amounts of any individual class and PAGA payments and they must do so. Plaintiffs state that plaintiff Kondori will receive \$135,000 in settlement of his individual claims, and that plaintiff Jerome will receive \$15,000 in settlement of his individual claims. Plaintiffs must submit each plaintiff's individual settlement agreement to the court. In addition, the amendment to the settlement agreement refers to each plaintiff's receipt of a "General Release Payment." Amendment No. 1 to Settlement Agreement § C. What is the General Release Payment? 7. In its April 24, 2025 order, the court ordered plaintiffs' counsel to submit contemporaneous time records substantiating the 197.30 hours worked. Plaintiffs' counsel has not done so. Plaintiffs' counsel has instead submitted an "Attorney Time and Task Chart," which is insufficient, including because it does not identify the timekeeper, each timekeeper's separate tasks, and the date the work was performed. Plaintiffs' counsel is again ordered to submit contemporaneous time records substantiating the hours worked. 8. In the April 24, 2025 order, the court ordered plaintiffs' counsel to submit an invoice substantiating the mediation charge. Plaintiffs have not done so. The court will not award costs for unsubstantiated mediation charges. 9. In the April 24, 2025 order, the court ordered defendant to state in a declaration filed with the court whether defendant is aware of any class, representative or other collective action in any other court that asserts claims
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		similar to those asserted in this case. Defendant has not done so. 10. The settlement administrator's invoice states that its fees are \$5,150. Mullins Decl. (ROA 82) Ex. C. The settlement agreement, notice letter and proposed order and judgment should be revised accordingly. <u>As to the notice letter:</u> 11. The notice letter should be revised consistent with the above. <u>As to the proposed order and judgment (ROA 78):</u> 12. The proposed order and judgment should be revised consistent with the above. 13. The court department (CX105) should be updated throughout the document. 14. The first sentence of paragraph 24 should be removed. 15. In the April 24, 2025 order, the court ordered that the settlement agreement, any amendment(s) thereto, and the notice letter (in all languages) be attached as exhibits to the proposed order and judgment. This has not been done. The hearing on plaintiffs' motion for approval is continued to <u>January 15, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. See <i>also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. <u>If required, an amendment to the settlement agreement shall be submitted, rather than an "amended settlement agreement," to streamline the court's review of the documents.</u> The parties shall provide redlined copies of any revised documents (e.g., revised settlement agreement, revised notice, revised proposed order). Plaintiffs are ordered to give notice, including to the LWDA, and to file a proof of service. Plaintiffs must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
8	Leano v. Ryder Last Mile, Inc. 2024-01405201	<u>Defendant Ryder Last Mile, Inc.'s Demurrer to First Amended Complaint</u> Defendant Ryder Last Mile, Inc. demurs to plaintiff Eudier Leano's first amended complaint. Plaintiff's first amended complaint alleges three causes of action: violation of PAGA; declaratory relief; and retaliation. For the following reasons, defendant's demurrer is overruled.

		In ruling on a demurrer, a court must accept as true all allegations of fact contained in the complaint. <i>Blank v. Kirwan</i> (1985) 39 Cal.3d 311, 318. A demurrer challenges only the legal sufficiency of the affected pleading, not the truth of the factual allegations in the pleading or the pleader's ability to prove those allegations. <i>Cundiff v. GTE Cal., Inc.</i> (2002) 101 Cal.App.4th 1395, 1404-05. Questions of fact cannot be decided on demurrer. <i>Berryman v. Merit Prop. Mgmt., Inc.</i> (2007) 152 Cal.App.4th 1544, 1556. Because a demurrer tests only the sufficiency of the complaint, a court will not consider facts that have not been alleged in the complaint unless they may be reasonably inferred from the matters alleged or are proper subjects of judicial notice. <i>Hall v. Great W. Bank</i> (1991) 231 Cal.App.3d 713, 718 n.7. Defendant argues the doctrine of unclean hands bars all of plaintiff's claims because SLG LLC, the entity through which plaintiff allegedly contracted with defendant, allegedly breached the Carrier Master Services Agreement (MSA) between defendant and SLG LLC by allegedly misclassifying plaintiffs "and others" as employees. Brief (ROA 96) at 4:25. Defendant argues the MSA "requires that all drivers (including owners) be W-2 employees, be paid wages in accordance with California law, be reimbursed for expenses, and be properly and timely paid." Brief (ROA 96) at 5:9-11. Defendant argues that "[i]f these individuals were not properly paid, it is because Plaintiff (and the other service partners) breached the MSAs." <i>Id.</i> at 5:11-12. In sum, defendant contends the MSA is enforceable and by its terms required plaintiff (not defendant) to pay wages and reimburse expenses in accordance with California law. Defendant's argument ignores the allegations of the first amended complaint and the requirement that the court accept as true the factual allegations of the first amended complaint. The first amended complaint alleges, <i>inter alia</i>, that the MSAs are "illegal and unenforceable," are "sham agreements that misclassify Ryder drivers as 'business operators' which in fact and under the law they are not," and are "specifically designed and intended to conceal the true nature of the employment relationship between Ryder and its delivery drivers, which is that of employer and employee." First Amended Complaint (ROA 66) ¶ 18. Defendant's unclean hands argument, which rests on the disputed contention the MSA is enforceable, cannot be resolved on demurrer. <i>See CrossTalk Prods., Inc. v. Jacobson</i> (1998) 65 Cal.App.4th 631, 635 ("Since the doctrine of unclean hands is heavily fact dependent, it is a uniquely poor candidate to support a demurrer"). For the same reason, defendant's arguments that "business-to-business relationships like the one contemplated by the MSA are explicitly permitted by California law," "the MSA is in compliance with the law," "the MSA contradicts [the first amended complaint's] material allegations," and "the indemnification language [in the MSA] is not illegal" (Brief (ROA 96) at 6:24-25, 7:12, 7:14, 10:4) do not support sustaining defendant's demurrers to plaintiff's claims.
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		Defendant also argues that plaintiff's claims fail to state claims because plaintiff's allegation that defendant "forces its drivers to create or maintain fictitious business entities that Ryder 'contracts with' to evade its obligations under the California Labor Code" is false. Brief (ROA 96) at 5:21. Defendant contends plaintiff must allege "<i>how</i> he was forced to maintain or create a business entity" by defendant. Brief (ROA 96) at 5:28-6:1 (<i>italics in original</i>). As an initial matter, defendant's assertion that plaintiff's allegation is false is a factual dispute that cannot be resolved on demurrer. Defendant asserts that plaintiff's "discovery responses . . . admit that SLG—the entity [plaintiff] was 'forced' to create[—]provided services to companies other than [defendant]." Brief (ROA 96) at 6: 5-6; see <i>also</i> Reply (ROA 183) at 2:35-3:1 (asserting that "[i]n discovery, Plaintiff admitted under oath that: (1) SLG was created 7 years (2015) before it contracted with RLM (2022); (2) SLG contracted with competitors of RLM to provide similar services before contracting with RLM; and (3) after it began contracting with RLM, SLG continued to contract with RLM's competitors to provide similar services"). The interrogatory responses defendant cites in support of these assertions—even if considered by the court—do not so state. In addition, while the details underlying plaintiff's factual allegation that defendant "forces its drivers to create or maintain fictitious business entities that Ryder 'contracts with'" may be a proper subject for discovery, plaintiff need not allege each detail underlying that factual allegation to state his claims. <i>C.A. v. William S. Hart Union High Sch. Dist.</i> (2012) 53 Cal.4th 861, 872 ("To survive a demurrer, the complaint need only allege facts sufficient to state a cause of action; each evidentiary fact that might eventually form part of the plaintiff's proof need not be alleged"). Defendant's contention that plaintiff's declaratory relief claim fails at the pleading stage also lacks merit. Defendant argues plaintiff is not an "interested party" with respect to the MSA because he is not a party to the MSA, and that no "actual controversy" exists as to legal rights or duties under the MSA. Plaintiff alleges he "was employed as a delivery driver by Ryder from January 2020-July 2024," and that he "signed an MSA with Ryder in or about January 2020, which purported to characterize him as a business operator," when "[i]n fact, however, and as a matter of law, the true relationship between Ryder and [plaintiff] was that of employer and employee." First Amended Complaint (ROA 66) ¶ 5. Plaintiff alleges, <i>inter alia</i>, the MSA is illegal and unenforceable, and was "designed and intended to conceal the true nature of the employment relationship between Ryder and its delivery drivers, which is that of employer and employee." <i>Id.</i> ¶ 18. Plaintiff alleges that defendant "devised and used the MSA, and its sham designation of its drivers as business operators, to transfer substantial costs and risks that are the responsibility of Ryder as a matter of law to its employees, in violation of the California Labor Code and other provisions of California law." <i>Id.</i> ¶ 19. Plaintiff seeks a
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		"judicial declaration of the legality of Ryder's MSAs." <i>Id.</i> ¶ 59; <i>id.</i> Prayer (b) (seeking "declaratory relief that . . . Ryder's MSAs are illegal and unenforceable"). These allegations are sufficient to state a claim for declaratory relief at the pleading stage. Defendant argues plaintiff must join SLG LLC and the other "service partners" as necessary parties pursuant to Civil Procedure Code section 389(a)(2). Section 389(a)(2) states: "A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if . . . (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party." Civ. Proc. Code § 389(a)(2). Neither factor in section 389(a)(2) has been shown at this juncture. Plaintiff alleges the MSA between SLG and defendant is illegal and unenforceable. As defendant repeatedly asserts, SLG is "[plaintiff's] company." <i>E.g.</i>, Brief (ROA 96) at 4:24; <i>see also id.</i> at 5:9 ("it is undisputed that SLG, through Plaintiff, signed the MSA"). Defendant has not demonstrated on this record that SLG (or the other "service partners") has an interest relating to the subject of the action and is so situated that the disposition of the action in its absence may as a practical matter impair or impede its ability to protect that interest. Nor has defendant demonstrated on this record that the absence of SLG leaves defendant at a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of an allegedly claimed interest by SLG. Defendant's claim that SLG must be joined as a necessary party to enable defendant to seek discovery from SLG ignores the availability of nonparty discovery procedures. Defendant argues plaintiff's retaliation cause of action fails because the claim "is disproven by the MSA" and because plaintiff allegedly has "an unwaivable conflict." Brief (ROA 96) at 13:23-25. As discussed above, the enforceability of the MSA is disputed. Defendant's claim that plaintiff cannot state a retaliation claim because the MSA allegedly disproves the claim is necessarily premised on a contention the MSA is enforceable. This dispute cannot be resolved on demurrer. As to plaintiff's allegedly "unwaivable conflict," defendant cites no relevant law holding that a plaintiff cannot as a matter of law allege individual claims and class or representative claims in the same lawsuit. Indeed, plaintiffs routinely do so. In some cases, upon an evidentiary showing of antagonism to a class suit, a class representative may be found not to be adequate; no such showing has been made on the record of this demurrer.
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		Defendant also argues plaintiff cannot maintain an unlawful deduction claim. Plaintiff alleges in the PAGA claim, among other allegations: "[Defendant] makes unlawful deductions from drivers' wages in violation of Labor Code §§ 204, 218, 218.6, 223, and 400-410, IWC Wage Order No. 9. [Defendant] makes unlawful deductions from drivers' wages for ordinary business expenses such as fuel, penalties for uniforms, penalties for failure to comply with Ryder's policies for vehicle maintenance, and claims for lost or damaged products." First Amended Complaint ¶ 46. "A demurrer does not lie to a portion of a cause of action." <i>PH II, Inc. v. Superior Court</i> (1995) 33 Cal.App.4th 1680, 1682; see also Reply (ROA 183) at 9:19 (asserting "Plaintiff's Unlawful Deduction PAGA Claim <i>Partially</i> Fails As A Matter of Law") (italics added). Defendant's Request for Judicial Notice of Exhibits 1, 2, 3 and 4 is denied as the items were not material to the disposition of the demurrers. Defendant's unopposed Request for Judicial Notice of Exhibit 5 is granted. Defendant Ryder Last Mile, Inc. is ordered to file and serve an answer by August 4, 2025. Plaintiff Eudier Leano to give notice. <u>Plaintiff Eudier Leano's Motion for Declaratory Relief</u> Plaintiff Eudier Leano moves pursuant to Civil Procedure Code section 1060 for declaratory relief. As Leano describes it, he "[s]pecifically . . . requests that the Court issue an ORDER under Count Two (Dec. Relief) of Plaintiff's [First Amended Complaint] that [defendant] Ryder [Last Mile, Inc.] may not under the [Master Services Agreement] force Plaintiff or his LLC to defend his own California Labor Code lawsuit or indemnify Ryder for his own wages or penalties." Notice of Motion (ROA 73) at i:14-16. For the following reasons, Leano's motion is denied. Civil Procedure Code section 1060 states: "Any person interested under a written instrument, excluding a will or a trust, or under a contract, or who desires a declaration of his or her rights or duties with respect to another, or in respect to, in, over or upon property, or with respect to the location of the natural channel of a watercourse, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an original action or cross-complaint in the superior court for a declaration of his or her rights and duties in the premises, including a determination of any question of construction or validity arising under the instrument or contract. He or she may ask for a declaration of rights or duties, either alone or with other relief; and the court
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		may make a binding declaration of these rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and the declaration shall have the force of a final judgment. The declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.” Civ. Proc. Code § 1060. Pursuant to section 1061, a court “may refuse to exercise the power granted by this chapter in any case where its declaration or determination is not necessary or proper at the time under all the circumstances.” <i>Id.</i> § 1061. Pursuant to section 1062.3(a), “actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law,” except that, as set forth in section 1062.3(b), “[a]ny action brought under the provisions of this chapter in which the plaintiff seeks any relief, in addition to a declaration of rights and duties, shall take such precedence only upon noticed motion and a showing that the action requires a speedy trial.” <i>Id.</i> § 1062.3. Contrary to Leano’s claim, section 1062.3(a) does not apply here because Leano’s first amended complaint alleges other causes of action in addition to his declaratory relief claim. See First Amended Complaint (ROA 66) (alleging PAGA, declaratory relief and retaliation causes of action). Leano’s declaratory relief claim alleges that “[a]n actual and substantial controversy exists between Plaintiff and other aggrieved employees, on the one hand, [and] Defendant Ryder on the other hand” because “Plaintiff contends that Ryder’s MSAs are illegal and unenforceable.” First Amended Complaint (ROA 66) ¶ 56. Leano’s declaratory relief claim alleges ten “other conflicts” between Leano and Ryder, including whether Ryder’s MSAs are illegal, whether Ryder misclassifies delivery drivers as business operators, whether Ryder meets the requirements of the AB 5 exemption, whether Ryder failed to reimburse its drivers for employment expenses, whether Ryder failed to pay drivers minimum wage, whether Ryder failed to pay all wages due, whether Ryder made unlawful deductions from drivers’ wages, whether Ryder failed to pay overtime, whether Ryder failed to issue accurate wage statements, and whether Ryder failed to keep accurate payroll records. <i>Id.</i> ¶ 58. Leano seeks “[a] judicial declaration of the legality of Ryder’s MSAs.” <i>Id.</i> ¶ 59. As noted above, with the instant motion, Leano “[s]pecifically . . . requests that the Court issue an ORDER under Count Two (Dec. Relief) of Plaintiff’s [First Amended Complaint] that [defendant] Ryder [Last Mile, Inc.] may not under the [Master Services Agreement] force Plaintiff or his LLC to defend his own California Labor Code lawsuit or indemnify Ryder for his own wages or penalties.” Notice of Motion (ROA 73) at i:14-16; see also Brief (ROA 73) at 2:14-16 (“Plaintiff therefore seeks a
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		declaration that Ryder may not under the MSA force Plaintiff or his LLC to defend his own California Labor Code lawsuit or indemnify Ryder for his own wages or penalties.”). In other words, Leano seeks with this motion adjudication of a portion of his declaratory relief claim. Leano cites no relevant authority holding that he may obtain pretrial adjudication of a portion of his declaratory relief claim by means of a “motion for declaratory relief.” As an initial matter, contrary to Leano’s contention, section 1060 does not authorize such a pretrial adjudication. By its plain terms, in cases of actual controversy relating to the legal rights and duties of the respective parties, section 1060 authorizes the <i>filing</i> of “an original action or cross-complaint in the superior court” for a declaration of rights or duties. Civ. Proc. Code § 1060. Section 1060 does not state that a court may summarily adjudicate such a claim without requiring compliance with the provisions of the Code of Civil Procedure that apply to dispositive pretrial adjudications, such as motions for judgment on the pleadings and motions for summary judgment or summary adjudication. In addition, Leano cites no authority holding that he may seek pretrial adjudication of a portion of his declaratory relief by means of a “motion for declaratory relief,” despite, e.g., the requirement in Civil Procedure Code section 437c(f)(1) that a motion for summary adjudication “shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty.” Leano’s “motion for declaratory relief” is denied. Defendant Ryder Last Mile, Inc. to give notice. <u>Initial Case Management Conference</u> The court has reviewed the parties’ joint status conference statement filed July 16, 2025 (ROA 179), and based thereon continues the July 24, 2025 status conference to <u>November 13, 2025 at 9:00 a.m.</u> in Department CX105. The parties are ordered to file a joint status conference statement at least 5 court days before the hearing. Clerk to give notice.
9	McCoy v. AW Industries, LLC 2022-01289657	<u>Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers, including the Supplemental Han Declaration (ROA 86), filed in support of plaintiff’s motion for preliminary approval of a \$500,000 class action and PAGA settlement. The court has the following questions and comments: <u>As to the settlement:</u> 1. Plaintiff should state his anticipated total consideration to be received (including for any individual claims and excluding any enhancement award).

		2. When are the releases effective? Paragraph I.Q of the settlement agreement states the releases are effective on the Effective Date. Paragraphs I.DD, I.II, III.L and III.M state the releases are effective upon defendant's fulfillment of its payment obligations. The court will not require the class members and aggrieved employees to release their claims until defendant has fully funded the settlement. 3. The "Released Claims" provision is overbroad. Settlement Agreement ¶ I.II. The release of the class members' claims must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint. In the first sentence of paragraph I.II, (i) the word "reasonably" should be inserted after "could" and before "have been asserted"; (ii) the phrase "circumstances, primary rights, or allegations" should be removed; and (iii) the word "alleged" should be inserted before "in the Complaint." Item Nos. 16 and 17 should be removed from the second sentence of paragraph I.II of the settlement agreement. 4. The "Released Parties" provision in paragraph I.JJ of the settlement agreement is overbroad as it includes unrelated, unidentified and/or ambiguous third parties such as "representative," "all affiliates," "agents (including any investment bankers, accountants, insurers, reinsurers, auditors, consultants, attorneys)," and "spouses." In addition, why should "staffing agencies that supplied workers to Defendant (including Apple One, BaronHR, CV Resources, Driven Talent, Empire Workforce, and Randstad)" properly be included in "Released Parties"? 5. Plaintiff's counsel seeks attorneys' fees not to exceed one-third of the Gross Settlement Amount. While the court will not determine the amount of attorneys' fees to be awarded until the final approval hearing, the court is unlikely to approve attorneys' fees exceeding 30% of the Gross Settlement Amount absent unique circumstances. Plaintiff should address in the supplemental filing whether any such unique circumstances exist in this case. 6. Plaintiff seeks an enhancement award of \$10,000. Absent unique circumstances, the court is unlikely to approve an enhancement payment in excess of \$5,000. If unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings. 7. Plaintiff's counsel should submit an itemized detail of the costs incurred to date and estimated future costs, if any.
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		8. Defendant should advise, in a declaration filed with the court, whether, after making reasonable inquiry, it is aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action. If any such actions are known to exist, the declaration shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case. <u>As to the notice:</u> 9. The notice should be revised consistent with the above. 10. As a general matter, the notice should be substantially shortened, e.g., repetitive and redundant information should be removed, as should unnecessarily detailed information (e.g., the paragraph about how to access the court's website should be shortened). 11. The judge's name (Judge Melissa R. McCormick) and the court department (CX105) should be updated throughout the document. 12. The notice should state the specific amount of not-to-exceed attorneys' fees. 13. Section 8 of the notice should refer to the objection form. 14. The last sentence of section 10 should be removed. 15. The language on the objection form requiring the submission of additional pages should be removed and the objection form should be reformatted to fit on one page with space for explanation of the objection at the bottom of the page. 16. Should the notice be translated into any language other than Spanish? <u>As to the proposed order (ROA 79):</u> 17. The proposed order should be revised in accordance with the above. 18. Counsel's name and contact information should be removed from the caption page. 19. The judge's name (Hon. Melissa R. McCormick) and the court department (CX105) should be updated on the caption page and throughout the document. 20. The last sentence of paragraph 1 of the proposed order should be removed. 21. The proposed order should state the specific amount of not-to-exceed attorneys' fees.
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		22. The first sentence of paragraph 22 of the proposed order should be revised to state: "The court orders the parties and the settlement administrator to carry out their duties and obligations in accordance with terms of the settlement agreement." 23. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the hearing. The hearing on plaintiff's motion for preliminary approval is continued to <u>January 5, 2026 at 2:00 p.m.</u> in Department CX105 to enable the parties to address and respond to the above issues. See <i>also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement shall be submitted, rather than an "amended settlement agreement," to streamline the court's review of the documents. The parties shall provide redlined copies of any revised documents (e.g., revised settlement agreement, revised notice, revised proposed order). Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended documents, and file a proof of service.
10	Padilla v. De Vries International, Inc. 2021-01223097	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers filed in support of plaintiff's motion for preliminary approval of a \$195,000 class action and PAGA settlement. The court has the following questions and comments: <u>As to the settlement:</u> 1. The parties should provide the estimated average, high and low amounts for the individual class and PAGA payments. 2. Plaintiff should provide the named plaintiff's anticipated total amount to be received (including for any individual claims and excluding any enhancement payment). Plaintiff should also state in a declaration filed with the court the estimated number of hours he spent on the case. 3. How many aggrieved employees are there? 4. Why are the PAGA payments calculated based on workweeks when PAGA penalties are calculated based on pay periods?

		5. The court prefers a 60-day period for class members to opt-out, object or submit any disputes. Are there special circumstances here that warrant a shorter period? See Settlement Agreement ¶ C.22. 6. The “Released Parties” provision is overbroad. Settlement Agreement ¶ F.46. It includes unrelated, unidentified and/or ambiguous third parties such as “affiliates,” “otherwise related entities,” “investors,” “joint ventures” and other “indirect” parties. 7. The “Released Claims” provision is overbroad. Settlement Agreement ¶ F.47. The release of the class members’ claim must be fairly tailored to the claims that were or reasonably could have been asserted in the lawsuit based on the facts alleged in the operative complaint. 8. The “Released PAGA Claims” provision is overbroad. Settlement Agreement ¶ F.48 Releases for aggrieved employees other than plaintiff should not release more than the civil penalties available under PAGA based on the facts alleged in the operative complaint and the notice letter to the LWDA. 9. Paragraph J.65 should be revised to state: (i) the parties shall file with the court all disputes submitted by class members, the evidence submitted, and the resolution of the disputes, and (ii) although the settlement administrator may make the initial decision regarding claim disputes, the court may review any decision made by the settlement administrator regarding a claim dispute. 10. While the court will not determine the amount of attorneys’ fees to be awarded until final approval, absent unique circumstances, the court is unlikely to approve attorneys’ fees in excess of 30% of the gross settlement amount. Plaintiff’s counsel should address in the supplemental filing whether any such unique circumstances exist here. 11. Plaintiff seeks an enhancement award of \$7,500 to in part compensate plaintiff for providing “a general release of claims in exchange for the enhancement award.” Nourmand Decl. (ROA 110) ¶ 24; see also Brief (ROA 110) at 16:20-21). An enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general. The court is unlikely to approve a settlement
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		that provides an enhancement award in exchange for a general release. In addition, absent unique circumstances, the court is unlikely to approve an enhancement payment in excess of \$5,000. If unique circumstances warrant the higher amount plaintiff seeks, plaintiff should submit a declaration and/or other information explaining those circumstances with the supplemental filings. 12. Plaintiff's counsel seeks litigation costs not to exceed \$20,000. While the court will not determine the amount of litigation costs to be awarded until the final approval hearing, plaintiff's counsel should submit a list of itemized costs incurred to date. 13. The parties (including defendant) should advise, in declarations filed with the court, whether, after making reasonable inquiry, they are aware of any class, representative or other collective action in any court that asserts claims similar to those asserted in this action (other than the related PAGA case pending in this department, of which the court is aware). If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case, and describe the impact of the settlement on that case. 14. The parties should provide the settlement administrator's qualifications and experience, including evidence that the settlement administrator has procedures in place to protect the security of class data, and sufficient insurance in the event of a data breach or mishandling of the settlement funds. The parties should also submit a copy of the settlement administrator's invoice. 15. A copy of the LWDA notice letter should be filed with the court. <u>As to the notice:</u> 16. The notice should be revised consistent with the above. 17. The title of the notice and text throughout should include "and PAGA" after "class action." 18. The court department (CX105) should be updated throughout the document. 19. The court prefers the notice also be accompanied by separate objection and exclusion forms. The settlement agreement and the notice should be revised accordingly. 20. The opt- out and objection procedures described in the notice should state the same transmission methods as stated in the settlement agreement.
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		21. The notice should address the PAGA settlement and the Aggrieved Employees where it addresses the class settlement and the Class Members. 22. The following sentences on pages 2-3 of the notice should be deleted: (1) "Plaintiff thinks he could have won at trial. Defendant thinks Plaintiff would not have won anything at trial." (2) "Defendant chose to settle this lawsuit as a compromise to avoid the cost of litigation. Plaintiff and his attorneys think the settlement is best for the Settlement Class Members." 23. The payment information on page 5 should state the individual class and PAGA payments separately. 24. The "Further Information" section should state that the settlement administrator will post all key documents on its website, including the operative complaint, the PAGA notice letter(s) to the LWDA, the settlement agreement and any amendments, the class notice and any included forms, the orders granting preliminary and final approval, and the judgment. The judgment should be posted for at least 180 days. 25. Should the notice be provided in any language other than English? <u>As to the proposed order (ROA 107):</u> 26. The proposed order should be revised consistent with the above. 27. The title of the notice and text throughout should include "and PAGA" after "class action." 28. Counsel information should be removed from the caption page. 29. The court department (CX105) should be updated throughout the document. 30. The settlement agreement and the notice packet (in all languages) should be attached as an exhibit to the proposed order. 31. The proposed order should address the PAGA settlement and the Aggrieved Employees where it addresses the class settlement and the Class Members. 32. The word "preliminarily" should be inserted after "Court" and before "designates" in two places in paragraph 2 and in one place in paragraph 3. 33. The phrase "and the Settlement Administrator" should be inserted after "Parties" in paragraph 4. 34. The gross settlement amount, the PAGA allocation, and the not-to-exceed amounts of attorneys' fees, litigation costs, plaintiff's enhancement payment and the
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		settlement administration fees should be included the proposed order. 35. The parties should propose a date for the final approval hearing. The court holds final approval hearings on Thursdays at 2:00 p.m. The motion for final approval should be filed and served at least 16 court days before the final approval hearing. 36. The proposed order should include a provision that the court retains jurisdiction to enforce the settlement pursuant to Civil Procedure Code section 664.6 The hearing on plaintiff's motion for preliminary approval of a class action and PAGA settlement is continued to <u>January 15, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. <i>See also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. <u>If required, an amendment to the settlement agreement is directed, rather than "amended settlement agreement," to streamline the court's review.</u> The parties shall also provide redlined copies of any revised documents. Plaintiff is ordered to provide notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
11	Rodriguez v. Environmental Remediation Contractors, Inc. 2023-01366734	<u>Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for preliminary approval of a \$290,000 class action and PAGA settlement. Subject to plaintiff's submission of the revised documents identified below, the court grants the motion as follows: \$2,500.00 for plaintiff's enhancement payment (not to exceed) (see No. 1 below); \$87,000.00 for attorneys' fees (not to exceed 30% of gross settlement amount) (see No. 2 below); \$15,000.00 for litigation costs (not to exceed); \$6,650.00 for settlement administration costs (not to exceed); and \$29,000.00 total PAGA penalties (\$21,750.00 to LWDA). 1. In its March 27, 2025 order (ROA 62), the court noted that plaintiff stated the requested \$5,000 enhancement award was warranted in part due to the "broader general release" to which plaintiff has agreed. Rodriguez Decl.

		(ROA 49) ¶ 11. The court stated that an enhancement award is not intended to serve as consideration for the release of additional claims, but rather to compensate class representatives for work done on behalf of the class, to make up for financial or reputational risk undertaken in bringing the action, and, in some circumstances, to recognize their willingness to act as a private attorney general, and that the court is unlikely to approve a settlement that provides an enhancement award in exchange for a general release. The Supplemental Brief (ROA 73 at 4:20-26) states that plaintiff should be awarded a \$5,000 enhancement payment “to compensate him for his time and effort on behalf of the Class,” and that “[i]rrespective of Plaintiff’s general release, the requested amount is reasonable given the benefit gained by Class Members.” The former statement is inconsistent in part with plaintiff’s declaration, and the latter statement does not address whether the enhancement award is intended to serve as consideration for the general release. On this record, the court preliminarily finds an enhancement award not to exceed \$2,500 reasonable. 2. In its March 27, 2025 order, the court stated that while it will not determine the amount of attorneys’ fees to be awarded until final approval, the court is unlikely to approve attorneys’ fees in excess of 30% of the gross settlement amount absent unique circumstances. The court stated that plaintiffs’ counsel should address in the supplemental filing whether any such unique circumstances exist here. Plaintiff states in the Supplemental Brief that he “does not contend that unique circumstances exist in this case.” ROA 73 at 4:8. The court preliminarily finds attorneys’ fees not to exceed 30% of the gross settlement amount (\$87,000) reasonable. 3. In its March 27, 2025 order, the court stated that the notice should be accompanied by a separate exclusion form and separate objection form, and that the settlement agreement and notice should be revised accordingly. The notice now includes separate exclusion and objection forms, but the settlement agreement (Settlement Agreement ¶ 7.5.1) and the notice (sections 3(5) and 6) have not been revised accordingly. Plaintiff is ordered to file and serve by <u>July 31, 2025</u> a proposed order reflecting the above not-to-exceed amounts and that has all exhibits attached, including a fully executed amendment to the settlement agreement that addresses Issue No. 3 above and a revised class notice that addresses Issue No. 3 above. The final approval hearing is scheduled for <u>January 22, 2026 at 2:00 p.m.</u> in Department CX104. The motion for final approval
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		shall be filed at least 16 court days before the hearing. See Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service.
12	Vasquez v. KRC Santa Margarita, LLC 2021-01238849	<u>Plaintiff Lourdes Vasquez’s Motion for Approval of PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff’s motion for approval of a \$205,000 PAGA settlement. The court has the following questions and comments: <u>As to the settlement:</u> 1. In its March 27, 2025 order (ROA 113), the court ordered the parties to provide the estimated high, low and average individual PAGA payments. Plaintiff’s counsel states that “[t]he data has not yet been provided to the administrators, who has not yet been appointed. It is difficult to estimate the high and low payments without making references to the Pay Period data.” Supp. Jackson Decl. (ROA 120) ¶ 3. The estimated high and low individual PAGA payment figures are routinely provided with approval motions, and plaintiff must provide that information here. 2. In its March 27, 2025 order, the court inquired whether the parties/counsel have become aware of any related pending actions or other cases that may be impacted by the settlement since the time they signed the settlement agreement. Defendants must file declarations with the court addressing this issue. <u>As to the notice letter:</u> 3. Why does the notice letter only identify and address one of the two settling defendants? 4. The release in the notice letter is inconsistent with the release in the settlement agreement. Settlement Agreement ¶ 5.2. 5. The word “her” in the third sentence of the first paragraph of the notice letter should be “she.” <u>As to the proposed order and judgment (ROA 118):</u> 6. In its March 27, 2025 order (ROA 113), the court stated that the settlement agreement, any amendment(s) thereto, and the notice letter (in all languages) should be attached as exhibits to the proposed order and judgment. This has not been done. 7. Paragraph 4 of the proposed order and judgment should be removed as it is inconsistent with paragraph 8.

		8. In its March 27, 2025 order, the court stated that the proposed order and judgment should state that the administrator is ordered to make disbursements in accordance with the terms of the settlement agreement. This has not been done. The following statement should be included in paragraph 5: "The settlement administrator is ordered to make disbursements in accordance with the terms of the settlement agreement." 9. The phrase "for at least 180 days" should be inserted at the end of the sentence in paragraph 7. The hearing on plaintiff's motion for approval is continued to <u>January 15, 2026 at 2:00 p.m.</u> in Department CX105 to permit the parties to address and respond to the above issues. See <i>also</i> Department CX105 Guidelines for Approval of Class Action Settlements and PAGA Settlements (www.occourts.org). A supplemental brief shall be filed at least 9 court days before the hearing and shall address as necessary each of the above points. If required, an amendment to the settlement agreement shall be submitted, rather than an "amended settlement agreement," to streamline the court's review of the documents. The parties shall provide redlined copies of any revised documents (e.g., revised settlement agreement, revised notice, revised proposed order). Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service. Plaintiff must also serve the LWDA with any supplemental brief and any amended settlement documents, and file a proof of service.
13	Zavala v. Post Acute Care Partners Inc. 2023-01362792	<u>Plaintiff's Motion for Approval of PAGA Settlement</u> The court has reviewed and considered the papers, including the supplemental papers, filed in support of plaintiff's motion for approval of a \$100,000 PAGA settlement. Subject to plaintiff's submission of the documents identified below, the court grants the motion as follows: No enhancement payment to plaintiff (see No. 1 below); \$30,000.00 for attorneys' fees (see No. 2 below); \$11,626.75 for litigation costs; \$5,000.00 for settlement administration costs; and \$53,373.25 total PAGA penalties (\$40,029.93 to the LWDA). 1. The amended settlement agreement states that plaintiff seeks an enhancement payment of \$2,500.00; it also states that plaintiff "will receive" the amount of \$25,023.31 "as her total compensation" and that that amount "includes Plaintiff's individual settlement for her wrongful termination in the amount of \$25,000.00 and \$23.31 for Plaintiff's PAGA recovery." Amended Settlement Agreement ¶¶ 1.11, 3.2.5. The amount is different from the amount stated in the Supplemental

		Seyedfarshi Declaration (ROA 52 at ¶ 9), which states that “[t]he total amount that Plaintiff will be receiving, excluding the enhancement, is \$20,023.31. This includes a settlement of \$20,000.00 and PAGA penalties of \$23.31.” Plaintiff does not explain the discrepancy in amounts between the amended settlement agreement and plaintiff’s counsel’s declaration. In accordance with the amended settlement agreement, the court does not award plaintiff an enhancement payment. 2. Plaintiff’s counsel seeks attorneys’ fees totaling one-third of the gross settlement amount. The court finds no unique circumstances regarding the modest settlement here (e.g., the average payment to the aggrieved employees is \$12.21, Amended Settlement Agreement ¶ 3.2.4) warranting an attorneys’ fees award in excess of 30% of the gross settlement amount. Plaintiff is ordered to file and serve by <u>July 31, 2025</u> a <u>revised proposed order</u> consistent with this ruling with all exhibits attached (the amended settlement agreement and the notice letter in English and Spanish), including a <u>revised notice letter</u> consistent with the above ruling. The final accounting hearing is scheduled for <u>November 13, 2025 at 9:00 a.m.</u> in Department CX105. Counsel shall submit a final administrator’s report at least 9 court days before the hearing addressing the status of the settlement administration, including the actual amounts paid to the Aggrieved Employees and the other amounts distributed under the settlement, including any uncashed checks. Plaintiff is ordered to give notice, including to the LWDA, and to file a proof of service.
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Exhibit 2

Dariusz Adli, Esq., SBN 204959
adli@adlilaw.com
Jacob Mojarro, Esq., SBN 289339
Jacob.mojarro@adlilaw.com
ADLI LAW GROUP, P.C.
3453 Newridge Dr.,
Rancho Palos Verdes, CA 90275
Telephone: (213) 623-6546
Facsimile: (213) 623-6554

Attorneys for Defendants
OMNI ENTERPRISE INC.

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

JUSTINA BALDERRAMA, an individual,
on behalf of herself, the State of California,
as a private attorney general, and on behalf
of all others similarly situated,

Plaintiffs,

vs.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No. 30-2022-01256174-CU-OE-CXC

Assigned to the Hon. Wilson, Dept. CX102

**DECLARATION OF JACOB MOJARRO
AS REPLY OF DEFENDANT OMNI
ENTERPRISES, INC.'S TO PLAINTIFF'S
MOTION FOR ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: April 30, 2026

Time: 2:00 P.M.

Dept: CX105

Judge: Hon. Melissa R. McCormick

Complaint filed April 22, 2022

DECLARATION OF JACOB MOJARRO

1. I am an attorney of law duly licensed to practice law before all the courts in the State of California. I have personal knowledge of the facts stated in this declaration and if called upon to testify as a witness in a court of law, I could and would competently testify to these same facts.

2. I am an attorney working for Adli Law Group, attorney of record for the Defendant in this matter. I am the attorney responsible for this case. We represent Defendant. I make this declaration in support of the Defendant's Reply to Plaintiff's Motion for Order Granting Preliminary Approval of Class Action Settlement.

3. Anne-Leith Matlock, an Associate at ADLI who is no longer with our firm, attended the initial Preliminary Approval of Class Action Hearing on March 20, 2025, having read the Tentative Ruling of this court.

4. She cooperated with Plaintiff's counsel in reviewing, offering edits and obtaining my client's and my signatures on the Amended Settlement Agreement.

5. I have discussed #7 in the court's ruling with my client Defendant representative, Dante Perez, of Omni Enterprises. After making a reasonable inquiry, Mr. Perez is aware of the following representative actions:

(1) *Ronny Oliva Ossorio v. Omni Enterprise, Inc. et. al.* – Orange County Superior Court Case No. 30-2025-01524206-CU-WT-CJC. This is an individual case for discrimination and retaliation and includes a wage and hour claim for failure to pay overtime,

(2) *Maribel Munoz v. Omni Enterprise, Inc.* – Orange County Case No. 30-2025-01523293-CU-WT-NJC. This is an individual case for or wrongful termination and includes a wage and hour claims.

6. Defendants believe the respective wage and house claims in the two cases share common questions of law or fact with the class claim

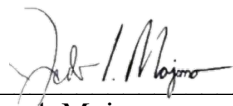
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I declare, under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on April 14, 2026 in Los Angeles, California.



Jacob Mojarro

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PROOF OF SERVICE

I am over eighteen (18) years of age, employed in the County of Los Angeles, and not a party to this action. My business address is 3453 Newridge Dr., Rancho Palos Verdes, CA 90275. My electronic address is litigation@adlilaw.com. I hereby certify that on April 14, 2026, I served the following documents:

DECLARATION OF JACOB MOJARRO AS REPLY OF DEFENDANT OMNI ENTERPRISES, INC.'S TO PLAINTIFF'S MOTION FOR ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

By delivering the document(s) to:

Attorney For: Plaintiff and the Putative Class

MELMED LAW GROUP, P.C.

Jonathan Melmed (SBN 290218)

jm@melmedlaw.com

Laura M. Supanich (SBN 314805)

lms@melmedlaw.com

Michiko Vartanian (SBN 323979)

mv@melmedlaw.com

1801 Century Park East, Suite 850

Los Angeles, California 90067

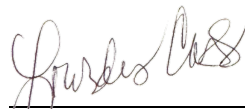
Telephone: (310) 824-3828

Facsimile: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

- ☒ BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare, under penalty of perjury under the laws of the United States, that the foregoing is true and correct. Executed at Los Angeles, California.



Lourdes Casas

Exhibit 3

MELMED LAW GROUP P.C.

Jonathan Melmed (SBN 290218)

jm@melmedlaw.com

Laura Supanich (SBN 314805)

lms@melmedlaw.com

1801 Century Park East, Suite 850

Los Angeles, California 90067

Phone: (310) 824-3828

Fax: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

Darius G. Adli, Esq., SBN 204959

adli@adlilaw.com

Jacob I. Mojarro, Esq. (SBN 289339)

jacob.mojarro@adlilaw.com

ADLI LAW GROUP, P.C.

3453 Newridge Dr.,

Rancho Palos Verdes, CA 90275

Telephone: (213) 623-6546

Facsimile: (213) 623-6554

Attorneys for Defendant, Omni Enterprises, Inc.

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

JUSTINA BALDERRAMA, an individual, on
behalf of herself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No.: 30-2022-01256174-CU-OE-CXC

**Second Amended Settlement Agreement and
Release of Class Action**

Style Definition: Paragraph

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mv@melmedlaw.com

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SECOND AMENDED SETTLEMENT AGREEMENT AND RELEASE OF CLASS ACTION

This **Second** Amended Settlement Agreement and Release of Class Action (“Settlement Agreement”) is made and entered into by: **(1)** Plaintiff Justina Balderrama (“Plaintiff”), individually and in her representative capacity on behalf of the Settlement Class, as defined below, and as a private attorney general on behalf of the State of California; and **(2)** Defendant Omni Enterprises, Inc. (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.” This Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of Court, rule 3.769, subdivisions (c), (d), and (e), and is made for the sole purpose of attempting to consummate settlement of the action on a class-wide basis subject to the following terms and conditions. As detailed below, if the Court does not enter an order granting final approval of this Settlement Agreement or the conditions precedent are not met for any reason, this Settlement Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into this definition section.

1.1. ACTION

“Action” shall mean the following civil action: *Justina Balderrama v. Omni Enterprises, Inc.*, case number 30-2022-01256174-CU-OE-CXC, currently pending before the Superior Court of the State of California for the County of Orange.

1.2. ADMINISTRATIVE EXPENSE PAYMENT

“Administrative Expenses” shall include all costs and expenses associated with and paid to the third-party settlement administrator, which are estimated to be \$6,950.00.

1.3. APPLICABLE WAGE ORDER

“Applicable Wage Order” shall mean the California Industrial Welfare Commission (“IWC”) Wage Order applicable to the facts of this case, including IWC Wage Order 5-2001 and others that may be applicable. (Cal. Code of Regs., tit. 8, § 11050.)

Deleted: Dariush G. Adli, Esq., SBN 204959
Adli@Adlilaw.Com
Jamie Wright, Esq., SBN 264484
Jamie.Wright@Adlilaw.Com
ADLI LAW GROUP, P.C.
12400 Wilshire Blvd., Suite 1460
Los Angeles, California 90025
Telephone: (213) 623-6546
Facsimile: (213) 623-6554
Attorneys for Defendant Omni Enterprises, Inc.
Section Break (Next Page)

1 **1.4. CLAIMS**

2 “Claims” shall mean the claims asserted in the Action.

3 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

4 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount
5 attributable to attorney fees and litigation expenses. The Parties agree that the fee-portion of the Class
6 Attorney Fees and Expenses shall be up to one-third of the Gross Settlement Amount (i.e.,
7 \$108,333.33), as approved by the Court, and the award of costs and expenses shall be up to an
8 additional \$20,000.00. If the Escalator Provision described below is triggered so as to increase the
9 Gross Settlement Amount, the Parties agree that the fee portion of the Class Attorney Fees and
10 Expenses will increase proportionally such that the total amount of attorneys’ fees remains one-third
11 of the Gross Settlement Amount *after* the upward adjustment required by the Escalator Provision is
12 implemented.

13 **1.6. CLASS COUNSEL**

14 “Class Counsel” shall mean Jonathan Melmed, Laura Supanich, and Michiko Vartanian of
15 Melmed Law Group P.C.

16 **1.7. CLASS MEMBER**

17 “Class Member” shall mean any person who is a prospective member of the Settlement Class,
18 or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-
19 in-interest.

20 **1.8. CLASS NOTICE**

21 “Class Notice” shall mean the *Notice of Proposed Class Action Settlement*, as set forth in the
22 form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to
23 Class Members along with the Share Form.

24 **1.9. CLASS PARTICIPANTS**

25 “Class Participants” shall mean all Class Members who do not timely request exclusion from
26 the Class Settlement.

1 **1.10. CLASS PERIOD**

2 “Class Period” shall mean the period from April 22, 2018, through the earliest of 90 days after
3 the date of mediation or the date of preliminary approval of the settlement.

4 **1.11. CLASS REPRESENTATIVE**

5 “Class Representative” shall mean Plaintiff Justina Balderrama.

6 **1.12. CLASS SETTLEMENT**

7 “Class Settlement” shall mean the settlement embodied in this Settlement Agreement, which is
8 subject to Court approval.

9 **1.13. COMPLAINT**

10 “Complaint” shall mean the currently-operative complaint in the Action.

11 **1.14. COURT**

12 “Court” shall mean the Superior Court of the State of California for the County of Orange.

13 **1.15. DEFENDANT**

14 “Defendant” shall mean Defendant Omni Enterprises, Inc.

15 **1.16. DEFENSE COUNSEL**

16 “Defense Counsel” shall mean the attorneys representing Defendant.

17 **1.17. EFFECTIVE DATE**

18 “Effective Date” shall be the date when all of the following events have occurred: **(a)** this
19 Settlement Agreement has been executed by all Parties and by Class Counsel and Defense Counsel;
20 **(b)** the Court has given preliminary approval to the Class Settlement; **(c)** notice has been given to the
21 Settlement Class providing them with an opportunity to request exclusion from the Class Settlement;
22 **(d)** the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment
23 certifying the Settlement Class and approving this Settlement Agreement; and **(e)** the later of the
24 following events: **(i)** the expiration of the period for filing any appeal, writ, or other appellate
25 proceeding opposing the Class Settlement has elapsed without any appeal, writ, or other appellate
26 proceeding having been filed; **(ii)** the dismissal of any appeal, writ, or other appellate proceeding
27 opposing the Class Settlement with no right to pursue further remedies or relief; or **(iii)** any appeal,
28 writ, or the issuance of such other final appellate order upholding the Court’s final order with no right

1 to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Class
2 Settlement shall not become effective until the Court's order approving the Class Settlement is
3 completely final and there is no further recourse by an appellant or objector who seeks to contest the
4 Class Settlement. If no objections are filed, the Effective Date shall be after steps (a) through (d) are
5 completed (i.e., the date that the court has entered a final order and judgment certifying the Settlement
6 Class and approving this Settlement Agreement).

7 **1.18. EMPLOYEE'S TAXES AND REQUIRED WITHHOLDING**

8 "Employee's Taxes and Required Withholding" shall mean the employee's share of any and all
9 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
10 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
11 Unemployment Tax Act (SUTA) on the portion of any Class Participant's Individual Settlement
12 Amount that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld
13 from and paid out of the Individual Settlement Amounts paid from the Net Settlement Amount.

14 **1.19. EMPLOYER'S TAXES**

15 "Employer's Taxes" shall mean and refer to Defendant's share of payroll taxes (e.g.,
16 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
17 owed on the portion of any Class Participant's Individual Settlement Amount that constitutes wages.
18 The Employer's Taxes shall be separately paid by Defendant and shall not be paid from the Gross
19 Settlement Amount or Net Settlement Amount.

20 **1.20. FINAL APPROVAL AND FAIRNESS HEARING**

21 "Final Approval and Fairness Hearing" shall mean the final hearing held to ascertain the
22 fairness, reasonableness, and adequacy of the Class Settlement.

23 **1.21. FINAL JUDGMENT**

24 "Final Judgment" shall mean the judgment entered by the Court upon granting final approval
25 of this Settlement Agreement.

26 **1.22. GROSS SETTLEMENT AMOUNT**

27 "Gross Settlement Amount" is the agreed upon non-reversionary settlement amount totaling
28 \$325,000.00 to be paid by Defendant in full settlement of the Released Claims asserted in this case,

1 inclusive of the Administrative Expenses, the Employee's Taxes and Required Withholdings, the Class
2 Attorney Fees and Expenses, the Incentive Award (i.e. the Class Representative Service Payment), and
3 PAGA Payment. Defendant shall separately pay its share of the Employer's Taxes in addition to the
4 Gross Settlement Amount on the portion of each Individual Settlement Amount allocated as wages.

5 **1.23. HEARING ON PRELIMINARY APPROVAL**

6 "Hearing on Preliminary Approval" shall mean the hearing held on the motion for preliminary
7 approval of the Class Settlement.

8 **1.24. INCENTIVE AWARD**

9 "Incentive Award" shall mean any additional monetary payment provided to the Class
10 Representative for her efforts and risks on behalf of the Settlement Class in this Action.

11 **1.25. INDIVIDUAL SETTLEMENT AMOUNT**

12 "Individual Settlement Amount" shall mean the amount which is ultimately distributed to each
13 Class Participant, less any Employee's Taxes and Required Withholdings. The Individual Settlement
14 Amount does not include any portion of the PAGA Payment.

15 **1.26. LWDA**

16 "LWDA" shall mean the California Labor and Workforce Development agency, the agency
17 entitled under Labor Code sections 2699.

18 **1.27. NET SETTLEMENT AMOUNT**

19 "Net Settlement Amount" shall mean the Gross Settlement Amount minus: Administrative
20 Expenses; Class Attorney Fees and Expenses; 75% of the share of the Gross Settlement Amount
21 allocated toward penalties pursuant to the Labor Code Private Attorney General Act of 2004
22 ("PAGA"), codified at Labor Code sections 2698 through 2699.6, which are payable to the California
23 LWDA; and Plaintiff's Incentive Award.

24 **1.28. OPT OUT**

25 "Opt Out" shall refer to the process of submitting a timely and valid request for exclusion from
26 the Class Settlement in accordance with the terms of the Class Notice and no later than the Response
27 Deadline.
28

1 **1.29. OPT-OUTS**

2 “Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class
3 Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline.

4 **1.30. PAGA PAYMENT**

5 “PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a
6 reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is
7 \$20,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699
8 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and
9 twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class. Class Counsel shall give
10 timely notice of this Settlement Agreement to the LWDA pursuant to Labor Code section 2699,
11 subdivision (l)(2).

12 **1.31. PAGA PERIOD**

13 “PAGA Period” shall mean the period from April 22, 2021, through the earliest of 90 days after
14 the date of mediation or the date of preliminary approval of the settlement.

15 **1.32. PAGA RELEASED CLAIMS**

16 “PAGA Released Claims” shall mean any and all claims that are pled in the Action for civil
17 penalties under PAGA, i.e.: failure to pay minimum wages for all hours worked, failure to pay overtime
18 wages, failure to provide paid rest breaks and pay missed rest break premiums, failure to provide meal
19 periods and pay missed meal period premiums, failure to pay wages timely during employment, failure
20 to pay timely wages at separation, failure to provide accurate and itemized wage statements, failure to
21 pay sick leave, and recordkeeping violations, pursuant to Labor Code sections 201, 202, 203, 204, 210,
22 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199.

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23 **1.33. PAGA SETTLEMENT CLASS**

24 “PAGA Settlement Class” shall mean all individuals who are or were employed by Defendants
25 as non-exempt employees in California during the PAGA Period.

26 **1.34. PARTIES**

27 “Parties” shall mean Plaintiff and Defendant.
28

1 **1.35. PLAINTIFF**

2 “Plaintiff” shall mean Plaintiff Justina Balderrama.

3 **1.36. PRELIMINARY APPROVAL DATE**

4 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
5 preliminarily approving this Settlement Agreement.

6 **1.37. RELEASED CLAIMS**

7 “Released Claims” shall mean those claims that were or reasonably could have been asserted
8 based on the facts alleged in the operative complaint that arose during the Class Period and/or PAGA
9 Period, i.e. claims for: (1) failure to pay minimum wage for all hours worked in violation of Labor
10 Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s); (2) failure to pay proper
11 overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage
12 Order(s); (3) failure to provide compliant rest periods and pay missed rest break premiums in violation
13 of Labor Code section 226.7 and the applicable IWC Wage Order(s); (4) failure to provide compliant
14 meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512,
15 and the applicable IWC Wage Order(s); (5) failure to maintain accurate employment records in
16 violation of Labor Code section 1174; (6) failure to pay timely wages during employment in violation
17 of Labor Code sections 204, 210; (7) failure to pay all wages due and owing at separation in violation
18 of Labor Code sections 201, 202, and 203; (8) failure to provide complete and accurate wage statements
19 in violation of Labor Code sections 226 and 226.3; and (9) deceptive, fraudulent, or otherwise unlawful
20 business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. &
21 Prof. Code, §§ 17200–17210).

22 No other claims are released other than those claims specifically plead in the Complaint or
23 otherwise specifically identified herein. This Settlement Agreement will not release any person, party,
24 or entity from claims, if any, by Class Members for workers compensation, unemployment, or disability
25 benefits of any nature. Nor does it release any claims, actions, or causes of action which may be
26 possessed by Class Members under state or federal discrimination statutes, including, without
27 limitation, the California Fair Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh
28 Civil Rights Act (Civ. Code, § 51); the California Constitution; Title VII of the Civil Rights Act of

Deleted: and/or PAGA notice to the California Labor and Workforce Development Agency

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Deleted: ; (10) statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698-2699.6); and (11) all claims for liquidated damages, penalties, interest, fees, costs based on the foregoing

1 1964 (42 U.S.C. § 2000, et seq.); the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the
2 Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their
3 implementing regulations and interpretive guidelines.

4 **1.38. RELEASED PARTIES**

5 “Released Parties” shall mean Defendant and all of Defendant and all of Defendant’s
6 subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns.

7 **1.39. RELEASING PARTIES**

8 “Releasing Parties” shall mean every Class Participant and all persons purporting to act on their
9 behalf or purporting to assert a claim under or through them, including, but not limited to, their
10 dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
11 conservators, guardians, personal representatives, and successors-in-interest, whether individual, class,
12 representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

13 **1.40. RESPONSE DEADLINE**

14 “Response Deadline” shall mean the date sixty (60) days following the date on which the
15 Settlement Administrator first mails Class Notice to the Class Members and the last day on which Class
16 Members may submit a request for exclusion and/or objection to Class Settlement.

17 **1.41. SETTLEMENT ADMINISTRATOR**

18 “Settlement Administrator” shall mean ILYM Group, Inc. (or other administrator agreed on by
19 the parties) which the Parties have agreed will be responsible for administration of the Class Settlement
20 and related matters.

21 **1.42. SETTLEMENT CLASS**

22 “Settlement Class” shall mean all individuals who are or were employed by Defendants as non-
23 exempt employees in California during the Class Period. Defendant represents that the Settlement Class
24 consists of approximately 287 Class Members that worked a total of approximately 18,092 workweeks
25 during the Class Period.
26
27
28

1 **1.43. SHARE FORM**

2 “Share Form” shall mean the *Class Action Settlement Share Form*, as set forth in the form of
3 **Exhibit 2** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
4 Members along with the Class Notice.

5 **2. FACTUAL AND PROCEDURAL BACKGROUND**

6 **2.1. PLAINTIFF’S CLAIMS**

7 Plaintiff, individually and in her representative capacity on behalf of the Settlement Class, and
8 as a private attorney general on behalf of the State of California, has alleged the following violations:
9 **(1)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and
10 1194.2, and the Applicable Wage Order; **(2)** failure to pay proper overtime wages in violation of Labor
11 Code sections 510, 1197, and 1198, and the Applicable Wage Order; **(3)** failure to provide compliant
12 rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the
13 Applicable Wage Order; **(4)** failure to provide compliant meal periods and pay missed meal period
14 premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage Order;
15 **(5)** failure to maintain accurate employment records in violation of Labor Code section 1174;
16 **(6)** failure to pay timely wages during employment in violation of Labor Code sections 204, 210;
17 **(7)** failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202,
18 and 203; **(8)** failure to provide complete and accurate wage statements in violation of Labor Code
19 sections 226 and 226.3; **(9)** deceptive, fraudulent, or otherwise unlawful business practices based on
20 the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–
21 17210); and **(10)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–
22 2699.6).

23 **2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

24 Class Counsel has conducted significant informal discovery during the prosecution of the
25 Action. This discovery, investigation, and prosecution has included, among other things, **(a)** over a
26 dozen telephonic conferences with Plaintiff; **(b)** inspection and analysis of hundreds of pages of
27 documents and other information produced by Plaintiff and Defendant; **(c)** analysis of employment
28 data from a sample of Class Members; **(d)** an analysis of the legal positions taken by Defendant;

1 (d) investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis
2 of potential class-wide damages, including information sufficient to understand Defendant's potential
3 defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in
4 the Complaint and the potential defenses thereto; and (g) assembling and analyzing of data for
5 calculating damages.

6 Class Counsel and the Class Representative have vigorously prosecuted this case, and
7 Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and
8 discovery to assess the relative merits of the claims of the Class Representative and of the defenses to
9 them. After such discovery, investigation, and prosecution, the Parties attended a full-day mediation
10 with an experienced employment law mediator, which culminated in a settlement in principle, the terms
11 of which are elaborated in this Settlement Agreement.

12 2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF 13 CLASS SETTLEMENT

14 The document and data exchange in this matter, as well as discussions between counsel, have
15 been adequate to give the Class Representative and Class Counsel a sound understanding of the merits
16 of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery
17 conducted in this Action and the information exchanged by the Parties through pre-mediation
18 discussions are sufficient to reliably assess the merits of the Parties' respective positions and to
19 compromise the issues on a fair and equitable basis.

20 The Class Representative and Class Counsel believe that the claims, causes of action,
21 allegations, and contentions asserted in the Action have merit. However, the Class Representative and
22 Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings
23 necessary to prosecute the Action against Defendant through trial and through appeals. Class Counsel
24 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
25 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
26 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class.
27 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
28 alleged in the Action.

1 The Class Representative and Class Counsel believe that the settlement set forth in this
2 Settlement Agreement confers substantial benefits upon Plaintiff and the Settlement Class and that an
3 independent review of this Settlement Agreement by the Court in the approval process will confirm
4 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
5 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiff
6 and the Class Members.

7 **2.4. DEFENDANT’S DENIALS OF WRONGDOING AND LIABILITY**

8 Defendant has denied and continues to deny all allegations, claims, and contentions alleged by
9 Plaintiff in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing
10 or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the
11 Action. Defendant contends that it complied with California and federal wage and hour laws and has
12 dealt legally and fairly with Plaintiff and the Class Members.

13 Defendant further denies that, for any purpose other than settling this Action, these claims are
14 appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further
15 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
16 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
17 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendant’s
18 respective businesses without further expensive litigation and the distraction and diversion of their
19 personnel with respect to matters at issue in the Action. Defendant has also taken into account the
20 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
21 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled
22 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

23 **2.5. INTENT OF THE CLASS SETTLEMENT**

24 The Class Settlement set forth herein intends to achieve the following: **(1)** entry of an order
25 approving the Class Settlement; **(2)** entry of judgment of the Action; **(3)** discharge of the Released
26 Parties from liability for any and all of the Released Claims; and **(4)** discharge of Defendant from
27 liability for any and all claims arising out of the Action.
28

1 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

2 For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the
3 Parties agree to conditional class certification of the Settlement Class. Defense Counsel believes this
4 conditional certification is appropriate because the Released Claims are being compromised without
5 need to establish the elements of those claims on which liability turns. The certification of the
6 Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by
7 Defendant, including without limitation, that certification of a class for trial purposes is or would be
8 warranted, appropriate or proper; or that Plaintiff could establish any of the requisite elements for class
9 treatment of any of the claims in the Action.

10 If the Settlement Agreement is not finally approved by the Court, the Effective Date is not
11 achieved, or the Class Settlement is rejected, terminated, or otherwise rendered null and void as set
12 forth herein, then certification of the Settlement Class shall be automatically vacated, shall be void *ab*
13 *initio*, of no force or effect, and shall not constitute evidence or a binding determination that the
14 requirements for certification of a class for trial purposes in this Action or in any other action which
15 have been, are or can be, satisfied. Further, if the Agreement does not reach the Effective Date, Plaintiff
16 agrees that Plaintiff will not argue, claim, reference, or otherwise raise any preliminary approval of the
17 Settlement Class in connection with any later proceeding before the Court.

18 **4. APPOINTMENT OF CLASS COUNSEL**

19 For purposes of this Settlement Agreement and subject to the Court's approval, the Parties agree
20 to the appointment of Class Counsel as counsel for the Settlement Class and the effectuation of the
21 Class Settlement pursuant to this Settlement Agreement.

22 **5. CONSIDERATION**

23 **5.1. SETTLEMENT AMOUNT**

24 The Parties agree to settle this Action for the Gross Settlement Amount of \$325,000.00. There
25 shall be no reversion to Defendant. Defendant shall pay the Gross Settlement Amount in full. The Gross
26 Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate
27 consideration for the Class Settlement and will be made in full and final settlement of: the Released
28 Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive Award, the

1 PAGA Payment (and any payments to individual PAGA Class Members resulting from the PAGA
2 Payment), and any other obligation of Defendant under this Settlement Agreement (other than the
3 Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of wages).

4 After the Court issues an order preliminarily approving this Class Settlement, the Settlement
5 Administrator will distribute the Class Notice to the Class Members, which shall describe the terms of
6 the Class Settlement and procedures to Opt Out, object, or participate in the Class Settlement as well
7 as the Share Form, which shall identify the Class Member, the number of workweeks worked by each
8 Class Member ("Workweeks"), as well as the estimated amount of the Individual Settlement Amount
9 the Class Member can expect to receive once the Class Settlement becomes effective on the Effective
10 Date. Class Members shall be given the opportunity to challenge their Workweeks information.

11 **5.2. INCENTIVE AWARD FOR PLAINTIFF**

12 Plaintiff may petition the Court to approve an Incentive Award in an amount up to \$7,500.00
13 for Justina Balderrama to acknowledge her efforts on behalf of the Settlement Class in this Action,
14 including assisting in the investigation and consulting with Class Counsel and providing crucial
15 documents to Class Counsel. Defendant shall not oppose any request by Plaintiff for an Incentive
16 Award in such an amount. Any Incentive Award approved by the Court shall be paid to Plaintiff from
17 the Gross Settlement Amount and shall be in addition to any distribution to which she may otherwise
18 be entitled as a Class Participant. Any Incentive Award approved by the Court shall not be considered
19 wages, and the Settlement Administrator shall issue to Plaintiff an IRS Form 1099 reflecting such
20 payment. Plaintiff shall be responsible for the payment of all taxes with respect to any Incentive Award
21 approved by the Court and shall hold Defendant harmless from all liability with regard thereto.

22 **5.3. PAYMENT TO CLASS PARTICIPANTS**

23 Each Class Participant shall be eligible to receive payment of the Individual Settlement
24 Amount, which is a share of the Net Settlement Amount based on the pro rata number of weeks worked
25 by the Class Members during the Class Period as a proportion of all weeks worked by all Class
26 Members. Each Class Participant, including Plaintiff, shall be responsible for the payment of the
27 Employee's Taxes and Required Withholding with respect to his or her Individual Settlement Amount.
28

1 **5.4. PAYMENT TO PAGA SETTLEMENT CLASS**

2 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
3 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
4 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
5 is \$20,000.00. The PAGA Payment must be approved by the Court pursuant to Labor Code section
6 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA
7 and twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class. The portion of the
8 PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement
9 Class based on the pro rata number of pay periods worked by each particular PAGA Settlement Class
10 member during the PAGA Period as a proportion of all pay periods worked by all members of the
11 PAGA Settlement Class.

12 **5.5. TAX TREATMENT AND PAYMENT**

13 For the purpose of calculating Employee's Taxes and Required Withholding for the Individual
14 Settlement Amounts for Class Participants (including any payments to the Class Representative but
15 exclusive of her Incentive Award), the Parties agree that 20% of each Individual Settlement Amount
16 shall constitute payment in the form of wages (and each Class Participant will be issued an IRS Form
17 W-2 for such payment to him or her), and 80% of each Individual Settlement Amount shall constitute
18 penalties and interest (and each Class Participant will be issued an IRS Form 1099 for such payment
19 to him or her). Prior to final distribution, the Settlement Administrator shall calculate the total
20 Employee's Taxes and Required Withholding due as a result of the wage portion of Class Participants'
21 anticipated Individual Settlement Amounts and such actual amount will be deducted from the Net
22 Settlement Amount. Additionally, prior to the funding of the Gross Settlement Amount and final
23 distribution, the Settlement Administrator shall calculate the total Employer's Taxes due on the wage
24 portion of the Class Participants' Individual Settlement Amounts and issue instructions to Defendant
25 to separately fund these tax obligations/withholdings. The Parties understand that Plaintiff and the
26 Class Participants who receive any payment pursuant to this Settlement Agreement shall be solely
27 responsible for all other individual tax obligations.
28

1 With respect to the PAGA Payment and any payments made to individual members of the
2 PAGA Settlement Class, all such payments shall be treated as payments owing for penalties and interest
3 thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the
4 PAGA Settlement Class an IRS Form 1099 reflecting such payment. Members of the PAGA Settlement
5 Class shall be solely responsible for the payment of all taxes with respect to any PAGA payments made
6 to them.

7 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

8 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
9 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
10 program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
11 benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies,
12 or bonus programs. The payments made under the terms of this Settlement Agreement shall not be
13 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other
14 form of compensation for the purposes of any of Defendant's benefit plan, policy, or bonus program.
15 Defendant retains the right to modify the language of its benefits plans, policies, and bonus programs
16 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
17 not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined
18 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
19 any other purpose, and that additional contributions or benefits are not required by this Settlement
20 Agreement. Defendant does not consider the Class Settlement payments "compensation" for purposes
21 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
22 or any other plan sponsored by Defendant.

23 **5.7. CLASS ATTORNEY FEES AND EXPENSES**

24 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
25 an award of Class Attorney Fees and Expenses with the fee portion not to exceed one-third of the Gross
26 Settlement Amount (i.e., \$108,333.33) and the award of costs and expenses up to an additional
27 \$20,000.00. Defendant agrees to not object to any such fee, cost, or expense application in those
28 amounts.

1 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
2 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
3 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
4 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
5 Class Attorney Fees and Expenses or the Court's award of Class Attorney Fees and Expenses is less
6 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
7 Attorney Fees and Expenses awarded. Defendant will not oppose requests for these payments provided
8 that they do not exceed these amounts.

9 The Class Attorney Fees and Expenses approved by the Court shall reflect: **(a)** all work
10 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
11 represent the Settlement Class through the date of this Settlement Agreement; **(b)** all work to be
12 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
13 **(c)** all work to be performed and costs and expenses, if any, incurred in connection with administering
14 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and **(d)** may
15 be based on the "catalyst theory" and/or the "common fund doctrine." The Settlement Administrator
16 will pay the Class Counsel Fees Payment and Class Counsel Expenses from the Gross Settlement
17 Amount using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
18 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment
19 and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding
20 any division or sharing of any of these payments. Failure of the Court to award the Class Counsel Fees
21 Payment or Class Counsel Litigation Expenses Payment, including in the amount requested by
22 Plaintiff, is not grounds to void this Agreement.

23 **6. SETTLEMENT ADMINISTRATION**

24 **6.1. COSTS AND EXPENSES**

25 All costs and expenses due to the Settlement Administrator in connection with its administration
26 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class
27 Members, processing Opt Out requests and objections, distributing the portion of the PAGA Payment
28 payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the

1 PAGA Settlement Class, and calculating, administering and distributing Individual Settlement
2 Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement
3 Amount, and is estimated to be \$6,950.00.

4 **6.2. PAYMENT BY DEFENDANT**

5 Defendant shall deposit the Gross Settlement Amount in a lump sum payment plus the
6 employer-side payroll taxes to the Settlement Administrator within seven (7) days of the Effective
7 Date. In no event shall Defendant be obligated to pay or deposit with the Settlement Administrator
8 more than \$325,000.00 plus the Employer's Taxes, except where the Escalator Provision is triggered.

9 **7. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

10 **7.1. THE SETTLEMENT ADMINISTRATOR**

11 The Settlement Administrator will be responsible for: mailing the Class Notice and Share Form
12 (**Exhibit 1** and **Exhibit 2**, respectively) to Class Members; posting notice of entry of final order and
13 judgment certifying the Class Settlement and approving this Settlement Agreement; handling inquiries
14 from Class Members concerning the Class Notice; determining Individual Settlement Amounts;
15 determining individual payments to members of the PAGA Settlement Class; maintaining the
16 settlement funds in an appropriate interest-bearing account; preparing, administering, and distributing
17 Individual Settlement Amounts to Class Participants; preparing, administering, and distributing
18 individual payments to members of the PAGA Settlement Class; distributing the portion of the PAGA
19 Payment payable to the LWDA; issuing a final report and performing such other duties as the Parties
20 may direct. Additionally, the Settlement Administrator will handle all tax document preparation and
21 reporting, including state and federal tax forms, if any.

22 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
23 Defense Counsel with summary information updating them as to the number of validated and timely
24 objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and
25 Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no
26 later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel
27 with proof of mailing of the Class Notice, without listing individual Class Member names which the
28

1 Settlement Administrator will file with the Court at the time Class Counsel files its motion in support
2 of the Court's Final Approval and Fairness Hearing.

3 No later than thirty (30) days prior to the Final Approval and Fairness Hearing, the Settlement
4 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
5 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
6 Participant, without any identifying personal information; **(b)** the number of Class Participants to
7 receive such payments, and **(c)** the final number of Opt-Outs and objections.

8 Administrative Expenses are anticipated to be \$6,950.00. Prior to the calculation and
9 distribution of the Individual Settlement Amounts, the Settlement Administrator shall calculate the
10 total Administrative Expenses through the conclusion of their services and such actual amount will be
11 deducted from the Gross Settlement Amount prior to the final calculation of the Individual Settlement
12 Amounts.

13 **7.2. NOTICE TO CLASS MEMBERS**

14 Notice shall be provided to Class Members in the following manner: Within fourteen (14) days
15 after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with an
16 updated list of Class Members and members of the PAGA Settlement Class containing names, social
17 security numbers, dates of employment, last-known addresses, and phone numbers (the "Database").
18 The Database shall be marked "Confidential – Settlement Administrator's Eyes Only." Class Counsel
19 shall not receive a copy of this list.

20 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
21 Administrator shall determine the number of workweeks worked by each Class Member, populate the
22 data for each Class Member accordingly, and send each Class Member the Class Notice via first-class,
23 United States mail. The Class Notice shall also contain an easily-understood statement alerting the
24 Class Members that, unless they elect to Opt Out of the Class Settlement, the Class Member is releasing
25 and waiving all Released Claims against the Released Parties.

26 The Class Notice will inform Class Members of their estimated share of the settlement and the
27 number of workweeks they worked during the Class Period. Class Members may dispute their
28 workweeks if they believe they worked more weeks in the Class Period than Defendant's records show

1 by submitting information to the Settlement Administrator no later than sixty (60) days after being
2 mailed the Class Notice and Share Form by the Settlement Administrator, which is the defined
3 Response Deadline. The Settlement Administrator will jointly work with Plaintiff and Defendant to
4 resolve the dispute in good faith. If Plaintiff and Defendant cannot agree over the workweeks to be
5 credited, the Settlement Administrator may make the initial decision regarding workweek disputes, and
6 the Court may review any decision made by the Settlement Administrator regarding a workweek
7 dispute. The Parties shall file with the Court all disputes submitted by Class Members, the evidence
8 submitted, and the resolution of the disputes. Although the Settlement Administrator may make the
9 initial decision regarding workweek disputes, the Court may review any decision made by the
10 Settlement Administrator regarding such dispute.

Deleted: shall make the final decision based on the information presented by the Class Member and Defendant

11 7.3. OPT OUT PROCEDURE

12 Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate
13 in the Class Settlement and shall become Class Participants without having to submit a claim form or
14 take any other action. To Opt Out of the Class Settlement, the Class Member must submit a letter or
15 postcard to the Settlement Administrator by the Response Deadline. The Opt Out request must state
16 the Class Member's name, address, telephone number, and signature. The Opt Out request should state
17 something to the effect of:

18 "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *JUSTINA*
19 *BALDERRAMA V. OMNI ENTERPRISES, INC.* LAWSUIT. I UNDERSTAND THAT
20 IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT
21 RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT
22 AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."
23

24 Any Opt Out request that is not postmarked by the Response Deadline will be invalid. If prior
25 to the Response Deadline any Class Notice mailed to a Class Member is returned as having been
26 undelivered by the United States Postal Service, the Settlement Administrator shall perform a skip trace
27 search and seek an address correction for such Class Members, and a second Class Notice will be sent
28 to any new or different address obtained. Such Class Members shall have an additional fourteen (14)

1 days from the date of the mailing of the second Class Notice in which to Opt Out, object, or dispute
2 the information provided in the Share Form if the Response Deadline would have otherwise passed
3 prior to fourteen (14) days from the date of the mailing of the second Class Notice.

4 It will be presumed that, if an envelope containing the Class Notice has not been returned within
5 thirty (30) days of the mailing, the Class Member received the Class Notice. At least twenty-one (21)
6 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
7 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
8 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
9 specify the number of Class Members to whom the Class Notice was sent and the number of Class
10 Members to whom the Class Notice was not delivered, as well as information relating to the number
11 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

12 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
13 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
14 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
15 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify as if the Opt
16 Out request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall
17 be disregarded and the claim will be paid, and the Class Member will become bound by the judgment.

18 Class Participants will be bound by the Release of Released Claims set forth in the definition
19 of “Released Claims” provided in this Settlement Agreement.

20 A request to Opt Out of the Class Settlement shall **not** serve to exclude the Class Member from
21 participation in the PAGA Settlement Class. Opt-Outs shall still be entitled to their share of the PAGA
22 Payment. Class Members who are also members of the PAGA Settlement Class shall have no right or
23 ability to opt out of the portion of this Settlement Agreement releasing PAGA claims.

24 **7.4. OBJECTION PROCEDURE**

25 The Class Notice shall inform the Class Members of their right to object to the Class Settlement
26 if they do not Opt Out. Any Class Participants who wish to object to the Class Settlement may submit
27 a written objection to the Settlement Administrator no later than the Response Deadline. Only Class
28 Participants may object to the Settlement. The objection should include the case name and number and

1 must set forth, in clear and concise terms, a statement of the reasons why the objector believes that the
2 Court should find that the proposed Class Settlement is not in the best interest of the Settlement Class
3 and the reasons why the Class Settlement should not be approved, including the legal and factual
4 arguments supporting the objection. If an objector also wishes to appear at the Final Approval and
5 Fairness Hearing, in person or through an attorney, they may do so. The Settlement Administrator will
6 promptly serve copies of any objection or notice of intention to appear on Class Counsel and Defense
7 Counsel. Class Members wishing to make an objection may appear at the Final Approval and Fairness
8 Hearing, either in person or through a lawyer retained at their own expense, irrespective of whether
9 they have filed a written objection.

10 **7.5. NOTICE OF FINAL JUDGMENT**

11 Within seven (7) days after the Court has held a Final and Fairness Approval Hearing and
12 entered a final order certifying the Class for settlement purposes only and approving the Class
13 Settlement, the Settlement Administrator will give notice of judgment to Class Members pursuant to
14 rule 3.771(b) of the California Rules of Court, by posting a copy of said order and final judgment on
15 its website at a web address to be included in the Class Notice.

16 **8. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

17 **8.1. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT**

18 The claims of all Class Members are settled for the Gross Settlement Amount of \$325,000.00,
19 which will be allocated as follows:

- 20 1. The Administrative Expenses, estimated to be \$6,950.00;
- 21 2. Class Counsel's attorney fees not to exceed \$108,333.33;
- 22 3. Class Counsel's litigation costs and expenses not to exceed \$20,000.00;
- 23 4. The Incentive Award, not to exceed \$7,500.00; and
- 24 5. PAGA Payment to LWDA of \$15,000.00.

25 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement
26 Administrator shall calculate the estimated Net Settlement Amount based on the estimated values
27 provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement
28

1 Administrator shall recalculate the final Net Settlement Amount based on the actual values of the
2 amounts in each category.

3 **8.2. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR**
4 **CLASS PARTICIPANTS**

5 Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net
6 Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a
7 “checks cashed” basis based on the proportional number of weeks worked by each Class Member
8 during the Class Period.

9 Defendant will provide the Settlement Administrator with any information reasonably
10 necessary to perform the calculation of number of workweeks for each Class Member, and any other
11 reasonably required information the Settlement Administrator requests to perform the calculations
12 required under this Settlement Agreement. Defendant shall have no responsibility for deciding the
13 validity of the Individual Settlement Amounts or any other payments made pursuant to this Settlement
14 Agreement, shall have no involvement in or responsibility for the determination or payment of
15 Employee’s Taxes and Required Withholding, and shall have no liability for any errors made with
16 respect to such Employee’s Taxes and Required Withholding. Although the Settlement Administrator
17 will calculate and pay the standard Employee’s Taxes and Required Withholding on the portion of the
18 Individual Settlement Amounts constituting wages on their behalf, Plaintiff and Class Participants
19 represent and understand that they shall be solely responsible for any and all tax obligation associated
20 with their respective Individual Settlement Amounts and Incentive Awards.

21 **8.3. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF**
22 **THE PAGA SETTLEMENT CLASS**

23 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
24 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
25 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
26 is \$20,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section
27 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA
28 and twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class.

1 The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed
2 to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular
3 PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked
4 by all PAGA Settlement Class members during the PAGA Period. Each member of the PAGA
5 Settlement Class, including Plaintiff, shall be responsible for the payment of the Employee's Taxes and
6 Required Withholding with respect to their share of the PAGA Payment and shall hold Defendant
7 harmless from any and all liability with regard thereto.

8 Defendant will provide the Settlement Administrator with any information reasonably
9 necessary to perform the calculation of number of pay periods worked for each PAGA Settlement Class
10 member, and any other reasonably required information the Settlement Administrator requests to
11 perform the calculations required under this Settlement Agreement. Defendant shall have no
12 responsibility for deciding the validity of the individual payment amounts allocated to each member of
13 the PAGA Settlement Class or any other payments made pursuant to this Settlement Agreement, shall
14 have no involvement in or responsibility for the determination or payment of Employee's Taxes and
15 Required Withholding, and shall have no liability for any errors made with respect to such Employee's
16 Taxes and Required Withholding.

17 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
18 obligation associated with their respective shares of the PAGA Payment.

19 **8.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

20 The Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
21 approved by the Court no later than fourteen (14) days after the Effective Date.

22 **8.5. TIME FOR PAYMENT OF INCENTIVE AWARD**

23 The Settlement Administrator shall distribute to Plaintiff the Incentive Award approved by the
24 Court no later than fourteen (14) days after the Effective Date.

25 **8.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

26 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
27 due to it and approved by the Court no later than fourteen (14) days after the Effective Date.
28

1 **8.7. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND**
2 **INDIVIDUAL SETTLEMENT AMOUNTS**

3 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
4 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
5 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the
6 last-known address no later than fourteen (14) days after the Effective Date. If the Settlement
7 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
8 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
9 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
10 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
11 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
12 remaining monetary obligations have been calculated and accounted for.

13 Within two hundred ten (210) days of mailing the Individual Settlement Amounts to Class
14 Participants, the Settlement Administrator shall file with the Court and provide to Class Counsel a
15 declaration of payment. If any Class Participant is deceased, payment shall be made payable to the
16 estate of that Class Member and delivered to the executor or administrator of that estate, unless the
17 Settlement Administrator has received an affidavit or declaration pursuant to California Probate Code
18 section 13101, in which case payment shall be made to the affiant(s) or declarant(s).

19 **8.8. NON-CASHED SETTLEMENT CHECKS**

20 Any funds associated with checks that have not been cashed within one hundred eighty (180)
21 days, will become void and the Individual Settlement Amount associated with the uncashed check will
22 be remitted pursuant to Code of Civil Procedure section 384 to the California State Controller for
23 deposit in the Unclaimed Property Fund in the name of the individual whose check was uncashed. The
24 Parties agree that this disposition results in no "unpaid residue" within the meaning of California Civil
25 Procedure Code section 384, as the entire Net Settlement Amount will be paid out to Class Participants,
26 whether or not they all cash their Individual Settlement Amount checks. Therefore, Defendant shall not
27 be required to pay any interest on said amount. For the purposes of determining whether Defendant has
28 met their financial obligation to pay the Individual Settlement Payment, Defendant will be deemed to

1 have fulfilled its obligation upon the mailing of the check to the Class Member, regardless of whether
2 such Class Member subsequently negotiates the check.

3 **8.9. DISPUTES REGARDING CLASS MEMBER WORKWEEKS DATA OR**
4 **PAYMENT OF INDIVIDUAL SETTLEMENT SHARES**

5 Class Member Workweeks and the corresponding Individual Settlement Amount shall be
6 calculated using the employment and payroll records of Defendant, which presumptively shall be
7 deemed to be full, complete, and accurate for purposes of this Settlement Agreement. To overcome
8 that presumption, any Class Member objecting to the accuracy of the number of Workweeks or amount
9 of the Individual Settlement Amount must submit documentary evidence, such as pay stubs or other
10 written employment records, to the Settlement Administrator. Each Class Member may dispute the
11 number of Workweeks or their estimated Individual Settlement Amount contained on their Class
12 Notice ("Workweeks Dispute"). Any such Workweeks Dispute must be mailed or faxed to the
13 Settlement Administrator by the Class Member, postmarked or fax-stamped on or before the Response
14 Deadline. The Settlement Administrator shall immediately provide copies of all disputes to counsel for
15 Defendant, shall inform Class Counsel of the dispute without disclosing the identity of the Class
16 Member making the dispute, and shall immediately attempt to resolve all such disputes directly with
17 relevant Class Members with the assistance of Defendant, Defense Counsel, and Class Counsel.

18 The Parties shall file with the Court all disputes submitted by Class Members, the evidence
19 submitted, and the resolution of the disputes. Although the Settlement Administrator may make the
20 initial decision regarding workweek disputes, the Court may review any decision made by the
21 Settlement Administrator regarding such dispute.

22 **9. NULLIFICATION OF THIS SETTLEMENT AGREEMENT**

23 **9.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT**

24 The Class Settlement and conditional class certification shall be considered null and void, and
25 neither the Class Settlement, conditional class certification, nor any of the related negotiations or
26 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the
27 same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with
28 the Court, if any of the following occur: (a) the Court should for any reason fail to approve this

Deleted: ¶

The Settlement Administrator shall use its best efforts to resolve all such disputes prior to the Effective Date. If, however, a dispute arises or is not resolved until after the Settlement Amount has been distributed, the initial calculation shall stand (as Defendant shall be under no obligation to pay any amounts in excess of the Gross Settlement Amount under this Settlement Agreement).

1 Settlement Agreement in the form agreed to by the Parties; **(b)** the Court should for any reason fail to
2 enter a judgment with prejudice of the Action, or **(c)** the approval of the Class Settlement and judgment
3 is reversed, modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may
4 attempt in good faith to cure any perceived defects in this Settlement Agreement to facilitate approval.

5 **9.2. PARTIES' RIGHTS TO VOID CLASS SETTLEMENT; ESCALATOR**
6 **PROVISION**

7 If 10% or more members of the Settlement Class timely submit Opt Out requests, Defendant(s)
8 shall have the right (but not the obligation) to void the settlement described in this MOU. Defendant
9 agrees not to take any action that can be construed as encouraging Class Members to opt out of the
10 Settlement for the purposes of triggering its ability to void the Agreement.
11 If the number of workweeks worked by the Class Members is greater than 10% above 18,092
12 workweeks, then the GSA shall be increased proportionately for each additional Workweek above the
13 10% buffer.

14 **9.3. INVALIDATION**

15 Invalidation of any material portion of this Settlement Agreement shall invalidate the Class
16 Settlement in its entirety, unless the Parties subsequently agree in writing that the remaining provisions
17 of the Class Settlement are to remain in full force and effect.

18 **9.4. STAY ON APPEAL**

19 If a timely appeal from the approval of the Class Settlement and judgment, the judgment shall
20 be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount or take any other
21 actions required by this Settlement Agreement until all appeal rights have been exhausted by operation
22 of law.

23 **10. MOTIONS FOR COURT APPROVAL**

24 **10.1. PRELIMINARY APPROVAL**

25 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
26 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
27 Settlement. Each party shall cooperate to present the Class Settlement to the Court for preliminary
28 approval in a timely fashion.

1 **10.2. FINAL APPROVAL**

2 The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval
3 and Fairness Hearing, Plaintiff shall move the Court for the entry of the final order certifying the
4 Settlement Class for settlement purposes only and approving the Class Settlement as being fair,
5 reasonable, and adequate to the Class Participants within the meaning of California Rules of Court,
6 Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent
7 with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court.
8 Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may
9 be required for the Court's determination.

10 **11. RELEASES AND WAIVERS**

11 **11.1. RELEASE OF CLAIMS BY THE SETTLEMENT CLASS**

12 Upon the date the settlement has been fully funded, the Releasing Parties shall be deemed to
13 each release the Released Parties, and each of them, of and from any and all Released Claims arising
14 during the Class Period. It is the desire of the Parties and the Releasing Parties to fully, finally, and
15 forever settle, compromise, and discharge the Released Claims. Each of the Releasing Parties,
16 including each Class Participant, will be bound by the release of Released Claims as a result of the
17 Class Settlement and to the terms of the final judgment and the satisfaction of such judgment.

18 Class Participants will be deemed to have acknowledged and agreed that their claims for wages
19 and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes
20 payment of all sums allegedly due to them. Class Participants will be deemed to have acknowledged
21 and agreed that California Labor Code section 206.5 is not applicable to the Individual Settlement
22 Amount. That section provides in pertinent part as follows:
23
24
25
26
27
28

1 “An employer shall not require the execution of a release of a claim or right on account
2 of wages due, or to become due, or made as an advance on wages to be earned, unless
3 payment of those wages has been made.”

4 **11.2. RELEASE OF CLAIMS BY PAGA SETTLEMENT CLASS**

5 Upon the date the settlement has been fully funded, the PAGA Settlement Class shall be deemed
6 to release the Released Parties, and each of them, of and from any and all PAGA Released Claims
7 arising during the PAGA Period. It is the desire of the Parties to fully, finally, and forever settle,
8 compromise, and discharge the PAGA Released Claims. Each of the PAGA Settlement Class members
9 will be bound by the release of PAGA Released Claims as a result of the Settlement and to the terms
10 of the final judgment and the satisfaction of such judgment.

11 The PAGA Settlement Class members shall have no right or ability to opt out of the portion of
12 this Settlement Agreement releasing PAGA Released Claims.

13 **11.3. RELEASE OF CLAIMS BY PLAINTIFF**

14 Plaintiff, on behalf of herself and her dependents, heirs and assigns, beneficiaries, devisees,
15 legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives,
16 and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect,
17 or any other type or in any other capacity, shall and does hereby forever release, discharge and agree
18 to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities,
19 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,
20 demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at
21 law or in equity, which she may now have or may have after the signing of this Settlement Agreement,
22 arising out of or in any way connected with her employment with Defendant including, the Released
23 Claims, claims that were asserted or could have been asserted in the Complaint, and any and all
24 transactions, occurrences, or matters between the Parties occurring prior to the date this Settlement
25 Agreement is fully executed. Without limiting the generality of the foregoing, this release shall include,
26 but not be limited to, any and all claims under: **(a)** the Americans with Disabilities Act; **(b)** Title VII
27 of the Civil Rights Act of 1964; **(c)** the Civil Rights Act of 1991; **(d)** 42 U.S.C. § 1981; **(e)** the Age
28

1 Discrimination in Employment Act; **(f)** the Fair Labor Standards Act; **(g)** the Equal Pay Act; **(h)** the
2 Employee Retirement Income Security Act, as amended; **(i)** the Consolidated Omnibus Budget
3 Reconciliation Act; **(j)** the Rehabilitation Act of 1973; **(k)** the Family and Medical Leave Act; **(l)** the
4 Civil Rights Act of 1966; **(m)** the California Fair Employment and Housing Act; **(n)** the California
5 Constitution; **(o)** the California Labor Code; **(p)** the California Government Code; **(q)** the California
6 Civil Code; and **(r)** any and all other federal, state, and local statutes, ordinances, regulations, rules,
7 and other laws, and any and all claims based on constitutional, statutory, common law, or regulatory
8 grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of
9 contract or implied contract, fraud, misrepresentation, promissory estoppel, or intentional infliction of
10 emotional distress, negligent infliction of emotional distress, or damages under any other federal, state,
11 or local statutes, ordinances, regulations, rules, or laws. This release is for any and all relief, no matter
12 how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses,
13 compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain
14 and suffering, and attorney fees and costs, and Plaintiff hereby forever releases, discharges and agrees
15 to hold harmless Defendant and the Released Parties from any and all claims for attorney fees and costs
16 arising out of the matters released in this Settlement Agreement.

17 Plaintiff specifically acknowledges that she is aware of and familiar with the provisions of
18 California Civil Code section 1542, which provides as follows:

19 “A general release does not extend to claims that the creditor or releasing party does not
20 know or suspect to exist in his or her favor at the time of executing the release and that,
21 if known by him or her, would have materially affected his or her settlement with the
22 debtor or released party.”
23

24 Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and
25 relinquishes all rights and benefits she may have under section 1542 as well as any other statutes or
26 common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or
27 different from those which she now knows or believes to be true with respect to the subject matter of
28 all the claims referenced herein, but agrees that, upon the Effective Date, Plaintiff shall and hereby

1 does fully, finally, and forever settle and release any and all claims against the Released Parties, known
2 or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
3 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
4 of such different or additional facts.

5 **11.4. CIRCULAR 230 DISCLAIMER**

6 Each party to this Settlement Agreement (for purposes of this section, the “Acknowledging
7 Party”; and each party to this Agreement other than the Acknowledging Party, an “Other Party”)
8 acknowledges and agrees that **(1)** no provision of this Settlement Agreement, and no written
9 communication or disclosure between or among the parties or their attorneys and other advisers, is or
10 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
11 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
12 C.F.R. Part 10); **(2)** the Acknowledging Party **(a)** has relied exclusively upon her or its own
13 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
14 Agreement, **(b)** has not entered into this Settlement Agreement based upon the recommendation of any
15 other party or any attorney or advisor to any other party, and **(c)** is not entitled to rely upon any
16 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
17 may be imposed on the Acknowledging Party; and **(3)** no attorney or adviser to any other party has
18 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies
19 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
20 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
21 Settlement Agreement.

22 **12. DUTIES OF THE PARTIES**

23 **12.1. MUTUAL FULL COOPERATION**

24 The Parties agree to cooperate fully with one another to accomplish and implement the terms
25 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
26 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
27 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
28 by this Settlement Agreement and any other efforts that may become necessary by court order or

1 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
2 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendant and
3 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
4 this Settlement Agreement.

5 **12.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

6 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
7 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
8 legal challenge, whether by appeal or collateral attack.

9 **12.3. DUTIES PRIOR TO COURT APPROVAL**

10 Class Counsel shall promptly submit this Settlement Agreement to the Court for preliminary
11 approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
12 upon execution of this Settlement Agreement, Class Counsel shall apply to the Court for the entry of a
13 preliminary order scheduling a hearing on the question of whether the proposed Class Settlement
14 should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form
15 and content the proposed Class Notice and Share Form attached hereto as **Exhibit 1** and **Exhibit 2**,
16 respectively, and directing the mailing of the Class Notice to Class Members. While Defendant can
17 reserve its right to object to facts or assertions made in the moving papers, Defense Counsel shall file
18 a notice of non-opposition to the granting of the motion for preliminary approval or join in the motion.

19 **13. MISCELLANEOUS PROVISIONS**

20 **13.1. VOIDING THIS SETTLEMENT AGREEMENT**

21 Pending Court approval and other than as provided herein, if any of the conditions set forth in
22 this Settlement Agreement are not met and satisfied, this Settlement Agreement may, at the option of
23 either Plaintiff or Defendant, be ineffective, void, and of no further force and effect, and may not be
24 used or be admissible in any subsequent proceeding, either in this Court or in any other court or forum.
25 If either Party decides to void the Settlement Agreement, then the Settlement Agreement and
26 conditional class certification shall be considered void, and neither the Settlement Agreement,
27 conditional class certification, nor any of the related negotiations or proceedings, shall be of any force
28 or effect, and the Parties shall stand in the same position, without prejudice, as if this Settlement

1 Agreement had been neither entered into nor filed with the Court. Should any Party choose to void the
2 Class Settlement under this subsection, such Party shall be responsible for all Settlement Administrator
3 fees and costs actually incurred.

4 **13.2. DIFFERENT FACTS**

5 The Parties acknowledge that, except for matters expressly represented herein, the facts in
6 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
7 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
8 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
9 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
10 and binding despite such difference.

11 **13.3. NO PRIOR ASSIGNMENTS**

12 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned,
13 transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any
14 portion of any liability, claim, demand, action, cause of action, or right herein released and discharged
15 except as set forth herein.

16 **13.4. NON-ADMISSION**

17 Nothing in this Settlement Agreement shall be construed as or deemed to be an admission by
18 any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other
19 person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing
20 toward each other or any other person. Each of the Parties has entered into this Settlement Agreement
21 with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses,
22 and contingencies. Nothing herein shall constitute any admission by Defendant of wrongdoing or
23 liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any
24 admission by Defendant regarding the merits of the Claims in this Action, including but not limited to
25 claims for unpaid wages or violations under California or federal law. Nothing herein shall constitute
26 an admission by Defendant that the Action was properly brought as a class or representative action
27 other than for settlement purposes. To the contrary, Defendant has denied and continues to deny each
28 and every material factual allegation and all Claims. To this end, the Class Settlement of the Action,

1 the negotiation and execution of this Settlement Agreement, and all acts performed or documents
2 executed pursuant to or in furtherance of this Settlement Agreement or the Class Settlement are not,
3 shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or
4 liability on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the
5 Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of
6 any fault or omission on the part of Defendant in any civil, criminal, or administrative proceeding in
7 any court, administrative agency, or other tribunal.

8 **13.5. NON-EVIDENTIARY USE**

9 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
10 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
11 individual who requested to be excluded from the Settlement Class), Defendant, or its, her, his, or their
12 respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement
13 Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendant and
14 the Released Parties to prove or defend against any claim released herein by any Class Member in any
15 judicial, quasi-judicial, administrative, or governmental proceeding.

16 **13.6. MEDIA OR PRESS**

17 Plaintiff and Defendant, and their respective counsel, recognize, accept, and agree that the
18 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
19 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
20 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
21 obtained during the course of the Action, shall not be discussed with or presented to the media or press.

22 **13.7. NON-RETALIATION**

23 Defendant understands and acknowledges that it has a legal obligation to not retaliate against
24 any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class
25 Settlement. Defendant will refer any inquiries regarding this Class Settlement to the Settlement
26 Administrator or Class Counsel and will not discourage Class Members who are employees, directly
27 or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties,
28

1 or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or
2 indirectly, to Opt Out of the Class Settlement.

3 **13.8. CONSTRUCTION**

4 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
5 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement
6 Agreement is not to be construed in favor of or against any party by reason of the extent to which any
7 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
8 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
9 next business day.

10 **13.9. GOVERNING LAW**

11 This Settlement Agreement is intended to and shall be governed by the laws of the State of
12 California, without regard to conflict of law principles, in all respects, including execution,
13 interpretation, performance, and enforcement.

14 **13.10. NOTICES**

15 Except for Class Member notices required to be made by the Settlement Administrator, all
16 notices or other communications required or permitted under this Settlement Agreement shall be in
17 writing and shall be sufficiently given if delivered in person to the party or their counsel by U.S.
18 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
19 party appearing in this Settlement Agreement.

20 **13.11. CAPTIONS AND INTERPRETATIONS**

21 Section titles or captions contained herein are inserted as a matter of convenience and for
22 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
23 or any provision thereof.

24 **13.12. MODIFICATION**

25 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
26 by the Parties or the Parties' counsel on their behalf. If preliminary or final approval of this Settlement
27 Agreement has been granted by the Court, then any such amendments or modifications to this
28

1 Settlement Agreement shall be approved by the Court. This Settlement Agreement may not be
2 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

3 **13.13. INTEGRATION CLAUSE**

4 This Settlement Agreement contains the entire agreement between the Parties relating to the
5 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
6 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
7 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
8 Settlement Agreement may be waived except in writing as provided above.

9 **13.14. SUCCESSORS AND ASSIGNS**

10 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
11 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
12 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
13 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
14 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
15 successors, and assigns.

16 **13.15. CORPORATE SIGNATORIES**

17 Any person executing this Settlement Agreement or any such related document on behalf of a
18 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
19 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
20 this Settlement Agreement or any such related document.

21 **13.16. EXECUTION IN COUNTERPARTS**

22 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
23 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
24 have the same force and effect as if all Settling Parties had signed the same instrument.

25 **13.17. ATTORNEY FEES, COSTS, AND EXPENSES**

26 Except as otherwise specifically provided for herein, each party shall bear her or its own
27 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
28 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

1 **13.18. ACTION TO ENFORCE AGREEMENT**

2 In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be
3 entitled to recover her or its attorney fees and costs. This provision does not apply to unnamed Class
4 Members or Aggrieved Employees.

5 **14. EXECUTION**

6 The Parties and their counsel have executed this Settlement Agreement on the date below their
7 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
8 date of the latest signature.

9 **APPROVAL AND EXECUTION BY PARTIES**

10 **CLASS REPRESENTATIVE:**

11 Dated: _____

12 Justina Balderrama
13 Plaintiff and Class Representative

14 **DEFENDANT:**

15 Dated: _____

16 Omni Enterprises, Inc.

17 _____
18 By: _____

19 Title: _____
20 _____
21 _____

22 **APPROVED AS TO FORM BY COUNSEL**

23 **CLASS COUNSEL:**

24 Dated: _____

25 **Melmed Law Group P.C.**

26 _____
27 Jonathan Melmed
28 Attorneys for Plaintiff

1 **DEFENDANT’S COUNSEL:**

2

3 Dated: _____

4

Adli Law Group, P.C.

5

Anne-Leith Matlock
Attorneys for Defendant

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Exhibit 4

MELMED LAW GROUP P.C.

Jonathan Melmed (SBN 290218)

jm@melmedlaw.com

Laura Supanich (SBN 314805)

lms@melmedlaw.com

1801 Century Park East, Suite 850

Los Angeles, California 90067

Phone: (310) 824-3828

Fax: (310) 862-6851

Attorneys for Plaintiff, the Putative Class, and the Aggrieved Employees

Dariusz G. Adli, Esq., SBN 204959

adli@adlilaw.com

Jacob I. Mojarro, Esq. (SBN 289339)

jacob.mojarro@adlilaw.com

ADLI LAW GROUP, P.C.

3453 Newridge Dr.,

Rancho Palos Verdes, CA 90275

Telephone: (213) 623-6546

Facsimile: (213) 623-6554

Attorneys for Defendant, Omni Enterprises, Inc.

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

JUSTINA BALDERRAMA, an individual, on
behalf of herself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No.: 30-2022-01256174-CU-OE-CXC

***Second Amended Settlement Agreement and
Release of Class Action***

SECOND AMENDED SETTLEMENT AGREEMENT AND RELEASE OF CLASS ACTION

This Second Amended Settlement Agreement and Release of Class Action (“Settlement Agreement”) is made and entered into by: **(1)** Plaintiff Justina Balderrama (“Plaintiff”), individually and in her representative capacity on behalf of the Settlement Class, as defined below, and as a private attorney general on behalf of the State of California; and **(2)** Defendant Omni Enterprises, Inc. (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties.” This Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of Court, rule 3.769, subdivisions (c), (d), and (e), and is made for the sole purpose of attempting to consummate settlement of the action on a class-wide basis subject to the following terms and conditions. As detailed below, if the Court does not enter an order granting final approval of this Settlement Agreement or the conditions precedent are not met for any reason, this Settlement Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS

As used in this Settlement Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Settlement Agreement are not specifically defined below, but are defined elsewhere in this Settlement Agreement, they are incorporated by reference into this definition section.

1.1. ACTION

“Action” shall mean the following civil action: *Justina Balderrama v. Omni Enterprises, Inc.*, case number 30-2022-01256174-CU-OE-CXC, currently pending before the Superior Court of the State of California for the County of Orange.

1.2. ADMINISTRATIVE EXPENSE PAYMENT

“Administrative Expenses” shall include all costs and expenses associated with and paid to the third-party settlement administrator, which are estimated to be \$6,950.00.

1.3. APPLICABLE WAGE ORDER

“Applicable Wage Order” shall mean the California Industrial Welfare Commission (“IWC”) Wage Order applicable to the facts of this case, including IWC Wage Order 5-2001 and others that may be applicable. (Cal. Code of Regs., tit. 8, § 11050.)

1 **1.4. CLAIMS**

2 “Claims” shall mean the claims asserted in the Action.

3 **1.5. CLASS ATTORNEY FEES AND EXPENSES**

4 “Class Attorney Fees and Expenses” shall mean the portion of the Gross Settlement Amount
5 attributable to attorney fees and litigation expenses. The Parties agree that the fee-portion of the Class
6 Attorney Fees and Expenses shall be up to one-third of the Gross Settlement Amount (i.e.,
7 \$108,333.33), as approved by the Court, and the award of costs and expenses shall be up to an
8 additional \$20,000.00. If the Escalator Provision described below is triggered so as to increase the
9 Gross Settlement Amount, the Parties agree that the fee portion of the Class Attorney Fees and
10 Expenses will increase proportionally such that the total amount of attorneys’ fees remains one-third
11 of the Gross Settlement Amount *after* the upward adjustment required by the Escalator Provision is
12 implemented.

13 **1.6. CLASS COUNSEL**

14 “Class Counsel” shall mean Jonathan Melmed, Laura Supanich, and Michiko Vartanian of
15 Melmed Law Group P.C.

16 **1.7. CLASS MEMBER**

17 “Class Member” shall mean any person who is a prospective member of the Settlement Class,
18 or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or successor-
19 in-interest.

20 **1.8. CLASS NOTICE**

21 “Class Notice” shall mean the *Notice of Proposed Class Action Settlement*, as set forth in the
22 form of **Exhibit 1** attached hereto, or as otherwise approved by the Court, which is to be mailed to
23 Class Members along with the Share Form.

24 **1.9. CLASS PARTICIPANTS**

25 “Class Participants” shall mean all Class Members who do not timely request exclusion from
26 the Class Settlement.

1.10. CLASS PERIOD

“Class Period” shall mean the period from April 22, 2018, through the earliest of 90 days after the date of mediation or the date of preliminary approval of the settlement.

1.11. CLASS REPRESENTATIVE

“Class Representative” shall mean Plaintiff Justina Balderrama.

1.12. CLASS SETTLEMENT

“Class Settlement” shall mean the settlement embodied in this Settlement Agreement, which is subject to Court approval.

1.13. COMPLAINT

“Complaint” shall mean the currently-operative complaint in the Action.

1.14. COURT

“Court” shall mean the Superior Court of the State of California for the County of Orange.

1.15. DEFENDANT

“Defendant” shall mean Defendant Omni Enterprises, Inc.

1.16. DEFENSE COUNSEL

“Defense Counsel” shall mean the attorneys representing Defendant.

1.17. EFFECTIVE DATE

“Effective Date” shall be the date when all of the following events have occurred: **(a)** this Settlement Agreement has been executed by all Parties and by Class Counsel and Defense Counsel; **(b)** the Court has given preliminary approval to the Class Settlement; **(c)** notice has been given to the Settlement Class providing them with an opportunity to request exclusion from the Class Settlement; **(d)** the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Settlement Class and approving this Settlement Agreement; and **(e)** the later of the following events: **(i)** the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; **(ii)** the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or **(iii)** any appeal, writ, or the issuance of such other final appellate order upholding the Court’s final order with no right

1 to pursue further remedies or relief. In this regard, it is the intention of the Parties that the Class
2 Settlement shall not become effective until the Court's order approving the Class Settlement is
3 completely final and there is no further recourse by an appellant or objector who seeks to contest the
4 Class Settlement. If no objections are filed, the Effective Date shall be after steps (a) through (d) are
5 completed (i.e., the date that the court has entered a final order and judgment certifying the Settlement
6 Class and approving this Settlement Agreement).

7 **1.18. EMPLOYEE'S TAXES AND REQUIRED WITHHOLDING**

8 "Employee's Taxes and Required Withholding" shall mean the employee's share of any and all
9 applicable federal, state, or local payroll taxes, including those collected under authority of the Federal
10 Insurance Contributions Act (FICA), the Federal Unemployment Tax Act (FUTA), and/or the State
11 Unemployment Tax Act (SUTA) on the portion of any Class Participant's Individual Settlement
12 Amount that constitutes wages. The Employee's Taxes and Required Withholdings will be withheld
13 from and paid out of the Individual Settlement Amounts paid from the Net Settlement Amount.

14 **1.19. EMPLOYER'S TAXES**

15 "Employer's Taxes" shall mean and refer to Defendant's share of payroll taxes (e.g.,
16 Unemployment Insurance, Employment Training Tax, Social Security, and Medicare taxes) that is
17 owed on the portion of any Class Participant's Individual Settlement Amount that constitutes wages.
18 The Employer's Taxes shall be separately paid by Defendant and shall not be paid from the Gross
19 Settlement Amount or Net Settlement Amount.

20 **1.20. FINAL APPROVAL AND FAIRNESS HEARING**

21 "Final Approval and Fairness Hearing" shall mean the final hearing held to ascertain the
22 fairness, reasonableness, and adequacy of the Class Settlement.

23 **1.21. FINAL JUDGMENT**

24 "Final Judgment" shall mean the judgment entered by the Court upon granting final approval
25 of this Settlement Agreement.

26 **1.22. GROSS SETTLEMENT AMOUNT**

27 "Gross Settlement Amount" is the agreed upon non-reversionary settlement amount totaling
28 \$325,000.00 to be paid by Defendant in full settlement of the Released Claims asserted in this case,

inclusive of the Administrative Expenses, the Employee's Taxes and Required Withholdings, the Class Attorney Fees and Expenses, the Incentive Award (i.e. the Class Representative Service Payment), and PAGA Payment. Defendant shall separately pay its share of the Employer's Taxes in addition to the Gross Settlement Amount on the portion of each Individual Settlement Amount allocated as wages.

1.23. HEARING ON PRELIMINARY APPROVAL

"Hearing on Preliminary Approval" shall mean the hearing held on the motion for preliminary approval of the Class Settlement.

1.24. INCENTIVE AWARD

"Incentive Award" shall mean any additional monetary payment provided to the Class Representative for her efforts and risks on behalf of the Settlement Class in this Action.

1.25. INDIVIDUAL SETTLEMENT AMOUNT

"Individual Settlement Amount" shall mean the amount which is ultimately distributed to each Class Participant, less any Employee's Taxes and Required Withholdings. The Individual Settlement Amount does not include any portion of the PAGA Payment.

1.26. LWDA

"LWDA" shall mean the California Labor and Workforce Development agency, the agency entitled under Labor Code sections 2699.

1.27. NET SETTLEMENT AMOUNT

"Net Settlement Amount" shall mean the Gross Settlement Amount minus: Administrative Expenses; Class Attorney Fees and Expenses; 75% of the share of the Gross Settlement Amount allocated toward penalties pursuant to the Labor Code Private Attorney General Act of 2004 ("PAGA"), codified at Labor Code sections 2698 through 2699.6, which are payable to the California LWDA; and Plaintiff's Incentive Award.

1.28. OPT OUT

"Opt Out" shall refer to the process of submitting a timely and valid request for exclusion from the Class Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline.

1.29. OPT-OUTS

“Opt-Outs” shall mean all persons who timely and validly request exclusion from the Class Settlement in accordance with the terms of the Class Notice and no later than the Response Deadline.

1.30. PAGA PAYMENT

“PAGA Payment” means the penalties pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$20,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class. Class Counsel shall give timely notice of this Settlement Agreement to the LWDA pursuant to Labor Code section 2699, subdivision (l)(2).

1.31. PAGA PERIOD

“PAGA Period” shall mean the period from April 22, 2021, through the earliest of 90 days after the date of mediation or the date of preliminary approval of the settlement.

1.32. PAGA RELEASED CLAIMS

“PAGA Released Claims” shall mean any and all claims that are pled in the Action for civil penalties under PAGA, i.e.: failure to pay minimum wages for all hours worked, failure to pay overtime wages, failure to provide paid rest breaks and pay missed rest break premiums, failure to provide meal periods and pay missed meal period premiums, failure to pay wages timely during employment, failure to pay timely wages at separation, failure to provide accurate and itemized wage statements, failure to pay sick leave, and recordkeeping violations, pursuant to Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199.

1.33. PAGA SETTLEMENT CLASS

“PAGA Settlement Class” shall mean all individuals who are or were employed by Defendants as non-exempt employees in California during the PAGA Period.

1.34. PARTIES

“Parties” shall mean Plaintiff and Defendant.

1 **1.35. PLAINTIFF**

2 “Plaintiff” shall mean Plaintiff Justina Balderrama.

3 **1.36. PRELIMINARY APPROVAL DATE**

4 “Preliminary Approval Date” shall mean the date upon which the Court enters an order
5 preliminarily approving this Settlement Agreement.

6 **1.37. RELEASED CLAIMS**

7 “Released Claims” shall mean those claims that were or reasonably could have been asserted
8 based on the facts alleged in the operative complaint that arose during the Class Period and/or PAGA
9 Period, i.e. claims for: **(1)** failure to pay minimum wage for all hours worked in violation of Labor
10 Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s); **(2)** failure to pay proper
11 overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage
12 Order(s); **(3)** failure to provide compliant rest periods and pay missed rest break premiums in violation
13 of Labor Code section 226.7 and the applicable IWC Wage Order(s); **(4)** failure to provide compliant
14 meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512,
15 and the applicable IWC Wage Order(s); **(5)** failure to maintain accurate employment records in
16 violation of Labor Code section 1174; **(6)** failure to pay timely wages during employment in violation
17 of Labor Code sections 204, 210; **(7)** failure to pay all wages due and owing at separation in violation
18 of Labor Code sections 201, 202, and 203; **(8)** failure to provide complete and accurate wage statements
19 in violation of Labor Code sections 226 and 226.3; and **(9)** deceptive, fraudulent, or otherwise unlawful
20 business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. &
21 Prof. Code, §§ 17200–17210).

22 No other claims are released other than those claims specifically plead in the Complaint or
23 otherwise specifically identified herein. This Settlement Agreement will not release any person, party,
24 or entity from claims, if any, by Class Members for workers compensation, unemployment, or disability
25 benefits of any nature. Nor does it release any claims, actions, or causes of action which may be
26 possessed by Class Members under state or federal discrimination statutes, including, without
27 limitation, the California Fair Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh
28 Civil Rights Act (Civ. Code, § 51); the California Constitution; Title VII of the Civil Rights Act of

1 1964 (42 U.S.C. § 2000, et seq.); the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the
2 Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their
3 implementing regulations and interpretive guidelines.

4 **1.38. RELEASED PARTIES**

5 “Released Parties” shall mean Defendant and all of Defendant and all of Defendant’s
6 subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, and assigns.

7 **1.39. RELEASING PARTIES**

8 “Releasing Parties” shall mean every Class Participant and all persons purporting to act on their
9 behalf or purporting to assert a claim under or through them, including, but not limited to, their
10 dependents, heirs, assigns, beneficiaries, devisees, legatees, executors, administrators, agents, trustees,
11 conservators, guardians, personal representatives, and successors-in-interest, whether individual, class,
12 representative, legal, equitable, direct or indirect, or any other type or in any other capacity.

13 **1.40. RESPONSE DEADLINE**

14 “Response Deadline” shall mean the date sixty (60) days following the date on which the
15 Settlement Administrator first mails Class Notice to the Class Members and the last day on which Class
16 Members may submit a request for exclusion and/or objection to Class Settlement.

17 **1.41. SETTLEMENT ADMINISTRATOR**

18 “Settlement Administrator” shall mean ILYM Group, Inc. (or other administrator agreed on by
19 the parties) which the Parties have agreed will be responsible for administration of the Class Settlement
20 and related matters.

21 **1.42. SETTLEMENT CLASS**

22 “Settlement Class” shall mean all individuals who are or were employed by Defendants as non-
23 exempt employees in California during the Class Period. Defendant represents that the Settlement Class
24 consists of approximately 287 Class Members that worked a total of approximately 18,092 workweeks
25 during the Class Period.
26
27
28

1 **1.43. SHARE FORM**

2 “Share Form” shall mean the *Class Action Settlement Share Form*, as set forth in the form of
3 **Exhibit 2** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
4 Members along with the Class Notice.

5 **2. FACTUAL AND PROCEDURAL BACKGROUND**

6 **2.1. PLAINTIFF’S CLAIMS**

7 Plaintiff, individually and in her representative capacity on behalf of the Settlement Class, and
8 as a private attorney general on behalf of the State of California, has alleged the following violations:
9 **(1)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and
10 1194.2, and the Applicable Wage Order; **(2)** failure to pay proper overtime wages in violation of Labor
11 Code sections 510, 1197, and 1198, and the Applicable Wage Order; **(3)** failure to provide compliant
12 rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the
13 Applicable Wage Order; **(4)** failure to provide compliant meal periods and pay missed meal period
14 premiums in violation of Labor Code sections 226.7 and 512, and the Applicable Wage Order;
15 **(5)** failure to maintain accurate employment records in violation of Labor Code section 1174;
16 **(6)** failure to pay timely wages during employment in violation of Labor Code sections 204, 210;
17 **(7)** failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202,
18 and 203; **(8)** failure to provide complete and accurate wage statements in violation of Labor Code
19 sections 226 and 226.3; **(9)** deceptive, fraudulent, or otherwise unlawful business practices based on
20 the foregoing in violation of California’s Unfair Competition Law (Bus. & Prof. Code, §§ 17200–
21 17210); and **(10)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–
22 2699.6).

23 **2.2. DISCOVERY, INVESTIGATION, RESEARCH, AND MEDIATION**

24 Class Counsel has conducted significant informal discovery during the prosecution of the
25 Action. This discovery, investigation, and prosecution has included, among other things, **(a)** over a
26 dozen telephonic conferences with Plaintiff; **(b)** inspection and analysis of hundreds of pages of
27 documents and other information produced by Plaintiff and Defendant; **(c)** analysis of employment
28 data from a sample of Class Members; **(d)** an analysis of the legal positions taken by Defendant;

1 (d) investigation into the viability of class treatment of the claims asserted in the Action; (e) analysis
2 of potential class-wide damages, including information sufficient to understand Defendant's potential
3 defenses to Plaintiff's claims; (f) research of the applicable law with respect to the claims asserted in
4 the Complaint and the potential defenses thereto; and (g) assembling and analyzing of data for
5 calculating damages.

6 Class Counsel and the Class Representative have vigorously prosecuted this case, and
7 Defendant has vigorously contested it. The Parties have engaged in sufficient investigation and
8 discovery to assess the relative merits of the claims of the Class Representative and of the defenses to
9 them. After such discovery, investigation, and prosecution, the Parties attended a full-day mediation
10 with an experienced employment law mediator, which culminated in a settlement in principle, the terms
11 of which are elaborated in this Settlement Agreement.

12 **2.3. ALLEGATIONS OF THE CLASS REPRESENTATIVE AND BENEFITS OF** 13 **CLASS SETTLEMENT**

14 The document and data exchange in this matter, as well as discussions between counsel, have
15 been adequate to give the Class Representative and Class Counsel a sound understanding of the merits
16 of their positions and to evaluate the value of the claims of the Settlement Class. The informal discovery
17 conducted in this Action and the information exchanged by the Parties through pre-mediation
18 discussions are sufficient to reliably assess the merits of the Parties' respective positions and to
19 compromise the issues on a fair and equitable basis.

20 The Class Representative and Class Counsel believe that the claims, causes of action,
21 allegations, and contentions asserted in the Action have merit. However, the Class Representative and
22 Class Counsel recognize and acknowledge the expense and delay of continued lengthy proceedings
23 necessary to prosecute the Action against Defendant through trial and through appeals. Class Counsel
24 has taken into account the uncertain outcome of the litigation, the risk of continued litigation in complex
25 actions such as this, as well as the difficulties and delays inherent in such litigation, and the potential
26 difficulty of obtaining certification of the Settlement Class as well as trying the claims of the class.
27 Class Counsel is mindful of the potential problems of proof under, and possible defenses to, the claims
28 alleged in the Action.

1 The Class Representative and Class Counsel believe that the settlement set forth in this
2 Settlement Agreement confers substantial benefits upon Plaintiff and the Settlement Class and that an
3 independent review of this Settlement Agreement by the Court in the approval process will confirm
4 this conclusion. Based on their own independent investigation and evaluation, Class Counsel has
5 determined that the settlement set forth in this Settlement Agreement is in the best interests of Plaintiff
6 and the Class Members.

7 **2.4. DEFENDANT'S DENIALS OF WRONGDOING AND LIABILITY**

8 Defendant has denied and continues to deny all allegations, claims, and contentions alleged by
9 Plaintiff in the Action. Defendant has expressly denied and continues to deny all charges of wrongdoing
10 or liability against it arising out of any of the conduct, statements, acts, or omissions alleged in the
11 Action. Defendant contends that it complied with California and federal wage and hour laws and has
12 dealt legally and fairly with Plaintiff and the Class Members.

13 Defendant further denies that, for any purpose other than settling this Action, these claims are
14 appropriate for class or representative treatment. Nonetheless, Defendant has concluded that further
15 proceedings in the Action would be protracted and expensive and that it is desirable that the Action be
16 fully and finally settled in the manner and upon the terms and conditions set forth in this Settlement
17 Agreement to dispose of burdensome and protracted litigation, to permit the operation of Defendant's
18 respective businesses without further expensive litigation and the distraction and diversion of their
19 personnel with respect to matters at issue in the Action. Defendant has also taken into account the
20 uncertainty and risks inherent in any litigation, especially in complex cases such as the Action.
21 Defendant has, therefore, determined that it is desirable and beneficial to it that the Action be settled
22 in the manner and upon the terms and conditions set forth in this Settlement Agreement.

23 **2.5. INTENT OF THE CLASS SETTLEMENT**

24 The Class Settlement set forth herein intends to achieve the following: **(1)** entry of an order
25 approving the Class Settlement; **(2)** entry of judgment of the Action; **(3)** discharge of the Released
26 Parties from liability for any and all of the Released Claims; and **(4)** discharge of Defendant from
27 liability for any and all claims arising out of the Action.
28

1 **3. CONDITIONAL CERTIFICATION OF THE SETTLEMENT CLASS**

2 For the purposes of this Settlement Agreement and the Class Settlement of this Action only, the
3 Parties agree to conditional class certification of the Settlement Class. Defense Counsel believes this
4 conditional certification is appropriate because the Released Claims are being compromised without
5 need to establish the elements of those claims on which liability turns. The certification of the
6 Settlement Class shall not constitute, in this or any other proceeding, an admission of any kind by
7 Defendant, including without limitation, that certification of a class for trial purposes is or would be
8 warranted, appropriate or proper; or that Plaintiff could establish any of the requisite elements for class
9 treatment of any of the claims in the Action.

10 If the Settlement Agreement is not finally approved by the Court, the Effective Date is not
11 achieved, or the Class Settlement is rejected, terminated, or otherwise rendered null and void as set
12 forth herein, then certification of the Settlement Class shall be automatically vacated, shall be void *ab*
13 *initio*, of no force or effect, and shall not constitute evidence or a binding determination that the
14 requirements for certification of a class for trial purposes in this Action or in any other action which
15 have been, are or can be, satisfied. Further, if the Agreement does not reach the Effective Date, Plaintiff
16 agrees that Plaintiff will not argue, claim, reference, or otherwise raise any preliminary approval of the
17 Settlement Class in connection with any later proceeding before the Court.

18 **4. APPOINTMENT OF CLASS COUNSEL**

19 For purposes of this Settlement Agreement and subject to the Court's approval, the Parties agree
20 to the appointment of Class Counsel as counsel for the Settlement Class and the effectuation of the
21 Class Settlement pursuant to this Settlement Agreement.

22 **5. CONSIDERATION**

23 **5.1. SETTLEMENT AMOUNT**

24 The Parties agree to settle this Action for the Gross Settlement Amount of \$325,000.00. There
25 shall be no reversion to Defendant. Defendant shall pay the Gross Settlement Amount in full. The Gross
26 Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate
27 consideration for the Class Settlement and will be made in full and final settlement of: the Released
28 Claims, the Class Attorney Fees and Expenses, Administrative Expenses, the Incentive Award, the

1 PAGA Payment (and any payments to individual PAGA Class Members resulting from the PAGA
2 Payment), and any other obligation of Defendant under this Settlement Agreement (other than the
3 Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of wages).

4 After the Court issues an order preliminarily approving this Class Settlement, the Settlement
5 Administrator will distribute the Class Notice to the Class Members, which shall describe the terms of
6 the Class Settlement and procedures to Opt Out, object, or participate in the Class Settlement as well
7 as the Share Form, which shall identify the Class Member, the number of workweeks worked by each
8 Class Member ("Workweeks"), as well as the estimated amount of the Individual Settlement Amount
9 the Class Member can expect to receive once the Class Settlement becomes effective on the Effective
10 Date. Class Members shall be given the opportunity to challenge their Workweeks information.

11 **5.2. INCENTIVE AWARD FOR PLAINTIFF**

12 Plaintiff may petition the Court to approve an Incentive Award in an amount up to \$7,500.00
13 for Justina Balderrama to acknowledge her efforts on behalf of the Settlement Class in this Action,
14 including assisting in the investigation and consulting with Class Counsel and providing crucial
15 documents to Class Counsel. Defendant shall not oppose any request by Plaintiff for an Incentive
16 Award in such an amount. Any Incentive Award approved by the Court shall be paid to Plaintiff from
17 the Gross Settlement Amount and shall be in addition to any distribution to which she may otherwise
18 be entitled as a Class Participant. Any Incentive Award approved by the Court shall not be considered
19 wages, and the Settlement Administrator shall issue to Plaintiff an IRS Form 1099 reflecting such
20 payment. Plaintiff shall be responsible for the payment of all taxes with respect to any Incentive Award
21 approved by the Court and shall hold Defendant harmless from all liability with regard thereto.

22 **5.3. PAYMENT TO CLASS PARTICIPANTS**

23 Each Class Participant shall be eligible to receive payment of the Individual Settlement
24 Amount, which is a share of the Net Settlement Amount based on the pro rata number of weeks worked
25 by the Class Members during the Class Period as a proportion of all weeks worked by all Class
26 Members. Each Class Participant, including Plaintiff, shall be responsible for the payment of the
27 Employee's Taxes and Required Withholding with respect to his or her Individual Settlement Amount.
28

5.4. PAYMENT TO PAGA SETTLEMENT CLASS

Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$20,000.00. The PAGA Payment must be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class. The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked by all members of the PAGA Settlement Class.

5.5. TAX TREATMENT AND PAYMENT

For the purpose of calculating Employee's Taxes and Required Withholding for the Individual Settlement Amounts for Class Participants (including any payments to the Class Representative but exclusive of her Incentive Award), the Parties agree that 20% of each Individual Settlement Amount shall constitute payment in the form of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him or her), and 80% of each Individual Settlement Amount shall constitute penalties and interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her). Prior to final distribution, the Settlement Administrator shall calculate the total Employee's Taxes and Required Withholding due as a result of the wage portion of Class Participants' anticipated Individual Settlement Amounts and such actual amount will be deducted from the Net Settlement Amount. Additionally, prior to the funding of the Gross Settlement Amount and final distribution, the Settlement Administrator shall calculate the total Employer's Taxes due on the wage portion of the Class Participants' Individual Settlement Amounts and issue instructions to Defendant to separately fund these tax obligations/withholdings. The Parties understand that Plaintiff and the Class Participants who receive any payment pursuant to this Settlement Agreement shall be solely responsible for all other individual tax obligations.

1 With respect to the PAGA Payment and any payments made to individual members of the
2 PAGA Settlement Class, all such payments shall be treated as payments owing for penalties and interest
3 thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the
4 PAGA Settlement Class an IRS Form 1099 reflecting such payment. Members of the PAGA Settlement
5 Class shall be solely responsible for the payment of all taxes with respect to any PAGA payments made
6 to them.

7 **5.6. NO EFFECT ON EMPLOYEE BENEFIT PLANS**

8 Neither the Class Settlement nor any amounts paid under the Class Settlement will modify any
9 previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus
10 program sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
11 benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies,
12 or bonus programs. The payments made under the terms of this Settlement Agreement shall not be
13 applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other
14 form of compensation for the purposes of any of Defendant's benefit plan, policy, or bonus program.
15 Defendant retains the right to modify the language of its benefits plans, policies, and bonus programs
16 to reflect this intent and to make clear that any amounts paid pursuant to this Settlement Agreement are
17 not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined
18 by applicable plans, policies, and bonus programs for purpose of eligibility, vesting, benefit accrual, or
19 any other purpose, and that additional contributions or benefits are not required by this Settlement
20 Agreement. Defendant does not consider the Class Settlement payments "compensation" for purposes
21 of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs,
22 or any other plan sponsored by Defendant.

23 **5.7. CLASS ATTORNEY FEES AND EXPENSES**

24 As part of the motion for final approval of the Class Settlement, Class Counsel may apply for
25 an award of Class Attorney Fees and Expenses with the fee portion not to exceed one-third of the Gross
26 Settlement Amount (i.e., \$108,333.33) and the award of costs and expenses up to an additional
27 \$20,000.00. Defendant agrees to not object to any such fee, cost, or expense application in those
28 amounts.

1 As a condition of this Class Settlement, Class Counsel has agreed to pursue fees only in the
2 manner reflected by this subsection. Any Class Attorney Fees and Expenses awarded by the Court shall
3 be paid from the Gross Settlement Amount prior to arriving at the Net Settlement Amount and shall
4 not constitute payment to any Class Members. If Class Counsel voluntarily reduces the request for
5 Class Attorney Fees and Expenses or the Court's award of Class Attorney Fees and Expenses is less
6 than set forth above, the Net Settlement Amount shall be recalculated to reflect the actual Class
7 Attorney Fees and Expenses awarded. Defendant will not oppose requests for these payments provided
8 that they do not exceed these amounts.

9 The Class Attorney Fees and Expenses approved by the Court shall reflect: **(a)** all work
10 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
11 represent the Settlement Class through the date of this Settlement Agreement; **(b)** all work to be
12 performed and costs to be incurred in connection with approval by the Court of the Class Settlement;
13 **(c)** all work to be performed and costs and expenses, if any, incurred in connection with administering
14 the Class Settlement through the Effective Date and dismissal of the Action with prejudice; and **(d)** may
15 be based on the "catalyst theory" and/or the "common fund doctrine." The Settlement Administrator
16 will pay the Class Counsel Fees Payment and Class Counsel Expenses from the Gross Settlement
17 Amount using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for
18 taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment
19 and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding
20 any division or sharing of any of these payments. Failure of the Court to award the Class Counsel Fees
21 Payment or Class Counsel Litigation Expenses Payment, including in the amount requested by
22 Plaintiff, is not grounds to void this Agreement.

23 **6. SETTLEMENT ADMINISTRATION**

24 **6.1. COSTS AND EXPENSES**

25 All costs and expenses due to the Settlement Administrator in connection with its administration
26 of the Class Settlement, including, but not limited to, providing the Class Notice, locating Class
27 Members, processing Opt Out requests and objections, distributing the portion of the PAGA Payment
28 payable to the LWDA, distributing the portion of the PAGA Payment payable to the members of the

1 PAGA Settlement Class, and calculating, administering and distributing Individual Settlement
2 Amounts to the Class Participants and related tax forms, shall be paid from the Gross Settlement
3 Amount, and is estimated to be \$6,950.00.

4 **6.2. PAYMENT BY DEFENDANT**

5 Defendant shall deposit the Gross Settlement Amount in a lump sum payment plus the
6 employer-side payroll taxes to the Settlement Administrator within seven (7) days of the Effective
7 Date. In no event shall Defendant be obligated to pay or deposit with the Settlement Administrator
8 more than \$325,000.00 plus the Employer's Taxes, except where the Escalator Provision is triggered.

9 **7. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

10 **7.1. THE SETTLEMENT ADMINISTRATOR**

11 The Settlement Administrator will be responsible for: mailing the Class Notice and Share Form
12 (**Exhibit 1** and **Exhibit 2**, respectively) to Class Members; posting notice of entry of final order and
13 judgment certifying the Class Settlement and approving this Settlement Agreement; handling inquiries
14 from Class Members concerning the Class Notice; determining Individual Settlement Amounts;
15 determining individual payments to members of the PAGA Settlement Class; maintaining the
16 settlement funds in an appropriate interest-bearing account; preparing, administering, and distributing
17 Individual Settlement Amounts to Class Participants; preparing, administering, and distributing
18 individual payments to members of the PAGA Settlement Class; distributing the portion of the PAGA
19 Payment payable to the LWDA; issuing a final report and performing such other duties as the Parties
20 may direct. Additionally, the Settlement Administrator will handle all tax document preparation and
21 reporting, including state and federal tax forms, if any.

22 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
23 Defense Counsel with summary information updating them as to the number of validated and timely
24 objections and Opt Out requests. The Settlement Administrator will serve on Class Counsel and
25 Defense Counsel via e-mail date-stamped copies of the original Opt Out requests and objections no
26 later than seven (7) days after their receipt. The Settlement Administrator will provide Class Counsel
27 with proof of mailing of the Class Notice, without listing individual Class Member names which the
28

1 Settlement Administrator will file with the Court at the time Class Counsel files its motion in support
2 of the Court's Final Approval and Fairness Hearing.

3 No later than thirty (30) days prior to the Final Approval and Fairness Hearing, the Settlement
4 Administrator will compile and deliver to Class Counsel and Defense Counsel a report with summary
5 information regarding: **(a)** the total amount of final Individual Settlement Amounts of each Class
6 Participant, without any identifying personal information; **(b)** the number of Class Participants to
7 receive such payments, and **(c)** the final number of Opt-Outs and objections.

8 Administrative Expenses are anticipated to be \$6,950.00. Prior to the calculation and
9 distribution of the Individual Settlement Amounts, the Settlement Administrator shall calculate the
10 total Administrative Expenses through the conclusion of their services and such actual amount will be
11 deducted from the Gross Settlement Amount prior to the final calculation of the Individual Settlement
12 Amounts.

13 **7.2. NOTICE TO CLASS MEMBERS**

14 Notice shall be provided to Class Members in the following manner: Within fourteen (14) days
15 after the Preliminary Approval Date, Defendant shall provide the Settlement Administrator with an
16 updated list of Class Members and members of the PAGA Settlement Class containing names, social
17 security numbers, dates of employment, last-known addresses, and phone numbers (the "Database").
18 The Database shall be marked "Confidential – Settlement Administrator's Eyes Only." Class Counsel
19 shall not receive a copy of this list.

20 Within twenty-eight (28) days following the Preliminary Approval Date, the Settlement
21 Administrator shall determine the number of workweeks worked by each Class Member, populate the
22 data for each Class Member accordingly, and send each Class Member the Class Notice via first-class,
23 United States mail. The Class Notice shall also contain an easily-understood statement alerting the
24 Class Members that, unless they elect to Opt Out of the Class Settlement, the Class Member is releasing
25 and waiving all Released Claims against the Released Parties.

26 The Class Notice will inform Class Members of their estimated share of the settlement and the
27 number of workweeks they worked during the Class Period. Class Members may dispute their
28 workweeks if they believe they worked more weeks in the Class Period than Defendant's records show

by submitting information to the Settlement Administrator no later than sixty (60) days after being mailed the Class Notice and Share Form by the Settlement Administrator, which is the defined Response Deadline. The Settlement Administrator will jointly work with Plaintiff and Defendant to resolve the dispute in good faith. If Plaintiff and Defendant cannot agree over the workweeks to be credited, the Settlement Administrator may make the initial decision regarding workweek disputes, and the Court may review any decision made by the Settlement Administrator regarding a workweek dispute. The Parties shall file with the Court all disputes submitted by Class Members, the evidence submitted, and the resolution of the disputes. Although the Settlement Administrator may make the initial decision regarding workweek disputes, the Court may review any decision made by the Settlement Administrator regarding such dispute.

7.3. OPT OUT PROCEDURE

Class Members who do not timely Opt Out of the Class Settlement will be deemed to participate in the Class Settlement and shall become Class Participants without having to submit a claim form or take any other action. To Opt Out of the Class Settlement, the Class Member must submit a letter or postcard to the Settlement Administrator by the Response Deadline. The Opt Out request must state the Class Member's name, address, telephone number, and signature. The Opt Out request should state something to the effect of:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *JUSTINA BALDERRAMA V. OMNI ENTERPRISES, INC.* LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."

Any Opt Out request that is not postmarked by the Response Deadline will be invalid. If prior to the Response Deadline any Class Notice mailed to a Class Member is returned as having been undelivered by the United States Postal Service, the Settlement Administrator shall perform a skip trace search and seek an address correction for such Class Members, and a second Class Notice will be sent to any new or different address obtained. Such Class Members shall have an additional fourteen (14)

1 days from the date of the mailing of the second Class Notice in which to Opt Out, object, or dispute
2 the information provided in the Share Form if the Response Deadline would have otherwise passed
3 prior to fourteen (14) days from the date of the mailing of the second Class Notice.

4 It will be presumed that, if an envelope containing the Class Notice has not been returned within
5 thirty (30) days of the mailing, the Class Member received the Class Notice. At least twenty-one (21)
6 days prior to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class
7 Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard
8 to the mailing of the Class Notice and its attempts to locate Class Members. The declaration shall
9 specify the number of Class Members to whom the Class Notice was sent and the number of Class
10 Members to whom the Class Notice was not delivered, as well as information relating to the number
11 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

12 If the Settlement Administrator determines that an Opt Out request returned by a Class Member
13 before the Response Deadline is deficient, then the Settlement Administrator shall mail a deficiency
14 letter to that Class Member identifying the problem. If a Class Member submits both a dispute and an
15 Opt Out request, the Settlement Administrator shall make reasonable attempts to clarify as if the Opt
16 Out request were deficient. If the Class Member fails to cure the deficiency, the Opt Out request shall
17 be disregarded and the claim will be paid, and the Class Member will become bound by the judgment.

18 Class Participants will be bound by the Release of Released Claims set forth in the definition
19 of "Released Claims" provided in this Settlement Agreement.

20 A request to Opt Out of the Class Settlement shall *not* serve to exclude the Class Member from
21 participation in the PAGA Settlement Class. Opt-Outs shall still be entitled to their share of the PAGA
22 Payment. Class Members who are also members of the PAGA Settlement Class shall have no right or
23 ability to opt out of the portion of this Settlement Agreement releasing PAGA claims.

24 **7.4. OBJECTION PROCEDURE**

25 The Class Notice shall inform the Class Members of their right to object to the Class Settlement
26 if they do not Opt Out. Any Class Participants who wish to object to the Class Settlement may submit
27 a written objection to the Settlement Administrator no later than the Response Deadline. Only Class
28 Participants may object to the Settlement. The objection should include the case name and number and

must set forth, in clear and concise terms, a statement of the reasons why the objector believes that the Court should find that the proposed Class Settlement is not in the best interest of the Settlement Class and the reasons why the Class Settlement should not be approved, including the legal and factual arguments supporting the objection. If an objector also wishes to appear at the Final Approval and Fairness Hearing, in person or through an attorney, they may do so. The Settlement Administrator will promptly serve copies of any objection or notice of intention to appear on Class Counsel and Defense Counsel. Class Members wishing to make an objection may appear at the Final Approval and Fairness Hearing, either in person or through a lawyer retained at their own expense, irrespective of whether they have filed a written objection.

7.5. NOTICE OF FINAL JUDGMENT

Within seven (7) days after the Court has held a Final and Fairness Approval Hearing and entered a final order certifying the Class for settlement purposes only and approving the Class Settlement, the Settlement Administrator will give notice of judgment to Class Members pursuant to rule 3.771(b) of the California Rules of Court, by posting a copy of said order and final judgment on its website at a web address to be included in the Class Notice.

8. CLASS SETTLEMENT FUNDING AND DISTRIBUTION

8.1. ALLOCATION OF THE GROSS SETTLEMENT AMOUNT

The claims of all Class Members are settled for the Gross Settlement Amount of \$325,000.00, which will be allocated as follows:

1. The Administrative Expenses, estimated to be \$6,950.00;
2. Class Counsel's attorney fees not to exceed \$108,333.33;
3. Class Counsel's litigation costs and expenses not to exceed \$20,000.00;
4. The Incentive Award, not to exceed \$7,500.00; and
5. PAGA Payment to LWDA of \$15,000.00.

For purposes of calculating the estimated Individual Settlement Amounts, the Settlement Administrator shall calculate the estimated Net Settlement Amount based on the estimated values provided above prior to sending Notice to the Class Members. Prior to final distribution, the Settlement

1 Administrator shall recalculate the final Net Settlement Amount based on the actual values of the
2 amounts in each category.

3 **8.2. CALCULATION OF THE INDIVIDUAL SETTLEMENT AMOUNTS FOR**
4 **CLASS PARTICIPANTS**

5 Individual Settlement Amounts to be paid to Class Participants shall be paid from the Net
6 Settlement Amount. The portion of the Net Settlement Amount shall be distributed pro rata on a
7 “checks cashed” basis based on the proportional number of weeks worked by each Class Member
8 during the Class Period.

9 Defendant will provide the Settlement Administrator with any information reasonably
10 necessary to perform the calculation of number of workweeks for each Class Member, and any other
11 reasonably required information the Settlement Administrator requests to perform the calculations
12 required under this Settlement Agreement. Defendant shall have no responsibility for deciding the
13 validity of the Individual Settlement Amounts or any other payments made pursuant to this Settlement
14 Agreement, shall have no involvement in or responsibility for the determination or payment of
15 Employee’s Taxes and Required Withholding, and shall have no liability for any errors made with
16 respect to such Employee’s Taxes and Required Withholding. Although the Settlement Administrator
17 will calculate and pay the standard Employee’s Taxes and Required Withholding on the portion of the
18 Individual Settlement Amounts constituting wages on their behalf, Plaintiff and Class Participants
19 represent and understand that they shall be solely responsible for any and all tax obligation associated
20 with their respective Individual Settlement Amounts and Incentive Awards.

21 **8.3. CALCULATION OF THE PAYMENTS FOR INDIVIDUAL MEMBERS OF**
22 **THE PAGA SETTLEMENT CLASS**

23 Each member of the PAGA Settlement Class shall be entitled to receive a portion of the PAGA
24 Payment. The PAGA Payment shall consist of the penalties pursuant to PAGA that the Parties have
25 agreed is a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which
26 is \$20,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section
27 2699 and is to be distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA
28 and twenty-five percent (25%) (i.e., \$5,000.00) to the PAGA Settlement Class.

1 The portion of the PAGA Payment allocated to the PAGA Settlement Class shall be distributed
2 to the PAGA Settlement Class based on the pro rata number of pay periods worked by each particular
3 PAGA Settlement Class member during the PAGA Period as a proportion of all pay periods worked
4 by all PAGA Settlement Class members during the PAGA Period. Each member of the PAGA
5 Settlement Class, including Plaintiff, shall be responsible for the payment of the Employee's Taxes and
6 Required Withholding with respect to their share of the PAGA Payment and shall hold Defendant
7 harmless from any and all liability with regard thereto.

8 Defendant will provide the Settlement Administrator with any information reasonably
9 necessary to perform the calculation of number of pay periods worked for each PAGA Settlement Class
10 member, and any other reasonably required information the Settlement Administrator requests to
11 perform the calculations required under this Settlement Agreement. Defendant shall have no
12 responsibility for deciding the validity of the individual payment amounts allocated to each member of
13 the PAGA Settlement Class or any other payments made pursuant to this Settlement Agreement, shall
14 have no involvement in or responsibility for the determination or payment of Employee's Taxes and
15 Required Withholding, and shall have no liability for any errors made with respect to such Employee's
16 Taxes and Required Withholding.

17 The members of the PAGA Settlement Class shall be solely responsible for any and all tax
18 obligation associated with their respective shares of the PAGA Payment.

19 **8.4. TIME FOR PAYMENT OF ATTORNEY FEES AND EXPENSES**

20 The Settlement Administrator shall distribute to Class Counsel any attorney fees and expenses
21 approved by the Court no later than fourteen (14) days after the Effective Date.

22 **8.5. TIME FOR PAYMENT OF INCENTIVE AWARD**

23 The Settlement Administrator shall distribute to Plaintiff the Incentive Award approved by the
24 Court no later than fourteen (14) days after the Effective Date.

25 **8.6. TIME FOR PAYMENT OF PAGA PAYMENT TO THE LWDA**

26 The Settlement Administrator shall distribute to the LWDA the portion of the PAGA Payment
27 due to it and approved by the Court no later than fourteen (14) days after the Effective Date.
28

1 **8.7. TIME FOR PAYMENT OF TAXES AND REQUIRED WITHHOLDING AND**
2 **INDIVIDUAL SETTLEMENT AMOUNTS**

3 The Settlement Administrator shall make every effort to pay the Employee's Taxes and
4 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
5 the Individual Settlement Amount to each Class Participant, by first-class United States mail, to the
6 last-known address no later than fourteen (14) days after the Effective Date. If the Settlement
7 Administrator is not able to do so within the time period set forth above, it shall so inform Class Counsel
8 and Defense Counsel and provide an approximate date by which the Employee's Taxes and Required
9 Withholding shall be paid and the Individual Settlement Amounts will be mailed. Under no
10 circumstances shall the Settlement Administrator distribute checks to Class Participants until all
11 Individual Settlement Amounts have been considered, calculated, and accounted for, and all of the
12 remaining monetary obligations have been calculated and accounted for.

13 Within two hundred ten (210) days of mailing the Individual Settlement Amounts to Class
14 Participants, the Settlement Administrator shall file with the Court and provide to Class Counsel a
15 declaration of payment. If any Class Participant is deceased, payment shall be made payable to the
16 estate of that Class Member and delivered to the executor or administrator of that estate, unless the
17 Settlement Administrator has received an affidavit or declaration pursuant to California Probate Code
18 section 13101, in which case payment shall be made to the affiant(s) or declarant(s).

19 **8.8. NON-CASHED SETTLEMENT CHECKS**

20 Any funds associated with checks that have not been cashed within one hundred eighty (180)
21 days, will become void and the Individual Settlement Amount associated with the uncashed check will
22 be remitted pursuant to Code of Civil Procedure section 384 to the California State Controller for
23 deposit in the Unclaimed Property Fund in the name of the individual whose check was uncashed. The
24 Parties agree that this disposition results in no "unpaid residue" within the meaning of California Civil
25 Procedure Code section 384, as the entire Net Settlement Amount will be paid out to Class Participants,
26 whether or not they all cash their Individual Settlement Amount checks. Therefore, Defendant shall not
27 be required to pay any interest on said amount. For the purposes of determining whether Defendant has
28 met their financial obligation to pay the Individual Settlement Payment, Defendant will be deemed to

1 have fulfilled its obligation upon the mailing of the check to the Class Member, regardless of whether
2 such Class Member subsequently negotiates the check.

3 **8.9. DISPUTES REGARDING CLASS MEMBER WORKWEEKS DATA OR**
4 **PAYMENT OF INDIVIDUAL SETTLEMENT SHARES**

5 Class Member Workweeks and the corresponding Individual Settlement Amount shall be
6 calculated using the employment and payroll records of Defendant, which presumptively shall be
7 deemed to be full, complete, and accurate for purposes of this Settlement Agreement. To overcome
8 that presumption, any Class Member objecting to the accuracy of the number of Workweeks or amount
9 of the Individual Settlement Amount must submit documentary evidence, such as pay stubs or other
10 written employment records, to the Settlement Administrator. Each Class Member may dispute the
11 number of Workweeks or their estimated Individual Settlement Amount contained on their Class
12 Notice (“Workweeks Dispute”). Any such Workweeks Dispute must be mailed or faxed to the
13 Settlement Administrator by the Class Member, postmarked or fax-stamped on or before the Response
14 Deadline. The Settlement Administrator shall immediately provide copies of all disputes to counsel for
15 Defendant, shall inform Class Counsel of the dispute without disclosing the identity of the Class
16 Member making the dispute, and shall immediately attempt to resolve all such disputes directly with
17 relevant Class Members with the assistance of Defendant, Defense Counsel, and Class Counsel.

18 The Parties shall file with the Court all disputes submitted by Class Members, the evidence
19 submitted, and the resolution of the disputes. Although the Settlement Administrator may make the
20 initial decision regarding workweek disputes, the Court may review any decision made by the
21 Settlement Administrator regarding such dispute.

22 **9. NULLIFICATION OF THIS SETTLEMENT AGREEMENT**

23 **9.1. NON-APPROVAL OF THIS SETTLEMENT AGREEMENT**

24 The Class Settlement and conditional class certification shall be considered null and void, and
25 neither the Class Settlement, conditional class certification, nor any of the related negotiations or
26 proceedings, shall be of any force or effect, and all Parties to the Class Settlement shall stand in the
27 same position, without prejudice, as if the Class Settlement had been neither entered into nor filed with
28 the Court, if any of the following occur: **(a)** the Court should for any reason fail to approve this

1 Settlement Agreement in the form agreed to by the Parties; **(b)** the Court should for any reason fail to
2 enter a judgment with prejudice of the Action, or **(c)** the approval of the Class Settlement and judgment
3 is reversed, modified, or declared or rendered void. Notwithstanding the foregoing, the Parties may
4 attempt in good faith to cure any perceived defects in this Settlement Agreement to facilitate approval.

5 **9.2. PARTIES' RIGHTS TO VOID CLASS SETTLEMENT; ESCALATOR**
6 **PROVISION**

7 If 10% or more members of the Settlement Class timely submit Opt Out requests, Defendant(s)
8 shall have the right (but not the obligation) to void the settlement described in this MOU. Defendant
9 agrees not to take any action that can be construed as encouraging Class Members to opt out of the
10 Settlement for the purposes of triggering its ability to void the Agreement.
11 If the number of workweeks worked by the Class Members is greater than 10% above 18,092
12 workweeks, then the GSA shall be increased proportionately for each additional Workweek above the
13 10% buffer.

14 **9.3. INVALIDATION**

15 Invalidation of any material portion of this Settlement Agreement shall invalidate the Class
16 Settlement in its entirety, unless the Parties subsequently agree in writing that the remaining provisions
17 of the Class Settlement are to remain in full force and effect.

18 **9.4. STAY ON APPEAL**

19 If a timely appeal from the approval of the Class Settlement and judgment, the judgment shall
20 be stayed, and Defendant shall not be obligated to fund the Gross Settlement Amount or take any other
21 actions required by this Settlement Agreement until all appeal rights have been exhausted by operation
22 of law.

23 **10. MOTIONS FOR COURT APPROVAL**

24 **10.1. PRELIMINARY APPROVAL**

25 As soon as practicable after execution of this Settlement Agreement, Class Counsel will submit
26 this Settlement Agreement to the Court along with a Motion for Preliminary Approval of the Class
27 Settlement. Each party shall cooperate to present the Class Settlement to the Court for preliminary
28 approval in a timely fashion.

10.2. FINAL APPROVAL

The Final Approval and Fairness Hearing shall be held before the Court. At the Final Approval and Fairness Hearing, Plaintiff shall move the Court for the entry of the final order certifying the Settlement Class for settlement purposes only and approving the Class Settlement as being fair, reasonable, and adequate to the Class Participants within the meaning of California Rules of Court, Rule 3.769, subdivisions (c), (d) and (e), and for the entry of a final judgment of the Action consistent with the terms of the Class Settlement and rule 3.769, subdivision (h), of the California Rules of Court. Class Counsel and Defense Counsel shall submit to the Court such pleadings and/or evidence as may be required for the Court's determination.

11. RELEASES AND WAIVERS

11.1. RELEASE OF CLAIMS BY THE SETTLEMENT CLASS

Upon the date the settlement has been fully funded, the Releasing Parties shall be deemed to each release the Released Parties, and each of them, of and from any and all Released Claims arising during the Class Period. It is the desire of the Parties and the Releasing Parties to fully, finally, and forever settle, compromise, and discharge the Released Claims. Each of the Releasing Parties, including each Class Participant, will be bound by the release of Released Claims as a result of the Class Settlement and to the terms of the final judgment and the satisfaction of such judgment.

Class Participants will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Action are disputed, and that their Individual Settlement Amount constitutes payment of all sums allegedly due to them. Class Participants will be deemed to have acknowledged and agreed that California Labor Code section 206.5 is not applicable to the Individual Settlement Amount. That section provides in pertinent part as follows:

1 “An employer shall not require the execution of a release of a claim or right on account
2 of wages due, or to become due, or made as an advance on wages to be earned, unless
3 payment of those wages has been made.”

4 **11.2. RELEASE OF CLAIMS BY PAGA SETTLEMENT CLASS**

5 Upon the date the settlement has been fully funded, the PAGA Settlement Class shall be deemed
6 to release the Released Parties, and each of them, of and from any and all PAGA Released Claims
7 arising during the PAGA Period. It is the desire of the Parties to fully, finally, and forever settle,
8 compromise, and discharge the PAGA Released Claims. Each of the PAGA Settlement Class members
9 will be bound by the release of PAGA Released Claims as a result of the Settlement and to the terms
10 of the final judgment and the satisfaction of such judgment.

11 The PAGA Settlement Class members shall have no right or ability to opt out of the portion of
12 this Settlement Agreement releasing PAGA Released Claims.

13 **11.3. RELEASE OF CLAIMS BY PLAINTIFF**

14 Plaintiff, on behalf of herself and her dependents, heirs and assigns, beneficiaries, devisees,
15 legatees, executors, administrators, agents, trustees, conservators, guardians, personal representatives,
16 and successors-in-interest, whether individual, class, representative, legal, equitable, direct or indirect,
17 or any other type or in any other capacity, shall and does hereby forever release, discharge and agree
18 to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities,
19 obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights,
20 demands, costs, losses, debts and expenses (including attorney fees and costs), known or unknown, at
21 law or in equity, which she may now have or may have after the signing of this Settlement Agreement,
22 arising out of or in any way connected with her employment with Defendant including, the Released
23 Claims, claims that were asserted or could have been asserted in the Complaint, and any and all
24 transactions, occurrences, or matters between the Parties occurring prior to the date this Settlement
25 Agreement is fully executed. Without limiting the generality of the foregoing, this release shall include,
26 but not be limited to, any and all claims under: **(a)** the Americans with Disabilities Act; **(b)** Title VII
27 of the Civil Rights Act of 1964; **(c)** the Civil Rights Act of 1991; **(d)** 42 U.S.C. § 1981; **(e)** the Age
28

1 Discrimination in Employment Act; **(f)** the Fair Labor Standards Act; **(g)** the Equal Pay Act; **(h)** the
 2 Employee Retirement Income Security Act, as amended; **(i)** the Consolidated Omnibus Budget
 3 Reconciliation Act; **(j)** the Rehabilitation Act of 1973; **(k)** the Family and Medical Leave Act; **(l)** the
 4 Civil Rights Act of 1966; **(m)** the California Fair Employment and Housing Act; **(n)** the California
 5 Constitution; **(o)** the California Labor Code; **(p)** the California Government Code; **(q)** the California
 6 Civil Code; and **(r)** any and all other federal, state, and local statutes, ordinances, regulations, rules,
 7 and other laws, and any and all claims based on constitutional, statutory, common law, or regulatory
 8 grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of
 9 contract or implied contract, fraud, misrepresentation, promissory estoppel, or intentional infliction of
 10 emotional distress, negligent infliction of emotional distress, or damages under any other federal, state,
 11 or local statutes, ordinances, regulations, rules, or laws. This release is for any and all relief, no matter
 12 how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses,
 13 compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain
 14 and suffering, and attorney fees and costs, and Plaintiff hereby forever releases, discharges and agrees
 15 to hold harmless Defendant and the Released Parties from any and all claims for attorney fees and costs
 16 arising out of the matters released in this Settlement Agreement.

17 Plaintiff specifically acknowledges that she is aware of and familiar with the provisions of
 18 California Civil Code section 1542, which provides as follows:

19 “A general release does not extend to claims that the creditor or releasing party does not
 20 know or suspect to exist in his or her favor at the time of executing the release and that,
 21 if known by him or her, would have materially affected his or her settlement with the
 22 debtor or released party.”
 23

24 Plaintiff, being aware of California Civil Code section 1542, hereby expressly waives and
 25 relinquishes all rights and benefits she may have under section 1542 as well as any other statutes or
 26 common law principles of a similar effect. Plaintiff may hereafter discover facts in addition to or
 27 different from those which she now knows or believes to be true with respect to the subject matter of
 28 all the claims referenced herein, but agrees that, upon the Effective Date, Plaintiff shall and hereby

1 does fully, finally, and forever settle and release any and all claims against the Released Parties, known
 2 or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have
 3 been asserted upon any theory of law or equity without regard to the subsequent discovery of existence
 4 of such different or additional facts.

5 **11.4. CIRCULAR 230 DISCLAIMER**

6 Each party to this Settlement Agreement (for purposes of this section, the “Acknowledging
 7 Party”; and each party to this Agreement other than the Acknowledging Party, an “Other Party”)
 8 acknowledges and agrees that **(1)** no provision of this Settlement Agreement, and no written
 9 communication or disclosure between or among the parties or their attorneys and other advisers, is or
 10 was intended to be, nor shall any such communication or disclosure constitute or be construed or be
 11 relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31
 12 C.F.R. Part 10); **(2)** the Acknowledging Party **(a)** has relied exclusively upon her or its own
 13 independent legal and tax advisers for advice (including tax advice) in connection with this Settlement
 14 Agreement, **(b)** has not entered into this Settlement Agreement based upon the recommendation of any
 15 other party or any attorney or advisor to any other party, and **(c)** is not entitled to rely upon any
 16 communication or disclosure by any attorney or adviser to any other party to avoid any tax penalty that
 17 may be imposed on the Acknowledging Party; and **(3)** no attorney or adviser to any other party has
 18 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies
 19 (regardless of whether such limitation is legally binding) upon disclosure by the Acknowledging Party
 20 of the tax treatment or tax structure of any transaction, including any transaction contemplated by this
 21 Settlement Agreement.

22 **12. DUTIES OF THE PARTIES**

23 **12.1. MUTUAL FULL COOPERATION**

24 The Parties agree to cooperate fully with one another to accomplish and implement the terms
 25 of this Settlement Agreement. Such cooperation shall include, but not be limited to, execution of such
 26 other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms
 27 of this Settlement Agreement. The Parties shall use their best efforts, including all efforts contemplated
 28 by this Settlement Agreement and any other efforts that may become necessary by court order or

1 otherwise, to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
2 after execution of this Settlement Agreement, Class Counsel, with the cooperation of Defendant and
3 Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of
4 this Settlement Agreement.

5 **12.2. DUTY TO SUPPORT AND DEFEND THE CLASS SETTLEMENT**

6 The Parties agree to abide by all of the terms of this Settlement Agreement in good faith and to
7 support the Class Settlement fully and to use their best efforts to defend this Class Settlement from any
8 legal challenge, whether by appeal or collateral attack.

9 **12.3. DUTIES PRIOR TO COURT APPROVAL**

10 Class Counsel shall promptly submit this Settlement Agreement to the Court for preliminary
11 approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly
12 upon execution of this Settlement Agreement, Class Counsel shall apply to the Court for the entry of a
13 preliminary order scheduling a hearing on the question of whether the proposed Class Settlement
14 should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form
15 and content the proposed Class Notice and Share Form attached hereto as **Exhibit 1** and **Exhibit 2**,
16 respectively, and directing the mailing of the Class Notice to Class Members. While Defendant can
17 reserve its right to object to facts or assertions made in the moving papers, Defense Counsel shall file
18 a notice of non-opposition to the granting of the motion for preliminary approval or join in the motion.

19 **13. MISCELLANEOUS PROVISIONS**

20 **13.1. VOIDING THIS SETTLEMENT AGREEMENT**

21 Pending Court approval and other than as provided herein, if any of the conditions set forth in
22 this Settlement Agreement are not met and satisfied, this Settlement Agreement may, at the option of
23 either Plaintiff or Defendant, be ineffective, void, and of no further force and effect, and may not be
24 used or be admissible in any subsequent proceeding, either in this Court or in any other court or forum.
25 If either Party decides to void the Settlement Agreement, then the Settlement Agreement and
26 conditional class certification shall be considered void, and neither the Settlement Agreement,
27 conditional class certification, nor any of the related negotiations or proceedings, shall be of any force
28 or effect, and the Parties shall stand in the same position, without prejudice, as if this Settlement

1 Agreement had been neither entered into nor filed with the Court. Should any Party choose to void the
2 Class Settlement under this subsection, such Party shall be responsible for all Settlement Administrator
3 fees and costs actually incurred.

4 **13.2. DIFFERENT FACTS**

5 The Parties acknowledge that, except for matters expressly represented herein, the facts in
6 relation to the dispute and all claims released by the terms of this Settlement Agreement may turn out
7 to be different from the facts now known by each party and/or its counsel, or believed by such Party or
8 counsel to be true, and each Party therefore expressly assumes the risk of the existence of different or
9 presently unknown facts, and agrees that this Settlement Agreement shall be in all respects effective
10 and binding despite such difference.

11 **13.3. NO PRIOR ASSIGNMENTS**

12 The Parties represent, covenant, and warrant that they have not directly or indirectly assigned,
13 transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any
14 portion of any liability, claim, demand, action, cause of action, or right herein released and discharged
15 except as set forth herein.

16 **13.4. NON-ADMISSION**

17 Nothing in this Settlement Agreement shall be construed as or deemed to be an admission by
18 any Party of any liability, culpability, negligence, or wrongdoing toward any other Party, or any other
19 person, and the Parties specifically disclaim any liability, culpability, negligence, or wrongdoing
20 toward each other or any other person. Each of the Parties has entered into this Settlement Agreement
21 with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses,
22 and contingencies. Nothing herein shall constitute any admission by Defendant of wrongdoing or
23 liability, or of the truth of any factual allegations in the Action. Nothing herein shall constitute any
24 admission by Defendant regarding the merits of the Claims in this Action, including but not limited to
25 claims for unpaid wages or violations under California or federal law. Nothing herein shall constitute
26 an admission by Defendant that the Action was properly brought as a class or representative action
27 other than for settlement purposes. To the contrary, Defendant has denied and continues to deny each
28 and every material factual allegation and all Claims. To this end, the Class Settlement of the Action,

1 the negotiation and execution of this Settlement Agreement, and all acts performed or documents
2 executed pursuant to or in furtherance of this Settlement Agreement or the Class Settlement are not,
3 shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or
4 liability on the part of Defendant or of the truth of any of the factual allegations in the Complaint in the
5 Action; and are not, shall not be deemed to be, and may not be used as, an admission or evidence of
6 any fault or omission on the part of Defendant in any civil, criminal, or administrative proceeding in
7 any court, administrative agency, or other tribunal.

8 **13.5. NON-EVIDENTIARY USE**

9 Neither this Agreement nor any of its terms, nor any statements or conduct in the negotiation
10 or drafting of it, shall be offered or used as evidence by Plaintiff, any Class Member (including any
11 individual who requested to be excluded from the Settlement Class), Defendant, or its, her, his, or their
12 respective counsel, in the Action, except as is reasonably necessary to effectuate the Settlement
13 Agreement's purpose and terms. This Settlement Agreement may, however, be used by Defendant and
14 the Released Parties to prove or defend against any claim released herein by any Class Member in any
15 judicial, quasi-judicial, administrative, or governmental proceeding.

16 **13.6. MEDIA OR PRESS**

17 Plaintiff and Defendant, and their respective counsel, recognize, accept, and agree that the
18 Parties to this Settlement Agreement desire that the terms of this Settlement Agreement, the fact of the
19 Class Settlement embodied in this Settlement Agreement, the disposition of the Action, the Action, and
20 all matters relating to the litigation of the Action, including discovery proceedings therein, and evidence
21 obtained during the course of the Action, shall not be discussed with or presented to the media or press.

22 **13.7. NON-RETALIATION**

23 Defendant understands and acknowledges that it has a legal obligation to not retaliate against
24 any Class Member who elects to participate in the Class Settlement or elects to Opt Out of the Class
25 Settlement. Defendant will refer any inquiries regarding this Class Settlement to the Settlement
26 Administrator or Class Counsel and will not discourage Class Members who are employees, directly
27 or indirectly, from making claims, opting out, or objecting to the Class Settlement. None of the Parties,
28

1 or their respective attorneys or agents, shall solicit or encourage any Class Members, directly or
2 indirectly, to Opt Out of the Class Settlement.

3 **13.8. CONSTRUCTION**

4 The Parties agree that the terms and conditions of this Settlement Agreement are the result of
5 lengthy, intensive, arms-length, non-collusive negotiations between the Parties and that this Settlement
6 Agreement is not to be construed in favor of or against any party by reason of the extent to which any
7 party or its counsel participated in the drafting of this Settlement Agreement. If any of the dates in this
8 Settlement Agreement fall on a weekend, bank or court holiday, the time to act shall be extended to the
9 next business day.

10 **13.9. GOVERNING LAW**

11 This Settlement Agreement is intended to and shall be governed by the laws of the State of
12 California, without regard to conflict of law principles, in all respects, including execution,
13 interpretation, performance, and enforcement.

14 **13.10. NOTICES**

15 Except for Class Member notices required to be made by the Settlement Administrator, all
16 notices or other communications required or permitted under this Settlement Agreement shall be in
17 writing and shall be sufficiently given if delivered in person to the party or their counsel by U.S.
18 certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the address of the
19 party appearing in this Settlement Agreement.

20 **13.11. CAPTIONS AND INTERPRETATIONS**

21 Section titles or captions contained herein are inserted as a matter of convenience and for
22 reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement
23 or any provision thereof.

24 **13.12. MODIFICATION**

25 This Settlement Agreement may not be changed, altered, or modified, except in writing signed
26 by the Parties or the Parties' counsel on their behalf. If preliminary or final approval of this Settlement
27 Agreement has been granted by the Court, then any such amendments or modifications to this
28

1 Settlement Agreement shall be approved by the Court. This Settlement Agreement may not be
2 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

3 **13.13. INTEGRATION CLAUSE**

4 This Settlement Agreement contains the entire agreement between the Parties relating to the
5 Class Settlement of the Action and the transactions contemplated thereby, and all prior or
6 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
7 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
8 Settlement Agreement may be waived except in writing as provided above.

9 **13.14. SUCCESSORS AND ASSIGNS**

10 This Settlement Agreement shall be binding on and inure to the benefit of the Parties and Class
11 Members (excluding only persons who timely Opt Out) and their respective present and former heirs,
12 trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees,
13 insurers, attorneys, accountants, auditors, advisors, consultants, pension plans, welfare benefit plans,
14 fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors,
15 successors, and assigns.

16 **13.15. CORPORATE SIGNATORIES**

17 Any person executing this Settlement Agreement or any such related document on behalf of a
18 corporate signatory or on behalf of a partnership hereby warrants and promises, for the benefit of all
19 Parties hereto, that such person has been duly authorized by such corporation or partnership to execute
20 this Settlement Agreement or any such related document.

21 **13.16. EXECUTION IN COUNTERPARTS**

22 This Settlement Agreement shall become effective upon its execution by all of the undersigned.
23 The Parties may execute this Settlement Agreement in counterparts, and execution of counterparts shall
24 have the same force and effect as if all Settling Parties had signed the same instrument.

25 **13.17. ATTORNEY FEES, COSTS, AND EXPENSES**

26 Except as otherwise specifically provided for herein, each party shall bear her or its own
27 attorney fees, costs, and expenses, taxable or otherwise, incurred by them in or arising out of the Action
28 and shall not seek reimbursement thereof from any other party to this Settlement Agreement.

13.18. ACTION TO ENFORCE AGREEMENT

In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover her or its attorney fees and costs. This provision does not apply to unnamed Class Members or Aggrieved Employees.

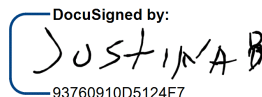
14. EXECUTION

The Parties and their counsel have executed this Settlement Agreement on the date below their signatures or the signature of their representatives. The date of this Settlement Agreement shall be the date of the latest signature.

APPROVAL AND EXECUTION BY PARTIES

CLASS REPRESENTATIVE:

Dated: 2/19/2026

DocuSigned by:

 93760910D5124F7...
 Justina Balderrama
 Plaintiff and Class Representative

DEFENDANT:

Dated: _____

Omni Enterprises, Inc.

By: _____

Title: _____

APPROVED AS TO FORM BY COUNSEL

CLASS COUNSEL:

Dated: 2/24/2026

Melmed Law Group P.C.


 Jonathan Melmed
 Attorneys for Plaintiff

1 **13.18. ACTION TO ENFORCE AGREEMENT**

2 In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be
3 entitled to recover her or its attorney fees and costs. This provision does not apply to unnamed Class
4 Members or Aggrieved Employees.

5 **14. EXECUTION**

6 The Parties and their counsel have executed this Settlement Agreement on the date below their
7 signatures or the signature of their representatives. The date of this Settlement Agreement shall be the
8 date of the latest signature.

9 **APPROVAL AND EXECUTION BY PARTIES**

10 **CLASS REPRESENTATIVE:**

11
12 Dated: _____

Justina Balderrama
Plaintiff and Class Representative

14
15 **DEFENDANT:**

16 Dated: 4-9-2026

Omni Enterprises, Inc.

17
18 _____
19 By: Dante Perez
20 Title: CEO
21 _____

22 **APPROVED AS TO FORM BY COUNSEL**

23 **CLASS COUNSEL:**

24
25 Dated: _____

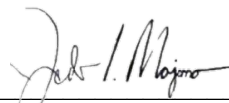
Melmed Law Group P.C.

26
27 _____
28 Jonathan Melmed
Attorneys for Plaintiff

DEFENDANT'S COUNSEL:

Dated: April 10, 2026

Adli Law Group, P.C.



Jacob Mojarro

Attorneys for Defendant

Exhibit 5

EXHIBIT 1

Notice of Proposed Class Action and PAGA Settlement

Darius G. Adli, Esq., SBN 204959
adli@adlilaw.com
Jacob I. Mojarro, Esq. (SBN 289339)
jacob.mojarro@adlilaw.com
ADLI LAW GROUP, P.C.
3453 Newridge Dr.,
Rancho Palos Verdes, CA 90275
Telephone: (213) 623-6546
Facsimile: (213) 623-6554

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

JUSTINA BALDERRAMA, an individual, on
behalf of herself, the State of California, as a
private attorney general, and on behalf of all
others similarly situated,

Plaintiff,

v.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No.: 30-2022-01256174-CU-OE-CXC

**Notice of Proposed Class and PAGA
Representative Action Settlement**

A court authorized this notice. This is not a solicitation from a lawyer.

NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION
SETTLEMENT

You may be eligible to receive a settlement payment. Please read this notice carefully.

A proposed class action settlement agreement (the “Settlement”) has been reached between: (1) Plaintiff Justina Balderrama (“Plaintiff”), individually and in her representative capacity on behalf of a group of prospective class members defined below, and as a private attorney general on behalf of the State of California; and (2) Defendant Omni Enterprises, Inc. (“Defendant”). The Settlement resolves disputed claims against Defendant arising out of its compensation practices during the period from April 22, 2018, through May 13, 2024 (the “Class Period”) as applied to all individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period (“Class Members”).

The Court has granted preliminary approval of the Settlement and ordered this notice to be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT: If you are a Class Member (as defined above) and received this notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment. If you accept your settlement amount, you will release the claims described below.

1. DESCRIPTION OF THE LAWSUIT

Plaintiff, individually and in her representative capacity on behalf of the Class Members, and as a private attorney general on behalf of the State of California, is pursuing a lawsuit against Defendant in the Superior Court of the State of California for the County of Orange in the matter of *Justina Balderrama v. Omni Enterprises, Inc.*, case number 30-2022-01256174-CU-OE-CXC (the “Action”). The Action sought recovery for Defendant’s alleged: (1) failure to pay minimum wage for all hours worked; (2) failure to pay proper overtime wages; (3) failure to provide compliant rest periods and pay missed rest break premiums; (4) failure to provide compliant meal periods and pay missed meal period premiums; (5) failure to maintain accurate employment records; (6) failure to pay timely wages during employment; (7) failure to pay all wages due and owing at separation; (8) failure to provide complete

1 and accurate wage statements; and (9) deceptive, fraudulent, or otherwise unlawful business practices
2 based on the foregoing in violation of California’s Unfair Competition Law.

3 **Defendant denies all liability, denies all allegations in the Action, and has raised various**
4 **defenses to the claims.** Defendant asserts that it fully complied with all applicable wage and hour laws,
5 and contends that civil penalties under PAGA are not warranted. Defendant also denies that the Action
6 is suitable for class certification.

7 The Court has not ruled on the merits in the Action. By approving the Settlement and issuing
8 this notice, the Court is *not* suggesting which side would win or lose the case if it went to trial or
9 whether the claims are suitable for class certification.

10 Under the Settlement, the following settlement class will be certified under California law: *all*
11 *individuals who are or were employed by Defendants as non-exempt employees in California during*
12 *the Class Period.* The “Class Period” is defined as the period from April 22, 2018, through May 13,
13 2024. The Settlement provides for a gross settlement amount of \$325,000.00, a share of which is to be
14 distributed to the Class Members based on the pro rata number of weeks worked by the Class Members
15 during the Class Period as a proportion of all weeks worked by all Class Members. In exchange for
16 their share of the settlement amount, all participating Class Members will be deemed to have released
17 Defendant from liability on the terms described in this notice.

18 On [the date of preliminary approval of the settlement], the Court preliminarily approved the
19 Settlement and conditionally certified the settlement class. This notice is being sent to you because
20 Defendant’s records indicate that you worked for Defendant during the Class Period and that you meet
21 the definition required to be treated as a Class Member.

22 **2. IF YOU ARE STILL EMPLOYED BY DEFENDANT, THIS SETTLEMENT WILL**
23 **NOT AFFECT YOUR EMPLOYMENT.**

24 California law strictly prohibits retaliation. Further, Defendant is prohibited by law from taking
25 any adverse action against or otherwise target, retaliate, or discriminate against any Class Member
26 because of the Class Member’s participation or decision not to participate in the Settlement.

1 **3. TERMS OF THE SETTLEMENT**

2 Defendant has agreed to pay \$325,000.00 (the “Gross Settlement Amount”) to resolve the
3 claims in the Action. The Parties agreed to the following payments from the Gross Settlement Amount:

- 4 1. **Settlement Administration Costs.** The Court has approved ILYM Group, Inc. to act
5 as the “Settlement Administrator,” who is sending this notice to you and will perform
6 many other duties relating to the Settlement. Under the Settlement, up to \$6,950.00 will
7 be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.
- 8 2. **Attorneys’ Fees and Expenses.** Class Counsel have been prosecuting the Action on
9 behalf of the Class Members on a contingency fee basis (that is, without being paid any
10 money to date) and have been paying all litigation costs and expenses. To date, the
11 Parties have aggressively litigated many aspects of the case including investigation,
12 settlement efforts, and a full-day mediation session. The Court will determine the actual
13 amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross
14 Settlement Amount. Class Members are not personally responsible for any of Class
15 Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of one-third of
16 the Gross Settlement Amount (i.e., \$108,333.33) as reasonable compensation for the
17 work Class Counsel performed and will continue to perform in the Action. Class
18 Counsel also will ask for reimbursement of up to \$20,000.00 for the costs Class Counsel
19 incurred in connection with the Action.
- 20 3. **Service Payment to Class Representative.** Class Counsel will ask the Court to provide
21 a service payment to Plaintiff in the amount of \$7,500.00 for Justina Balderrama to
22 compensate her for her efforts on behalf of the Class Members in the Action, including
23 assisting in the investigation and consulting with Class Counsel and providing crucial
24 documents to Class Counsel. Plaintiff also may receive a share of the Settlement as a
25 Class Member.
- 26 4. **PAGA Payment.** The Parties have agreed on a reasonable sum to be paid in settlement
27 of the PAGA claims included in the Action, which is \$20,000.00. The PAGA Payment
28 is to be approved by the Court pursuant to Labor Code section 2699 and is to be

distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and twenty-five percent (25%) (i.e., \$5,000.00) to the individuals who come within the definition of an “aggrieved employee” for the purposes of the Settlement (i.e., all individuals who are or were employed by Defendants as non-exempt employees in California during the PAGA Period). The “PAGA Period” is defined for these purposes to mean the period from April 22, 2021, through May 13, 2024.

After deducting the amounts above, the balance of the settlement amount will form the “Net Settlement Amount” for distribution to the Class Members.

4. DISTRIBUTION OF THE SETTLEMENT TO THE CLASS MEMBERS

Each eligible Class Member who does not request exclusion from the Settlement will be deemed a “Class Participant” and will receive a share from the Net Settlement Amount which will be distributed pro rata based on the proportional number of weeks worked by each Class Member during the Class Period (the “Individual Settlement Amount”). If any Class Member requests exclusion from the Settlement, his or her share will be distributed to the remaining Class Participants.

Twenty percent (20%) of each Individual Settlement Amount will constitute payment in the form of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him or her), and Eighty percent (80%) of each Individual Settlement Amount will constitute penalties and interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her).

Defendant, or its proxies, shall take all usual and customary deductions from the Individual Settlement Amount payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest or penalty distribution—it will, however, be reported on IRS Form 1099 as income. Class Participants are responsible for the proper income tax treatment of their Individual Settlement Amount. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

The workweeks you worked for Defendant during the Class Period will be calculated based on Defendant’s records. If you feel that you were not credited with the correct number of workweeks

1 worked during the Class Period, you may submit evidence to the Settlement Administrator on or before
2 **[Response Deadline]** with documentation to establish the number of workweeks you claim to have
3 actually worked during the Class Period. **Documentation sent to the Settlement Administrator will**
4 **not be returned or preserved, so do not send originals.** The Parties and the Settlement Administrator
5 will promptly evaluate the evidence submitted and discuss in good faith how many workweeks should
6 be credited. If Plaintiff and Defendant cannot agree over the workweeks to be credited, the Settlement
7 Administrator may make the initial decision regarding workweek disputes, and the Court may review
8 any decision made by the Settlement Administrator regarding a workweek dispute. The Parties shall
9 file with the Court all disputes submitted by Class Members, the evidence submitted, and the resolution
10 of the disputes. Although the Settlement Administrator may make the initial decision regarding
11 workweek disputes, the Court may review any decision made by the Settlement Administrator
12 regarding such dispute. If you are unsatisfied with the decision, you may submit an objection, which is
13 explained below.

14 Settlement checks will be mailed to all Class Participants after the Court grants final approval
15 of the Settlement and judgment is entered.

16 **5. THE RELEASE OF CLAIMS**

17 If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind
18 all Class Participants. Upon the date the settlement has been fully funded, Class Participants will then
19 be barred from bringing any “Released Claims” against the “Released Parties” as those terms are
20 defined below.

21 The “Released Parties” are Defendant and all of Defendant and all of Defendant’s subsidiaries,
22 affiliates, shareholders, members, agents, predecessors, successors, and assigns.

23 The “Released Class Claims” are those claims that were or reasonably could have been asserted
24 based on the facts alleged in the operative complaint that arose during the Class Period and/or PAGA
25 Period, i.e. claims for: **(1)** failure to pay minimum wage for all hours worked in violation of Labor
26 Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s); **(2)** failure to pay proper
27 overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage
28 Order(s); **(3)** failure to provide compliant rest periods and pay missed rest break premiums in violation

1 of Labor Code section 226.7 and the applicable IWC Wage Order(s); **(4)** failure to provide compliant
2 meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512,
3 and the applicable IWC Wage Order(s); **(5)** failure to maintain accurate employment records in
4 violation of Labor Code section 1174; **(6)** failure to pay timely wages during employment in violation
5 of Labor Code sections 204, 210; **(7)** failure to pay all wages due and owing at separation in violation
6 of Labor Code sections 201, 202, and 203; **(8)** failure to provide complete and accurate wage statements
7 in violation of Labor Code sections 226 and 226.3; and **(9)** deceptive, fraudulent, or otherwise unlawful
8 business practices based on the foregoing in violation of California’s Unfair Competition Law (Bus. &
9 Prof. Code, §§ 17200–17210). No other claims are released other than those claims specifically plead
10 in the operative complaint in the Action.

11 The Settlement does *not* release Defendant or any person, party, or entity from claims, if any,
12 by Class Members for workers compensation, unemployment, or disability benefits of any nature. Nor
13 does it release any claims, actions, or causes of action which may be possessed by Class Members
14 under state or federal discrimination statutes, including, without limitation, the California Fair
15 Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code,
16 § 51); the California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.);
17 the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income
18 Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and
19 interpretive guidelines.

20 Class Members who do not request exclusion from the Settlement will be deemed to have
21 acknowledged and agreed that their claims for wages and penalties in the Action are disputed, and that
22 the Settlement payments constitute payment of all sums allegedly due to them. Class Members will be
23 deemed to have acknowledged and agreed that California Labor Code section 206.5 is not applicable
24 to the Settlement payments. That section provides in pertinent part as follows:

25 “An employer shall not require the execution of a release of a claim or right on account
26 of wages due, or to become due, or made as an advance on wages to be earned, unless
27 payment of those wages has been made.”
28

1 The “PAGA Released Claims” are any and all claims that are pled in the Action for civil
2 penalties under PAGA, i.e.: failure to pay minimum wages for all hours worked, failure to pay overtime
3 wages, failure to provide paid rest breaks and pay missed rest break premiums, failure to provide meal
4 periods and pay missed meal period premiums, failure to pay wages timely during employment, failure
5 to pay timely wages at separation, failure to provide accurate and itemized wage statements, failure to
6 pay sick leave, and recordkeeping violations, pursuant to Labor Code sections 201, 202, 203, 204, 210,
7 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199.

8 The PAGA Settlement Class members shall have no right or ability to opt out of the portion of
9 this Settlement Agreement releasing PAGA Released Claims.

10 **6. YOUR OPTIONS**

11 **6.1. DO NOTHING AND RECEIVE YOUR PORTION OF THE SETTLEMENT**

12 If you do nothing, you will be automatically included as a Class Participant in the Settlement
13 and will receive a settlement payment. You do *not* have to take any further action to receive your
14 settlement payment. It is, however, the responsibility of all Class Members to ensure that the Settlement
15 Administrator has your current address on file, or you may not receive important information or a
16 settlement payment. The estimated amount of your settlement payment if you do nothing is included
17 on the attached *Class Action Settlement Share Form*.

18 **6.2. REQUEST EXCLUSION FROM THE CLASS AND THE SETTLEMENT**

19 If you do *not* wish to take part in the class action portion of the Settlement (the “Class
20 Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement) by mailing the Settlement
21 Administrator a completed Exclusion Form attached to this Notice no later than [Response Deadline]
22 that specifically requests exclusion from the Class Settlement in this case.

23 Send by U.S. mail the request for exclusion directly to the Settlement Administrator at the
24 following address **by no later than [Response Deadline]**:

25 ILYM Group, Inc.
26 14751 Plaza Drive, Suite J
27 Tustin, California 92780
28

1 Any person who submits a timely request for exclusion from the Class Settlement shall, upon
2 receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and
3 shall receive no benefits from the class action portion of the Settlement. If you want confirmation of
4 receipt of your request for exclusion, please send it by United States certified mail, return receipt
5 requested, or contact the Settlement Administrator.

6 **Importantly**, Class Members who timely and validly request exclusion from the Class
7 Settlement will *not* be excluded from their share of the PAGA Payment or the PAGA Released Claims.
8 Requesting exclusion from the Class Settlement applies solely to the Class Members' entitlement to the
9 class action portion of the Settlement and Released Class Claims and not their entitlement to the PAGA
10 Payment and release of the PAGA Released Claims. If you request exclusion from the Class Settlement
11 you will still be entitled to your share, if any, of the PAGA Payment and will release the PAGA
12 Released Claims.

13 **6.3. OBJECT TO THE SETTLEMENT**

14 You have the right to object to the terms of the Settlement if you do not request exclusion. If,
15 however, the Court rejects your objection, you will still be bound by the terms of the Settlement. If you
16 wish to object to the Settlement, or any portion of it, you may mail the Settlement Administrator a
17 written objection on the Objection Form attached to this Notice, stating your name, address, telephone
18 number, dates of employment with Defendant, the case name and number, each specific reason in
19 support of your objection, and any legal support for each objection. Objections in writing must be
20 mailed to the Settlement Administrator—ILYM Group, Inc., 14751 Plaza Drive, Suite J, Tustin,
21 California 92780—by no later than [Response Deadline] to be considered. **Objections that do not**
22 **include all required information, or that are not timely submitted, might not be considered by**
23 **the court.**

24 You may also appear and object at the final approval hearing, which is scheduled for [Final
25 Approval Hearing Date], at [Final Approval Hearing Time] in Department [Court Department] of the
26 Superior Court of the State of California for the County of Orange, located at [Court Location]. You
27 have the right to appear either in person or through your own attorney at this hearing, irrespective of
28 whether they have filed a written objection.

1 If you object to the Settlement, you will remain a Class Member, and if the Court approves the
2 Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as
3 Class Members who do not object. Any Class Member who does not object in the manner provided
4 above shall have waived any objection to the Settlement, whether by appeal or otherwise.

5 **7. HOW TO UPDATE OR CHANGE YOUR ADDRESS**

6 If you move after receiving this notice or if it was misaddressed, please contact the Settlement
7 Administrator, ILYM Group, Inc., at **(888) 250-6810** or by email at
8 **claims@ilymgroupclassaction.com**, as soon as possible. **This is important to ensure that future**
9 **notices and/or the Settlement payment reach you.**

10 **8. NOTICE OF FINAL JUDGMENT IF THE SETTLEMENT IS APPROVED**

11 If the court grants final approval of the settlement, within seven (7) days thereafter, the
12 Settlement Administrator will post a copy of that order and final judgment on its website at the
13 following website address:

14 **[Case-Specific Settlement URL (to be added by Settlement Administrator)]**

15 **9. IF THE SETTLEMENT IS NOT APPROVED**

16 If the Settlement is not approved by the Court, or if any of its conditions are not satisfied, the
17 Settlement may be voided, in which case no money will be paid, and the case will return to litigation.
18 If that happens, there is no assurance: **(1)** that the class will be certified by the Court; **(2)** that any
19 decision at trial would be in favor of Class Members; **(3)** that a trial decision, if any, would be as
20 favorable to the Class Members as the Settlement; or **(4)** that any favorable trial decision would be
21 upheld if an appeal was filed.

22 **10. QUESTIONS OR COMMENTS**

23 **PLEASE DO NOT CALL OR CONTACT THE COURT.** If you have any questions about
24 the settlement, you may contact the Settlement Administrator at: **(888) 250-6810** or by e-mail at
25 **claims@ilymgroupclassaction.com**. You may also contact Class Counsel at the addresses or phone
26 numbers listed below. The Settlement Administrator will post all relevant documents on its website,
27 located at **[website]**, including the Operative Complaint, the PAGA notices to the LWDA, the
28

1 Settlement Agreement, the Class Notice and related forms, the Preliminary Approval Order, the Final
2 Approval Order, and the Final Judgment. The Final Judgment will be posted for at least 180 days.

3
4 **Lawyers Representing Plaintiff and the Class Members**

5 **MELMED LAW GROUP P.C.**

6 Jonathan Melmed

7 jm@melmedlaw.com

8 Laura Supanich

9 lms@melmedlaw.com

10 1801 Century Park East, Suite 850

11 Los Angeles, California 90067

12 Phone: (310) 824-3828

13 Fax: (310) 862-6851

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Exhibit 6

EXHIBIT 1

Notice of Proposed Class Action and PAGA Settlement

Darius G. Adli, Esq., SBN 204959
adli@adlilaw.com
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
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JUSTINA BALDERRAMA, an individual, on
behalf of herself, the State of California, as a
private attorney general, and on behalf of all
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Plaintiff,

v.

OMNI ENTERPRISES, INC., a California
Corporation; and DOES 1 TO 50,

Defendants.

Case No.: 30-2022-01256174-CU-OE-CXC

**Notice of Proposed Class and PAGA
Representative Action Settlement**

A court authorized this notice. This is not a solicitation from a lawyer.

Formatted: Left

1 **NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION**

2 **SETTLEMENT**

3 *You may be eligible to receive a settlement payment. Please read this notice carefully.*

4 A proposed class action settlement agreement (the “Settlement”) has been reached between:

5 **(1)** Plaintiff Justina Balderrama (“Plaintiff”), individually and in her representative capacity on behalf
6 of a group of prospective class members defined below, and as a private attorney general on behalf of
7 the State of California; and **(2)** Defendant Omni Enterprises, Inc. (“Defendant”). The Settlement
8 resolves disputed claims against Defendant arising out of its compensation practices during the period
9 from April 22, 2018, through May 13, 2024 (the “Class Period”) as applied to all individuals who are
10 or were employed by Defendants as non-exempt employees in California during the Class Period
11 (“Class Members”).

12 The Court has granted preliminary approval of the Settlement and ordered this notice to be sent
13 to you because you may be entitled to money under the Settlement and because the Settlement affects
14 your legal rights.

15 **NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE**
16 **SETTLEMENT:** If you are a Class Member (as defined above) and received this notice, you are
17 automatically included in the Settlement and do not need to take any further action to receive a
18 payment. If you accept your settlement amount, you will release the claims described below.

19 **1. DESCRIPTION OF THE LAWSUIT**

20 Plaintiff, individually and in her representative capacity on behalf of the Class Members, and
21 as a private attorney general on behalf of the State of California, is pursuing a lawsuit against Defendant
22 in the Superior Court of the State of California for the County of Orange in the matter of ***Justina***
23 ***Balderrama v. Omni Enterprises, Inc.***, case number **30-2022-01256174-CU-OE-CXC** (the “Action”).
24 The Action sought recovery for Defendant’s alleged: **(1)** failure to pay minimum wage for all hours
25 worked; **(2)** failure to pay proper overtime wages; **(3)** failure to provide compliant rest periods and pay
26 missed rest break premiums; **(4)** failure to provide compliant meal periods and pay missed meal period
27 premiums; **(5)** failure to maintain accurate employment records; **(6)** failure to pay timely wages during
28 employment; **(7)** failure to pay all wages due and owing at separation; **(8)** failure to provide complete

1 and accurate wage statements; and (9) deceptive, fraudulent, or otherwise unlawful business practices
2 based on the foregoing in violation of California's Unfair Competition Law.

3 **Defendant denies all liability, denies all allegations in the Action, and has raised various**
4 **defenses to the claims.** Defendant asserts that it fully complied with all applicable wage and hour laws,
5 and contends that civil penalties under PAGA are not warranted. Defendant also denies that the Action
6 is suitable for class certification.

7 The Court has not ruled on the merits in the Action. By approving the Settlement and issuing
8 this notice, the Court is *not* suggesting which side would win or lose the case if it went to trial or
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10 Under the Settlement, the following settlement class will be certified under California law: *all*
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12 *the Class Period.* The "Class Period" is defined as the period from April 22, 2018, through May 13,
13 2024. The Settlement provides for a gross settlement amount of \$325,000.00, a share of which is to be
14 distributed to the Class Members based on the pro rata number of weeks worked by the Class Members
15 during the Class Period as a proportion of all weeks worked by all Class Members. In exchange for
16 their share of the settlement amount, all participating Class Members will be deemed to have released
17 Defendant from liability on the terms described in this notice.

18 On [the date of preliminary approval of the settlement], the Court preliminarily approved the
19 Settlement and conditionally certified the settlement class. This notice is being sent to you because
20 Defendant's records indicate that you worked for Defendant during the Class Period and that you meet
21 the definition required to be treated as a Class Member.

22 **2. IF YOU ARE STILL EMPLOYED BY DEFENDANT, THIS SETTLEMENT WILL**
23 **NOT AFFECT YOUR EMPLOYMENT.**

24 California law strictly prohibits retaliation. Further, Defendant is prohibited by law from taking
25 any adverse action against or otherwise target, retaliate, or discriminate against any Class Member
26 because of the Class Member's participation or decision not to participate in the Settlement.
27
28

1 **3. TERMS OF THE SETTLEMENT**

2 Defendant has agreed to pay \$325,000.00 (the “Gross Settlement Amount”) to resolve the
3 claims in the Action. The Parties agreed to the following payments from the Gross Settlement Amount:

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5 as the “Settlement Administrator,” who is sending this notice to you and will perform
6 many other duties relating to the Settlement. Under the Settlement, up to \$6,950.00 will
7 be paid from the Gross Settlement Amount to pay the Settlement Administration Costs.
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9 behalf of the Class Members on a contingency fee basis (that is, without being paid any
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11 Parties have aggressively litigated many aspects of the case including investigation,
12 settlement efforts, and a full-day mediation session. The Court will determine the actual
13 amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross
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24 documents to Class Counsel. Plaintiff also may receive a share of the Settlement as a
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distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and twenty-five percent (25%) (i.e., \$5,000.00) to the individuals who come within the definition of an “aggrieved employee” for the purposes of the Settlement (i.e., all individuals who are or were employed by Defendants as non-exempt employees in California during the PAGA Period). The “PAGA Period” is defined for these purposes to mean the period from April 22, 2021, through May 13, 2024.

After deducting the amounts above, the balance of the settlement amount will form the “Net Settlement Amount” for distribution to the Class Members.

4. DISTRIBUTION OF THE SETTLEMENT TO THE CLASS MEMBERS

Each eligible Class Member who does not request exclusion from the Settlement will be deemed a “Class Participant” and will receive a share from the Net Settlement Amount which will be distributed pro rata based on the proportional number of weeks worked by each Class Member during the Class Period (the “Individual Settlement Amount”). If any Class Member requests exclusion from the Settlement, his or her share will be distributed to the remaining Class Participants.

Twenty percent (20%) of each Individual Settlement Amount will constitute payment in the form of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him or her), and Eighty percent (80%) of each Individual Settlement Amount will constitute penalties and interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her).

Defendant, or its proxies, shall take all usual and customary deductions from the Individual Settlement Amount payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest or penalty distribution—it will, however, be reported on IRS Form 1099 as income. Class Participants are responsible for the proper income tax treatment of their Individual Settlement Amount. The Settlement Administrator, Defendant and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

The workweeks you worked for Defendant during the Class Period will be calculated based on Defendant’s records. If you feel that you were not credited with the correct number of workweeks

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6 be credited. ~~If Plaintiff and Defendant cannot agree over the workweeks to be credited, the Settlement~~
7 ~~Administrator may make the initial decision regarding workweek disputes, and the Court may review~~
8 ~~any decision made by the Settlement Administrator regarding a workweek dispute.~~ The Parties shall
9 file with the Court all disputes submitted by Class Members, the evidence submitted, and the resolution
10 of the disputes. Although the Settlement Administrator may make the initial decision regarding
11 workweek disputes, the Court may review any decision made by the Settlement Administrator
12 regarding such dispute. If you are unsatisfied with the decision, you may submit an objection, which is
13 explained below.

14 Settlement checks will be mailed to all Class Participants after the Court grants final approval
15 of the Settlement and judgment is entered.

16 **5. THE RELEASE OF CLAIMS**

17 If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind
18 all Class Participants. ~~Upon the date the settlement has been fully funded,~~ Class Participants will then
19 be barred from bringing any “Released Claims” against the “Released Parties” as those terms are
20 defined below.

21 The “Released Parties” are Defendant and all of Defendant and all of Defendant’s subsidiaries,
22 affiliates, shareholders, members, agents, predecessors, successors, and assigns.

23 The “Released Class Claims” are those claims that were or reasonably could have been asserted
24 based on the facts alleged in the operative complaint ~~that arose during the Class Period and/or PAGA~~
25 ~~Period, i.e. claims for: (1) failure to pay minimum wage for all hours worked in violation of Labor~~
26 ~~Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s); (2) failure to pay proper~~
27 ~~overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage~~
28 ~~Order(s); (3) failure to provide compliant rest periods and pay missed rest break premiums in violation~~

Deleted: The Settlement Administrator will make the final decision as to how many weeks are credited and report the outcome to the Class Participant.

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Deleted: and/or PAGA notice to the California Labor and Workforce Development Agency

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1 of Labor Code section 226.7 and the applicable IWC Wage Order(s); (4) failure to provide compliant
2 meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512,
3 and the applicable IWC Wage Order(s); (5) failure to maintain accurate employment records in
4 violation of Labor Code section 1174; (6) failure to pay timely wages during employment in violation
5 of Labor Code sections 204, 210; (7) failure to pay all wages due and owing at separation in violation
6 of Labor Code sections 201, 202, and 203; (8) failure to provide complete and accurate wage statements
7 in violation of Labor Code sections 226 and 226.3; and (9) deceptive, fraudulent, or otherwise unlawful
8 business practices based on the foregoing in violation of California's Unfair Competition Law (Bus. &
9 Prof. Code, §§ 17200–17210). No other claims are released other than those claims specifically plead
10 in the operative complaint in the Action.

11 The Settlement does *not* release Defendant or any person, party, or entity from claims, if any,
12 by Class Members for workers compensation, unemployment, or disability benefits of any nature. Nor
13 does it release any claims, actions, or causes of action which may be possessed by Class Members
14 under state or federal discrimination statutes, including, without limitation, the California Fair
15 Employment and Housing Act (Gov. Code, §§ 12900–12996); the Unruh Civil Rights Act (Civ. Code,
16 § 51); the California Constitution; Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000, et seq.);
17 the Americans with Disabilities Act (42 U.S.C. § 12101, et seq.); the Employee Retirement Income
18 Security Act of 1974 (29 U.S.C. § 1001 et seq.); and all of their implementing regulations and
19 interpretive guidelines.

20 Class Members who do not request exclusion from the Settlement will be deemed to have
21 acknowledged and agreed that their claims for wages and penalties in the Action are disputed, and that
22 the Settlement payments constitute payment of all sums allegedly due to them. Class Members will be
23 deemed to have acknowledged and agreed that California Labor Code section 206.5 is not applicable
24 to the Settlement payments. That section provides in pertinent part as follows:

25 “An employer shall not require the execution of a release of a claim or right on account
26 of wages due, or to become due, or made as an advance on wages to be earned, unless
27 payment of those wages has been made.”
28

Deleted: ; (10) statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698-2699.6); and (11) all claims for liquidated damages, penalties, interest, fees, costs based on the foregoing

1 The “PAGA Released Claims” are any and all claims that are pled in the Action for civil
2 penalties under PAGA, i.e.: failure to pay minimum wages for all hours worked, failure to pay overtime
3 wages, failure to provide paid rest breaks and pay missed rest break premiums, failure to provide meal
4 periods and pay missed meal period premiums, failure to pay wages timely during employment, failure
5 to pay timely wages at separation, failure to provide accurate and itemized wage statements, failure to
6 pay sick leave, and recordkeeping violations, pursuant to Labor Code sections 201, 202, 203, 204, 210,
7 226, 226.3, 226.7, 256, 510, 512, 1174, 1185, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199.

8 The PAGA Settlement Class members shall have no right or ability to opt out of the portion of
9 this Settlement Agreement releasing PAGA Released Claims.

10 **6. YOUR OPTIONS**

11 **6.1. DO NOTHING AND RECEIVE YOUR PORTION OF THE SETTLEMENT**

12 If you do nothing, you will be automatically included as a Class Participant in the Settlement
13 and will receive a settlement payment. You do *not* have to take any further action to receive your
14 settlement payment. It is, however, the responsibility of all Class Members to ensure that the Settlement
15 Administrator has your current address on file, or you may not receive important information or a
16 settlement payment. The estimated amount of your settlement payment if you do nothing is included
17 on the attached *Class Action Settlement Share Form*.

18 **6.2. REQUEST EXCLUSION FROM THE CLASS AND THE SETTLEMENT**

19 If you do *not* wish to take part in the class action portion of the Settlement (the “Class
20 Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement) by mailing the Settlement
21 Administrator a completed Exclusion Form attached to this Notice no later than [Response Deadline]
22 that specifically requests exclusion from the Class Settlement in this case.

23 Send by U.S. mail the request for exclusion directly to the Settlement Administrator at the
24 following address **by no later than [Response Deadline]**:

25 ILYM Group, Inc.
26 14751 Plaza Drive, Suite J
27 Tustin, California 92780
28

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Deleted: sending

Any person who submits a timely request for exclusion from the Class Settlement shall, upon receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and shall receive no benefits from the class action portion of the Settlement. If you want confirmation of receipt of your request for exclusion, please send it by United States certified mail, return receipt requested, or contact the Settlement Administrator.

Importantly, Class Members who timely and validly request exclusion from the Class Settlement will *not* be excluded from their share of the PAGA Payment or the PAGA Released Claims. Requesting exclusion from the Class Settlement applies solely to the Class Members' entitlement to the class action portion of the Settlement and Released Class Claims and not their entitlement to the PAGA Payment and release of the PAGA Released Claims. If you request exclusion from the Class Settlement you will still be entitled to your share, if any, of the PAGA Payment and will release the PAGA Released Claims.

6.3. OBJECT TO THE SETTLEMENT

You have the right to object to the terms of the Settlement if you do not request exclusion. If, however, the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail the Settlement Administrator a written objection on the Objection Form attached to this Notice, stating your name, address, telephone number, dates of employment with Defendant, the case name and number, each specific reason in support of your objection, and any legal support for each objection. Objections in writing must be mailed to the Settlement Administrator—ILYM Group, Inc., 14751 Plaza Drive, Suite J, Tustin, California 92780—by no later than **[Response Deadline]** to be considered. **Objections that do not include all required information, or that are not timely submitted, might not be considered by the court.**

You may also appear and object at the final approval hearing, which is scheduled for [Final Approval Hearing Date], at [Final Approval Hearing Time] in Department [Court Department] of the Superior Court of the State of California for the County of Orange, located at [Court Location]. You have the right to appear either in person or through your own attorney at this hearing, irrespective of whether they have filed a written objection.

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Deleted: If you choose to object to the Settlement, you may also appear to speak at the final approval and fairness hearing scheduled for

1 If you object to the Settlement, you will remain a Class Member, and if the Court approves the
2 Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as
3 Class Members who do not object. Any Class Member who does not object in the manner provided
4 above shall have waived any objection to the Settlement, whether by appeal or otherwise.

5 **7. HOW TO UPDATE OR CHANGE YOUR ADDRESS**

6 If you move after receiving this notice or if it was misaddressed, please contact the Settlement
7 Administrator, ILYM Group, Inc., at (888) 250-6810 or by email at
8 claims@ilymgroupclassaction.com, as soon as possible. This is important to ensure that future
9 notices and/or the Settlement payment reach you.

10 **8. NOTICE OF FINAL JUDGMENT IF THE SETTLEMENT IS APPROVED**

11 ~~If the court grants final approval of the settlement, within seven (7) days thereafter, the~~
12 ~~Settlement Administrator will~~ post a copy of that order and final judgment on its website at the
13 following website address:

14 [Case-Specific Settlement URL (to be added by Settlement Administrator)]

15 **9. IF THE SETTLEMENT IS NOT APPROVED**

16 If the Settlement is not approved by the Court, or if any of its conditions are not satisfied, the
17 Settlement may be voided, in which case no money will be paid, and the case will return to litigation.
18 If that happens, there is no assurance: (1) that the class will be certified by the Court; (2) that any
19 decision at trial would be in favor of Class Members; (3) that a trial decision, if any, would be as
20 favorable to the Class Members as the Settlement; or (4) that any favorable trial decision would be
21 upheld if an appeal was filed.

22 **10. QUESTIONS OR COMMENTS**

23 PLEASE DO NOT CALL OR CONTACT THE COURT. If you have any questions about
24 the settlement, you may contact the Settlement Administrator at: (888) 250-6810 or by e-mail at
25 claims@ilymgroupclassaction.com. You may also contact Class Counsel at the addresses or phone
26 numbers listed below. The Settlement Administrator will post all relevant documents on ~~its~~ website,
27 located at [website], including the Operative Complaint, the PAGA notices to the LWDA, the
28

Deleted: The Court may, at the time of the final approval and fairness hearing, have certain social distancing requirements or procedures for attendance at hearings. If you wish to object to the Settlement by speaking at the final approval and fairness hearing, you may contact Class Counsel, whose information is provided below, for more information about the Court's current social distancing procedures. You may also review the Court's website for the most current information.

Deleted: Within seven (7) days after the Court has held a final and fairness approval hearing and entered a final order approving the Settlement, if it chooses to do so, the Settlement Administrator will

Deleted: it

1 Settlement Agreement, the Class Notice and related forms, the Preliminary Approval Order, the Final
2 Approval Order, and the Final Judgment. The Final Judgment will be posted for at least 180 days.

3
4 **Lawyers Representing Plaintiff and the Class Members**

5 **MELMED LAW GROUP P.C.**

6 Jonathan Melmed

7 jm@melmedlaw.com

8 Laura Supanich

9 lms@melmedlaw.com

10 1801 Century Park East, Suite 850

11 Los Angeles, California 90067

12 Phone: (310) 824-3828

13 Fax: (310) 862-6851

Exhibit 7

Expense Report

Justina Balderrama v. Omni Enterprise Inc., DBA Omni Clean

Type	Description	Date	Cost
PAGA Fee	PAGA Filing Fee	April 22, 2022	\$75.00
Court Filing Fees	First Legal Invoice Filing/Service of Process - S&C	April 30, 2022	\$1,683.15
Court Filing Fees	First Legal Invoice Filing - Proof of Service	May 15, 2022	\$30.50
Court Filing Fees	First Legal Invoice, Filing - Joint Stip to File FAC	July 23, 2022	\$52.50
Court Filing Fees	First Legal Invoice, Filing - FAC	July 23, 2022	\$30.50
Court Filing Fees	First Legal Invoice, Filing - Notice of Appearance	August 8, 2022	\$30.50
Court Filing Fees	First Legal Invoice, Filing - MTC RFPD and SRoggs	September 23, 2022	\$200.25
Court Filing Fees	First Legal Invoice, Filing - Joint Statement	October 31, 2022	\$30.50
Court Filing Fees	First Legal Invoice, Filing - Reply ISO MTC RFPD	January 15, 2023	\$32.25
Court Filing Fees	First Legal Invoice, Filing - Reply ISO MTC Roggs	January 15, 2023	\$32.25
Court Filing Fees	First Legal Invoice, Filing - Proposed Order re MTC (2)	January 23, 2023	\$64.50
Court Filing Fees	First Legal Invoice, Filing - Notice of Ruling (2)	January 31, 2023	\$10.25
Court Filing Fees	First Legal Invoice, Filing - Notice of Ruling (1)	January 31, 2023	\$10.25

Court Filing Fees	First Legal Invoice, Filing - Joint CMC Statement	February 8, 2023	\$10.25
Court Filing Fees	First Legal Invoice, Filing - Stip and Protective Order	April 8, 2023	\$54.25
Court Filing Fees	First Legal Invoice, Filing - Joint Statement	May 8, 2023	\$10.25
Purchased Documents	OCSC Receipt - Copy of Order re MTC RFPDs & SROGs	October 24, 2023	\$15.00
Court Filing Fees	First Legal Invoice, Filing - Joint Statement	October 31, 2023	\$10.25
Mediation Fees	Louis Marlin Mediation Invoice - Mediation Fees	January 16, 2024	\$9,000.00
Court Filing Fees	First legal Invoice, Filing - Joint Stip and Order	February 8, 2024	\$36.20
Court Filing Fees	First Legal Invoice, Filing - Joint Notice of Settlement	February 23, 2024	\$14.20
Court Filing Fees	First Legal Invoice, Filing - Joint Notice of Settlement	February 29, 2024	\$22.00
Purchased Documents	OCSC Receipt - Minute Order re Status Conference	May 15, 2024	\$7.50
Court Filing Fees	First Legal Invoice, Filing - Joint Status Statement	May 15, 2024	\$14.20
Court Filing Fees	First Legal Invoice, Filing - Notice of Errata	September 8, 2024	\$14.20
Court Filing Fees	First Legal Invoice, Filing - P's Conference Statement	September 8, 2024	\$14.20
Court Filing Fees	First Legal invoice, Filing - Proposed Order	March 15, 2025	\$15.20
Court Filing Fees	First Legal invoice, Filing - Proposed Order	March 15, 2025	\$15.20
Court Filing Fees	First Legal Invoice, Filing - Supplemental Declaration	July 15, 2025	\$15.20

Court Filing Fees	First Legal Invoice, Filing - Second Supplemental Declaration	July 23, 2025	\$15.20
Court Filing Fees	First Legal Invoice, Filing - Notice of Motion and Motion	November 8, 2025	\$80.20
Court Filing Fees	First Legal Invoice, Filing - Amended Civil Case Cover Sheet	December 15, 2025	\$18.30
Total			\$11,664.20

Exhibit 8



October 30, 2023

VIA EMAIL ONLY

Jonathan Melmed
Laura Supanich
Michiko Vartanian
MELMED LAW GROUP PC
1801 Century Park East, Suite 850
Los Angeles, CA 90067
Tel: (310) 824-3828
jm@melmedlaw.com
lms@melmedlaw.com
mv@melmedlaw.com
Counsel for Plaintiff Justina Balderrama

Darius Adli
Jamie Wright
ADLI LAW GROUP, P.C.
12400 Wilshire Blvd., Suite 1460
Los Angeles, CA 90025
Tel: (213) 623-6546
adli@adlilaw.com
jamie@adlilaw.com
Counsel for Defendants Omni Enterprise, Inc.

**Re: Justina Balderrama v. Omni Enterprise, Inc.
Case No. 30-2022-01256174-CU-OE-CXC**

Dear Counsel:

Please allow this correspondence to confirm that a Mediation with Lou Marlin has been scheduled in this matter as follows:

DATE: February 13, 2024
TIME: 10:00 am - 6:00 pm (full day)
LOCATION: Zoom
BRIEF DUE: February 6, 2024

Louis Marlin

✉ lmarlin@marlinmediation.com

Louis Marlin Mediation

6789 Quail Hill Pkwy, Suite 806
Irvine, CA 92603
🌐 www.marlinmediation.com

Sonia Patel Dalton

📞 949-929-8932
✉ sonia@marlinmediation.com



FEES DUE: December 13, 2023

Louis Marlin serves at a full day rate of \$18,000. **There is no charge for an administrative fee.** Pursuant to your agreement, the fees are to be shared equally, and invoices to that effect are attached. Please note that a full day session consists of two hours (2) hours of preparation and an eight (8) hour mediation session. Additional billing for extensive preparation, additional mediation time or follow-up will be submitted when appropriate at the rate of \$850 per hour. Please make checks payable to Louis Marlin Mediations, LLC. Tax ID #: 82-3267405.

If fees from all parties are not received by close of business on **December 13, 2023**, we reserve the right to take the mediation off calendar and offer the date to another client.

If this matter is canceled or continued by any party **within 30 days** of the scheduled hearing date, the party cancelling/continuing the matter will be assessed the entire mediation fee, unless the time is rebooked with another matter or Mr. Marlin determines the circumstances warrant a waiver of the cancellation/continuance fee.

BRIEFS: IT IS NOT NECESSARY TO SUBMIT A BRIEF for wage and hour matters. Mr. Marlin has developed a program called **Avoid the Brief™**. You will receive a fillable PDF form which you can use instead of a traditional brief. When it is complete, simply send as an email attachment to Mr. Marlin at Imarlin@marlinmediation.com with a copy to me at sonia@marlinmediation.com. You may bring exhibits with you on the day of the mediation.

Please submit Avoid the Brief™ (use 12 point font) or your traditional brief (use 12 point font) not to exceed 10 pages double spaced by February 6, 2024. If briefs are not submitted in a timely manner, Mr. Marlin may not be able to review the materials before the mediation.

It is important that the representatives who have the complete settlement authority attend the mediation.

Louis Marlin

✉ Imarlin@marlinmediation.com

Louis Marlin Mediation

6789 Quail Hill Pkwy, Suite 806
Irvine, CA 92603

🌐 www.marlinmediation.com

Sonia Patel Dalton

☎ 949-929-8932

✉ sonia@marlinmediation.com



Should you have any questions or concerns regarding the above, please do not hesitate to contact me.

Sincerely,

Louis Marlin

✉ lmartin@marlinmediation.com

Louis Marlin Mediation

6789 Quail Hill Pkwy, Suite 806
Irvine, CA 92603

🌐 www.marlinmediation.com

Sonia Patel Dalton

📞 949-929-8932

✉ sonia@marlinmediation.com

MELMED LAW GROUP P.C.

1801 CENTURY PARK E

STE 850

LOS ANGELES, CA 90067

11-8166/3210

97

CHECK ARBOR
TRADE EDITION

January 16, 2024

PAY TO THE
ORDER OF

Louis Marlin Mediations, LLC

\$ 9,000.00

Nine Thousand Dollars only

DOLLARS

MEMO

Dmni Clean - Mediation Fees
Balderrama

AUTHORIZED SIGNATURE

⑈001659⑈ ⑆321081669⑆ 80009287634⑈

MELMED LAW GROUP P.C.

1659

MELMED LAW GROUP P.C.

1659

Exhibit 9

EXHIBIT 2

*Class Action and PAGA Settlement Share
Form*

CLASS ACTION AND PAGA SETTLEMENT SHARE FORM

Justina Balderrama v. Omni Enterprises, Inc.

Case Number 30-2022-01256174-CU-OE-CXC

Superior Court of the State of California for the County of Orange

The proposed **and PAGA** action settlement agreement (the “Settlement”) described in the accompanying *Notice of Proposed Class Action and PAGA Settlement* resolves disputed claims against Defendant Omni Enterprises, Inc. (“Defendant”) arising out of its compensation practices during the period from April 22, 2018, through May 13, 2024 (the “Class Period”) as applied to all individuals who are or were employed by Defendants as non-exempt employees in California during the Class Period (“Class Members”).

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You are receiving this form because you are believed to be a Class Member. **According to Defendant’s records, you worked [REDACTED] workweeks for Defendant during the Class Period. Accordingly, your share of the Settlement is currently estimated to be \$ [REDACTED],** which is an estimate of your allocated portion the Net Settlement Amount, as that term is defined in the accompanying *Notice of Proposed Class Action and PAGA Settlement*. Your estimated share of the Settlement may increase depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement. **Additionally, according to Defendant’s records, you worked [REDACTED] pay periods for Defendant during the PAGA Period. Accordingly, your share of the PAGA portion of the Settlement is currently estimated to be \$ [REDACTED],**

You do not need to do anything to receive money under the Settlement.

If you believe the information provided above as to the number of your workweeks is incorrect and wish to dispute it, please contact the Settlement Administrator no later than **[Response Deadline]** at:

ILYM Group, Inc.
claims@ilymgrouppclassaction.com
(888) 250-6810
14751 Plaza Drive, Suite J
Tustin, California 92780

Formatted: Blockquote (Single Spaced)

Do not send originals; documentation sent to the claims administrator will not be returned or preserved.

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If you dispute the information stated above, the information Defendant provided to the Settlement Administrator will control unless you are able to provide documentation that establishes otherwise. Any disputes, along with supporting documentation, must be postmarked no later than **[Response Deadline]**.¶

Exhibit 10

EXHIBIT 2

Class Action and PAGA Settlement Share Form

CLASS ACTION AND PAGA SETTLEMENT SHARE FORM

Justina Balderrama v. Omni Enterprises, Inc.

Case Number 30-2022-01256174-CU-OE-CXC

Superior Court of the State of California for the County of Orange

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You are receiving this form because you are believed to be a Class Member. **According to Defendant’s records, you worked [REDACTED] workweeks for Defendant during the Class Period. Accordingly, your share of the Settlement is currently estimated to be \$ [REDACTED],** which is an estimate of your allocated portion the Net Settlement Amount, as that term is defined in the accompanying *Notice of Proposed Class Action and PAGA Settlement*. Your estimated share of the Settlement may increase depending on factors such as, but not limited to, the number of Class Members who effectively exclude themselves from the Settlement. **Additionally, according to Defendant’s records, you worked [REDACTED] pay periods for Defendant during the PAGA Period. Accordingly, your share of the PAGA portion of the Settlement is currently estimated to be \$ [REDACTED],**

You do not need to do anything to receive money under the Settlement.

If you believe the information provided above as to the number of your workweeks is incorrect and wish to dispute it, please contact the Settlement Administrator no later than **[Response Deadline]** at:

ILYM Group, Inc.
claims@ilymgroupclassaction.com
(888) 250-6810
14751 Plaza Drive, Suite J
Tustin, California 92780

Do not send originals; documentation sent to the claims administrator will not be returned or preserved.

Exhibit 11

REQUEST FOR EXCLUSION FORM

(*Justina Balderrama v Omni Enterprises, Inc.*, Case No. 30-2022-01256174-CU-OE-CXC)

**IF YOU DO NOT WANT TO BE INCLUDED IN THE
SETTLEMENT, YOU MUST COMPLETE, DATE AND SIGN THIS
FORM AND MAIL IT BACK TO THE ADDRESS BELOW,
POSTMARKED NO LATER THAN [response deadline]:**

Justina Balderrama v Omni Enterprises, Inc.
c/o Settlement Administrator
[settlement administrator address]

If you submit this Request for Exclusion Form, you will not receive an individual settlement payment, and you will not be bound by the release set forth in the Settlement Agreement, if the Court grants final approval to the class action settlement. You will be excluded from the settlement, and will not be a Class Member in this case.

If you are a PAGA aggrieved employee, you will receive your portion of the PAGA Payment even if you elect to exclude yourself from the class action settlement. The PAGA aggrieved employees are those members of the Class who worked for Defendant in the period from April 22, 2021 through May 13, 2024.

I have received notice of the proposed settlement in this class action lawsuit, and I wish to be excluded from the settlement in the class action lawsuit. I understand by requesting exclusion from the settlement I will not receive any money from the settlement of the lawsuit, but I will retain whatever rights I may have, if any, to pursue a claim against the Defendant with respect to the claims raised in the above-referenced lawsuit.

Your Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number, Including Area Code: _____

Last four digits of Social Security Number: XXX-XX-_____

Date: _____
(signature)

**Deleted: IF YOU WANT TO BE INCLUDED IN THIS
CLASS ACTION
SETTLEMENT AND RECEIVE A SETTLEMENT
PAYMENT, DO NOT FILL OUT THIS FORM.**

**Deleted: AND DO NOT WANT TO RECEIVE A
SETTLEMENT PAYMENT,**

Exhibit 12

REQUEST FOR EXCLUSION FORM

(Justina Balderrama v Omni Enterprises, Inc., Case No. 30-2022-01256174-CU-OE-CXC)

**IF YOU DO NOT WANT TO BE INCLUDED IN THE
SETTLEMENT, YOU MUST COMPLETE, DATE AND SIGN THIS
FORM AND MAIL IT BACK TO THE ADDRESS BELOW,
POSTMARKED NO LATER THAN [response deadline]:**

Justina Balderrama v Omni Enterprises, Inc.

c/o Settlement Administrator

[settlement administrator address]

If you submit this Request for Exclusion Form, you will not receive an individual settlement payment, and you will not be bound by the release set forth in the Settlement Agreement, if the Court grants final approval to the class action settlement. You will be excluded from the settlement, and will not be a Class Member in this case.

If you are a PAGA aggrieved employee, you will receive your portion of the PAGA Payment even if you elect to exclude yourself from the class action settlement. The PAGA aggrieved employees are those members of the Class who worked for Defendant in the period from April 22, 2021 through May 13, 2024.

I have received notice of the proposed settlement in this class action lawsuit, and I wish to be excluded from the settlement in the class action lawsuit. I understand by requesting exclusion from the settlement I will not receive any money from the settlement of the lawsuit, but I will retain whatever rights I may have, if any, to pursue a claim against the Defendant with respect to the claims raised in the above-referenced lawsuit.

Your Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number, Including Area Code: _____

Last four digits of Social Security Number: XXX-XX-_____

Date: _____

(signature)

Exhibit 13

OBJECTION FORM

Justina Balderrama v Omni Enterprises, Inc.
Case Number 30-2022-01256174-CU-OE-CXC
Superior Court of the State of California for the County of Orange

**IF YOU WANT TO OBJECT TO THE
SETTLEMENT, COMPLETE, DATE, AND SIGN THIS
FORM AND MAIL OR DELIVER IT BACK TO THE ADDRESS BELOW,
POSTMARKED NO LATER THAN [response deadline]:**

Justina Balderrama v Omni Enterprises, Inc.
c/o Settlement Administrator
[settlement administrator address]

Objecting to the Settlement will not exclude you from the Settlement, and if the Court grants final approval to the Settlement, you will get your settlement payment and the release of claims will apply to you.

If you wish to object to the Settlement, you may complete this Objection form and state the basis for your objection, or you may write your objection in any other written format you choose. Alternatively, you may appear at the Final Fairness Hearing and make your objection to the Court regardless of whether you submit a written objection. Send the completed Objection form or other written statement, along with legal briefs or other documents that support your objection, if any, by mailing it to the address below, postmarked no later than [response deadline].

Your Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number, Including Area Code: _____

Last four digits of Social Security number: XXX-XX-_____

Date: _____
(signature)

Reasons Why You Object (you may attach additional pages if necessary): _____

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... [1]

Deleted: If you choose, you may object to the proposed Settlement. The Court will consider your objection before deciding whether to grant final approval to the class action settlement. By objecting, you are requesting that the Court *not* grant final approval to the class action settlement. If you are concerned that the settlement terms are unfair, you may submit an objection for the Court's review. The Court may or may not agree with your objection.

X.....

Exhibit 14

OBJECTION FORM

Justina Balderrama v Omni Enterprises, Inc.

Case Number 30-2022-01256174-CU-OE-CXC

Superior Court of the State of California for the County of Orange

**IF YOU WANT TO OBJECT TO THE
SETTLEMENT, COMPLETE, DATE, AND SIGN THIS
FORM AND MAIL OR DELIVER IT BACK TO THE ADDRESS BELOW,
POSTMARKED NO LATER THAN [response deadline]:**

Justina Balderrama v Omni Enterprises, Inc.

c/o Settlement Administrator

[settlement administrator address]

Objecting to the Settlement will not exclude you from the Settlement, and if the Court grants final approval to the Settlement, you will get your settlement payment and the release of claims will apply to you.

If you wish to object to the Settlement, you may complete this Objection form and state the basis for your objection, or you may write your objection in any other written format you choose. Alternatively, you may appear at the Final Fairness Hearing and make your objection to the Court regardless of whether you submit a written objection. Send the completed Objection form or other written statement, along with legal briefs or other documents that support your objection, if any, by mailing it to the address below, postmarked no later than [response deadline].

Your Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number, Including Area Code: _____

Last four digits of Social Security number: XXX-XX-_____

Date: _____

(signature)

Reasons Why You Object (you may attach additional pages if necessary): _____

Exhibit 15

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6 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF ORANGE**

8 JUSTINA BALDERRAMA, an individual,
9 on behalf of herself, the State of California,
10 as a private attorney general, and on behalf
11 of all others similarly situated,

12 Plaintiff,

13 v.

14 OMNI ENTERPRISES, INC., a California
15 Corporation; and DOES 1 TO 50,
16 Defendants.
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Case No. 30-2022-01256174-CU-OE-CXC

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Date: [April 30, 2026](#)

Time: 2:00 P.M.

Dept: [CX105](#)

Judge: Hon. Melissa R. McCormick

Complaint Filed: April 22, 2022

First Amended Complaint Filed: July 19, 2022

Trial Date: None Set

Deleted: July 24, 2025

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1 Plaintiff's unopposed Motion for Preliminary Approval of a Class and PAGA
2 Representative Action Settlement came before this Court on April 30, 2026 at 2:00 p.m. in
3 Department CX105, the Honorable Melissa R. McCormick presiding. The Court having considered
4 the papers submitted in support of the application of the parties, HEREBY ORDERS THE
5 FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Second Amended Settlement Agreement and Release of Class
8 Action (the "Settlement Agreement") attached herein as **Exhibit A**. All terms used herein shall
9 have the same meaning as defined in the Settlement Agreement. The settlement set forth in the
10 Settlement Agreement appears to be fair, adequate and reasonable to the Class, and the Court
11 preliminarily approves the terms of the Settlement Agreement, including, without limitation:

- 12 a. A non-reversionary Gross Settlement Amount of **\$325,000.00**;
- 13 b. The Class Representative enhancement payment to the named Plaintiff of
14 **\$7,500.00**;
- 15 c. Court approved attorneys' fees to Class Counsel of up to **\$108,333.33**,
16 representing one-third of the Gross Settlement Amount;
- 17 d. Court approved litigation costs to Class Counsel of up to **\$20,000.00**;
- 18 e. Fees and Costs of the Settlement Administrator of up to **\$6,950.00**; and
- 19 f. A PAGA allocation of \$20,000.00, with **\$15,000.00** (i.e., 75%) payable to
20 the California Labor & Workforce Development Agency for its portion of
21 the PAGA penalties.

22 2. This Court has considered the papers in support of the Motion and the Settlement
23 Agreement and finds that, pursuant to C.R.C. Rule 3.769(d), the proposed Class should be certified
24 for settlement purposes only. Specifically, the Court finds for settlement purposes only that the
25 proposed Class: (a) is ascertainable; (b) is sufficiently numerous; (c) meets the commonality
26 requirements; (d) the claims of the Class Representative are typical of the claims of the proposed
27 Class Members; (e) Class Representative's counsel has and is able to adequately represent the
28 proposed Class; (f) the Class Representative is adequate to represent the Class; and (g) class-wide
treatment of this dispute is superior to individual litigation because common issues predominate

Deleted: July 24, 2025

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1 over individual issues for settlement purposes.

2 3. The Settlement falls within the range of reasonableness and appears to be
3 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
4 and final approval by this Court.

5 4. A final fairness hearing on the question of whether the proposed Settlement,
6 attorneys' fees and costs to Class Counsel, and the Class Representative's enhancement award
7 should be finally approved as fair, reasonable and adequate as to the members of the Class is
8 scheduled on the date and time set forth in the implementation schedule in Paragraph 14 below.

9 5. This Court approves, as to form and content, the Notice of Proposed Class and
10 PAGA Representative Action Settlement and Hearing Date for Court Approval ("Class Notice"),
11 attached herein as **Exhibit B**. The Court approves the procedure for Class Members to participate
12 in, to opt out of, and to object to, the Settlement as set forth in the Settlement Agreement. The
13 Court approves, as to form and content, the Exclusion Form, attached herein as **Exhibit C**, and the
14 Objection Form, attached herein as **Exhibit D**.

15 6. The Court directs the mailing of the Class Notice by first class mail to the Class
16 Members in accordance with the Implementation Schedule set forth below. The Court finds the
17 dates selected for the mailing and distribution of the Notice, as set forth in the Implementation
18 Schedule, meet the requirements of due process and provide the best notice practicable under the
19 circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

20 7. It is ordered that the Settlement Class is preliminarily certified for settlement
21 purposes only.

22 8. The Court preliminarily certifies for settlement purposes only the Settlement Class
23 defined as follows: *all individuals who are or were employed by Defendant(s) as non-exempt*
24 *employees in California during the Class Period. See Settlement Agreement, at § 1.42. The Class*
25 *Period is defined as the period of time from April 22, 2018, through May 13, 2024. See Settlement*
26 *Agreement, at § 1.10.*

27 9. The Court preliminarily approves for settlement purposes only the PAGA
28 Settlement Class defined as follows: *all individuals who are or were employed by Defendants as*
non-exempt employees in California during the PAGA Period. See Settlement Agreement, at §

1.33. The PAGA Period is defined as the period from April 22, 2021, through May 13, 2024. *See* Settlement Agreement, at § 1.31.

10. All Settlement Class members who do not timely opt out will release those claims that were or reasonably could have been asserted based on the facts alleged in the operative complaint that arose during the Class Period and/or PAGA Period, i.e., claims for: **(1)** failure to pay minimum wage for all hours worked in violation of Labor Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s); **(2)** failure to pay proper overtime wages in violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage Order(s); **(3)** failure to provide compliant rest periods and pay missed rest break premiums in violation of Labor Code section 226.7 and the applicable IWC Wage Order(s); **(4)** failure to provide compliant meal periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512, and the applicable IWC Wage Order(s); **(5)** failure to maintain accurate employment records in violation of Labor Code section 1174; **(6)** failure to pay timely wages during employment in violation of Labor Code sections 204, 210; **(7)** failure to pay all wages due and owing at separation in violation of Labor Code sections 201, 202, and 203; **(8)** failure to provide complete and accurate wage statements in violation of Labor Code sections 226 and 226.3; and **(9)** deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210). No other claims are released other than those claims specifically plead in the operative complaint in the Action or otherwise specifically identified in the Settlement Agreement.

11. The Court confirms Plaintiff Justina Balderrama as Class Representative, and Jonathan Melmed and Laura M. Supanich of Melmed Law Group P.C. as Class Counsel.

12. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

13. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations) regarding claims released by the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with

Deleted: and/or PAGA notice to the California Labor and Workforce Development Agency

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Deleted: ; **(10)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698-2699.6); and **(11)** all claims for liquidated damages, penalties, interest, fees, costs based on the foregoing...

the Settlement Administrator and the time for filing claims with the Settlement Administrator has elapsed.

14. The Court orders the following **Implementation Schedule** for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	[within 14 days after the Preliminary Approval Date]
b.	Deadline for Settlement Administrator to Mail Notice to Class Members	[within 28 days after preliminary approval]
c.	Deadline for Class Members to Postmark Requests for Exclusion	[60 days after mailing of the Class Notice]
d.	Deadline for Class Members to submit any Objections to Settlement	[60 days after mailing of the Class Notice]
e.	Deadline for Settlement Administrator to provide Class Counsel and Defense Counsel with Declaration of Due Diligence and Proof of Mailing	[21 days prior to Final Approval and Fairness Hearing]
f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	[16 Court days prior to Final Approval and Fairness Hearing]
g.	Final Approval and Fairness Hearing	<u>August 27, 2026 at 2:00 p.m.</u>

Deleted: February 5, 2025

15. If any of the dates in this Implementation Schedule falls on a weekend, bank or court holiday, the time to act shall be extended to the next business day.

16. The Court shall retain jurisdiction over the Action for all purposes pursuant to California Rule of Court 3.769 and California Rule of Civil Procedure section 664.6 to enforce the terms of the Settlement.

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Hon. Melissa R. McCormick
Judge of the Superior Court, Orange County

Exhibit 16

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6 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
7 **FOR THE COUNTY OF ORANGE**

8 JUSTINA BALDERRAMA, an individual,
9 on behalf of herself, the State of California,
10 as a private attorney general, and on behalf
11 of all others similarly situated,

12 Plaintiff,

13 v.

14 OMNI ENTERPRISES, INC., a California
15 Corporation; and DOES 1 TO 50,

16 Defendants.
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Case No. 30-2022-01256174-CU-OE-CXC

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Date: April 30, 2026

Time: 2:00 P.M.

Dept: CX105

Judge: Hon. Melissa R. McCormick

Complaint Filed: April 22, 2022

First Amended Complaint Filed: July 19, 2022

Trial Date: None Set

1 Plaintiff's unopposed Motion for Preliminary Approval of a Class and PAGA
2 Representative Action Settlement came before this Court on April 30, 2026 at 2:00 p.m. in
3 Department CX105, the Honorable Melissa R. McCormick presiding. The Court having considered
4 the papers submitted in support of the application of the parties, HEREBY ORDERS THE
5 FOLLOWING:

6 1. The Court grants preliminary approval of the Settlement and the Settlement Class
7 based upon the terms set forth in the Second Amended Settlement Agreement and Release of Class
8 Action (the "Settlement Agreement") attached herein as **Exhibit A**. All terms used herein shall
9 have the same meaning as defined in the Settlement Agreement. The settlement set forth in the
10 Settlement Agreement appears to be fair, adequate and reasonable to the Class, and the Court
11 preliminarily approves the terms of the Settlement Agreement, including, without limitation:

- 12 a. A non-reversionary Gross Settlement Amount of **\$325,000.00**;
- 13 b. The Class Representative enhancement payment to the named Plaintiff of
14 **\$7,500.00**;
- 15 c. Court approved attorneys' fees to Class Counsel of up to **\$108,333.33**,
16 representing one-third of the Gross Settlement Amount;
- 17 d. Court approved litigation costs to Class Counsel of up to **\$20,000.00**;
- 18 e. Fees and Costs of the Settlement Administrator of up to **\$6,950.00**; and
- 19 f. A PAGA allocation of \$20,000.00, with **\$15,000.00** (i.e., 75%) payable to
20 the California Labor & Workforce Development Agency for its portion of
21 the PAGA penalties.

22 2. This Court has considered the papers in support of the Motion and the Settlement
23 Agreement and finds that, pursuant to C.R.C. Rule 3.769(d), the proposed Class should be certified
24 for settlement purposes only. Specifically, the Court finds for settlement purposes only that the
25 proposed Class: (a) is ascertainable; (b) is sufficiently numerous; (c) meets the commonality
26 requirements; (d) the claims of the Class Representative are typical of the claims of the proposed
27 Class Members; (e) Class Representative's counsel has and is able to adequately represent the
28 proposed Class; (f) the Class Representative is adequate to represent the Class; and (g) class-wide
treatment of this dispute is superior to individual litigation because common issues predominate

1 over individual issues for settlement purposes.

2 3. The Settlement falls within the range of reasonableness and appears to be
3 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
4 and final approval by this Court.

5 4. A final fairness hearing on the question of whether the proposed Settlement,
6 attorneys' fees and costs to Class Counsel, and the Class Representative's enhancement award
7 should be finally approved as fair, reasonable and adequate as to the members of the Class is
8 scheduled on the date and time set forth in the implementation schedule in Paragraph 14 below.

9 5. This Court approves, as to form and content, the Notice of Proposed Class and
10 PAGA Representative Action Settlement and Hearing Date for Court Approval ("Class Notice"),
11 attached herein as **Exhibit B**. The Court approves the procedure for Class Members to participate
12 in, to opt out of, and to object to, the Settlement as set forth in the Settlement Agreement. The
13 Court approves, as to form and content, the Exclusion Form, attached herein as **Exhibit C**, and the
14 Objection Form, attached herein as **Exhibit D**.

15 6. The Court directs the mailing of the Class Notice by first class mail to the Class
16 Members in accordance with the Implementation Schedule set forth below. The Court finds the
17 dates selected for the mailing and distribution of the Notice, as set forth in the Implementation
18 Schedule, meet the requirements of due process and provide the best notice practicable under the
19 circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

20 7. It is ordered that the Settlement Class is preliminarily certified for settlement
21 purposes only.

22 8. The Court preliminarily certifies for settlement purposes only the Settlement Class
23 defined as follows: *all individuals who are or were employed by Defendant(s) as non-exempt*
24 *employees in California during the Class Period. See Settlement Agreement, at § 1.42. The Class*
25 *Period is defined as the period of time from April 22, 2018, through May 13, 2024. See Settlement*
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27 9. The Court preliminarily approves for settlement purposes only the PAGA
28 Settlement Class defined as follows: *all individuals who are or were employed by Defendants as*
non-exempt employees in California during the PAGA Period. See Settlement Agreement, at §

1 1.33. The PAGA Period is defined as the period from April 22, 2021, through May 13, 2024. *See*
2 Settlement Agreement, at § 1.31.

3 10. All Settlement Class members who do not timely opt out will release those claims
4 that were or reasonably could have been asserted based on the facts alleged in the operative
5 complaint that arose during the Class Period and/or PAGA Period, i.e. claims for: **(1)** failure to
6 pay minimum wage for all hours worked in violation of Labor Code sections 1194 and 1194.2, and
7 the applicable IWC Wage Order(s); **(2)** failure to pay proper overtime wages in violation of Labor
8 Code sections 510, 1197, and 1198, and the applicable IWC Wage Order(s); **(3)** failure to provide
9 compliant rest periods and pay missed rest break premiums in violation of Labor Code section
10 226.7 and the applicable IWC Wage Order(s); **(4)** failure to provide compliant meal periods and
11 pay missed meal period premiums in violation of Labor Code sections 226.7 and 512, and the
12 applicable IWC Wage Order(s); **(5)** failure to maintain accurate employment records in violation
13 of Labor Code section 1174; **(6)** failure to pay timely wages during employment in violation of
14 Labor Code sections 204, 210; **(7)** failure to pay all wages due and owing at separation in violation
15 of Labor Code sections 201, 202, and 203; **(8)** failure to provide complete and accurate wage
16 statements in violation of Labor Code sections 226 and 226.3; and **(9)** deceptive, fraudulent, or
17 otherwise unlawful business practices based on the foregoing in violation of California's Unfair
18 Competition Law (Bus. & Prof. Code, §§ 17200–17210). No other claims are released other than
19 those claims specifically plead in the operative complaint in the Action or otherwise specifically
20 identified in the Settlement Agreement.

21 11. The Court confirms Plaintiff Justina Balderrama as Class Representative, and
22 Jonathan Melmed and Laura M. Supanich of Melmed Law Group P.C. as Class Counsel.

23 12. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

24 13. To facilitate administration of the Settlement pending final approval, the Court
25 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or
26 administrative proceedings (including filing claims with the Division of Labor Standards
27 Enforcement of the California Department of Industrial Relations) regarding claims released by
28 the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with

the Settlement Administrator and the time for filing claims with the Settlement Administrator has elapsed.

14. The Court orders the following **Implementation Schedule** for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	[within 14 days after the Preliminary Approval Date]
b.	Deadline for Settlement Administrator to Mail Notice to Class Members	[within 28 days after preliminary approval]
c.	Deadline for Class Members to Postmark Requests for Exclusion	[60 days after mailing of the Class Notice]
d.	Deadline for Class Members to submit any Objections to Settlement	[60 days after mailing of the Class Notice]
e.	Deadline for Settlement Administrator to provide Class Counsel and Defense Counsel with Declaration of Due Diligence and Proof of Mailing	[21 days prior to Final Approval and Fairness Hearing]
f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	[16 Court days prior to Final Approval and Fairness Hearing]
g.	Final Approval and Fairness Hearing	August 27, 2026 at 2:00 p.m.

15. If any of the dates in this Implementation Schedule falls on a weekend, bank or court holiday, the time to act shall be extended to the next business day.

16. The Court shall retain jurisdiction over the Action for all purposes pursuant to California Rule of Court 3.769 and California Rule of Civil Procedure section 664.6 to enforce the terms of the Settlement.

IT IS SO ORDERED.

Dated: _____

Hon. Melissa R. McCormick
Judge of the Superior Court, Orange County