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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

NIKOL LOCKETT, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

OTO DEVELOPMENT, LLC; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 22STCV17405

[Assigned to the Hon. Stuart M. Rice, Dept. 1]

CLASS AND REPRESENTATIVE ACTION

**DECLARATION OF H. SCOTT LEVIANT
IN SUPPORT OF PLAINTIFF'S MOTION
FOR FINAL APPROVAL OF CLASS AND
REPRESENTATIVE ACTION
SETTLEMENT**

Date: April 9, 2025
Time: 10:30 a.m.
Courtroom: Dept. 1
Judge: Hon. Stuart M. Rice

Action Filed: May 26, 2022
Trial Date: Not Set

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DECLARATION OF H. SCOTT LEVIANT

I, H. Scott Leviant, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States Supreme Court, the Eighth Circuit Court of Appeals, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Eastern, Northern and Southern Districts of California. I have never been subject to discipline by the State Bar of California. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I am employed as a Senior Counsel at the law firm of Moon Law Group, PC (formerly Moon & Yang, APC). My business address is 725 S. Figueroa St., 31st Floor, Los Angeles, California 90017 and my business telephone number is (213) 232-3128. I am counsel for Plaintiff NIKOL LOCKETT ("Plaintiff") and I am proposed counsel for the Settlement Class.

3. This Declaration is submitted in support of Plaintiff's Motion for Final Approval of Class and Representative Action Settlement.

BACKGROUND

4. Plaintiff worked as a front desk employee, checking in guests, making reservations, answering the telephone, authorizing payments, and providing assistance to guests of Defendant. On May 26, 2022, Plaintiff brought a putative class action against Defendant, asserting claims for (1) Failure to Pay Minimum Wages (Labor Code §§ 204, 1194, 1194.2 and 1197); (2) Failure to Pay Overtime Compensation (Labor Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Labor Code §§ 226.7 and 512); (4) Failure to Authorize and Permit Rest Breaks (Labor Code § 226.7); (5) Failure to Indemnify Necessary Business Expenses (Labor Code § 2802); (6) Failure to Timely Pay Final Wages at Termination (Labor Code §§ 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Labor Code § 226); and (8) California Business & Professions Code §§ 17200, *et seq.* (unfair business competition).

1 5. Plaintiff sent a letter to the Labor and Workforce Development Agency (“LWDA”),
2 pursuant to California Labor Code § 2699.3, providing notice of her intent to seek civil penalties under
3 the Private Attorneys General Act, California Labor Code § 2698, et seq. (“PAGA Letter”). The LWDA
4 did not indicate that it intended to investigate the alleged violations referenced in the letter, and the 65-
5 day time period permitted for the LWDA to provide such a notification expired. On January 19, 2023,
6 Plaintiff filed a First Amended Complaint adding a cause of action for Private Attorneys General Act
7 penalties under Labor Code § 2698, *et seq.*, for the violations alleged in the complaint.

8 6. The Parties conducted informal and formal discovery and investigation of the facts and
9 law. Such investigation included, *inter alia*, the exchange of extensive data and discoverable information
10 in preparation for the mediation session. The Parties have analyzed policy documents, time and payroll
11 records, and other relevant data points and information pertaining to Plaintiff and the Class during the
12 relevant Class Period, including but not limited to the numbers of former and current members of the
13 Class, average workweeks, and average rate of hourly pay. In addition, Defendant also provided
14 documents reflecting its wage and hour policies and practices during the Class Period and information
15 regarding the total number of current and former employees in the Class.

16 7. After reviewing documents regarding Defendant’s wage and hour policies, and practices
17 and other information obtained during the informal exchange of discovery, Class Counsel were able to
18 evaluate the probability of class certification, success on the merits, and the reasonably obtainable
19 maximum monetary exposure for all claims. Class Counsel reviewed these records and prepared a
20 damage analysis prior to mediation. Class Counsel also investigated the applicable law regarding the
21 claims and defenses asserted in the litigation.

22 8. On September 13, 2023, the Parties participated in a mediation presided over by mediator
23 Steven Serratore, Esq., which led to the Agreement. The Parties discussed at length the burdens and risks
24 of continuing with the litigation as well as the merits of claims and defenses. After the mediation, the
25 Parties then signed a long form settlement agreement (the Agreement).

26 9. Plaintiff and Class Counsel are aware of the burdens of proof necessary to establish
27 liability for the claims asserted in the Action, both generally and in response to Defendant’s defenses
28 thereto. Plaintiff and Class Counsel have also taken into account Defendant’s agreement to enter into a

Settlement that confers substantial relief upon the Class.

10. Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth in this Agreement is a fair, adequate, and reasonable Settlement and is in the best interests of the Class. Solely for the purpose of settling this case, the Parties agree that the requirements for establishing class action certification with respect to this class have been met and are met. If this Settlement is not approved by the Court for any reason, Defendant reserves its right to contest class certification. This Settlement, if approved, will result in the termination of the litigation through the entry of the Judgment and the release of all Released Claims for all Class Members, including all within the class definition who have not elected to exclude themselves from the Class.

SUMMARY OF THE SETTLEMENT TERMS

11. Key provisions of the proposed settlement include the following:

- (a) Defendant agrees not to oppose certification for purposes of Settlement.
(Settlement, ¶ 12.1);
- (b) Class: All current and former non-exempt employees who worked for Defendant in California during the Class Period (the “Class Period” is the period from May 26, 2018, until November 13, 2023) and did not sign arbitration agreements.
(Settlement, ¶ 1.5, 1.12);
- (c) Settlement Amount: Defendant will pay a maximum of **\$417,500.00**, referred to as the Maximum Settlement Amount (or “MSA” herein), resulting in an estimated average **gross** payment per Class Member of approximately **\$753.61**.
(Settlement, ¶ 3.1);
- (d) Funding of Gross Settlement Amount: Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant’s share of payroll taxes by transmitting the funds to the Administrator no later than sixty (60) calendar days after the Effective Date. (Settlement, ¶ 4.3);

- (e) Class Size: **554** individuals who worked **21,802.23** workweeks.¹ (Settlement, ¶ 4.1, ¶ 8);
- (f) PAGA Group Size: **2,080** individuals who worked **37,517** Pay Periods.² (Settlement, ¶ 4.1, ¶ 8);
- (g) PAGA Period: April 7, 2021 until November 13, 2023. (Settlement, ¶ 1.30);
- (h) Kullar/Munoz Analysis: Plaintiff addresses the claims analysis in the Motion, at Part VI.B.3, and below, at Paragraph 18;
- (i) No Reversion: The Settlement is a *non-reversionary* settlement. (Settlement, ¶ 3.1);
- (j) Certification: Plaintiff addresses certification requisites in the Motion, at Part VI.A; Certification was addressed in greater detail in the Motion for Preliminary Approval;
- (k) No Claim Form: No claim form is required. (Settlement, ¶ 3.1);
- (l) Class Release: The Settlement will release specified wage-and-hour claims for Participating Class Members (those Class Members who do not opt out of the Settlement) as defined by the Operative Complaint. (Settlement, ¶ 5.2);
- (m) PAGA Release: Plaintiff and the LWDA will release the PAGA Claims set forth in this Action, that were identified in the Operative Complaint and Plaintiff's LWDA Notice Letter, regardless of whether they opt out of the class portion of the Settlement. (Settlement, ¶ 5.3);
- (n) Net Settlement Amount Available to the Class: After deducting Class Counsel's attorneys' fees and costs, service payment to Plaintiff, administration costs, and the PAGA penalty, the remainder will be available for distribution to Class Members who do not opt out, with each Class Member receiving a share based

¹ At the time of preliminary approval, Defendant estimated there were approximately 565 individuals who worked approximately 27,365 Workweeks.

² At the time of preliminary approval, Defendant estimated there were approximately 1,826 individuals who worked approximately 32,198 Pay Periods.

1 on the number of workweeks each Class Member worked for Defendant within
2 the Class Period. (Settlement, ¶ 1.27.) The Net Settlement Amount is estimated
3 to be at least **\$191,833.33**, resulting in an average **net** payment per Class Member
4 of at least **\$346.27** before any tax withholdings;

5 (o) Tax Allocation: The amounts distributed to Class Members will be characterized
6 as 20% alleged unpaid wages, 80% to interest and penalties, and PAGA
7 Settlement Payments will be allocated as 100% penalties. (Settlement, ¶¶ 3.2.4.1,
8 3.2.5.2);

9 (p) Employer's Portion of Payroll Taxes Paid Separately: Defendant's portion of
10 payroll taxes (e.g., FICA, FUTA, etc.) owed on any settlement payments to Class
11 Members that constitute wages will be paid separate and apart from the MSA.
12 (Settlement, ¶ 3.1);

13 (q) Settlement Administrator: The notice portion of the Settlement will be
14 administered by a third-party Administrator, ILYM Group, Inc., with the costs of
15 administration not to reasonably exceed \$15,000.00, who were selected as the
16 lowest bid from a competitive bidding process. (Settlement, ¶ 3.2.3.) ILYM
17 Group's estimate for settlement administration services is in the amount of
18 **\$15,000.00**;

19 (r) Class Data for Administration: The Settlement Administrator will receive the
20 Class List not later than fourteen (14) calendar days of Preliminary Approval, use
21 the NCOA database to update the Class List, and then use skip tracing on
22 returned Notices (Settlement, ¶¶ 4.2; 1.10);

23 (s) Notice: The Notice will issue within fourteen (14) calendar days of receipt of the
24 Class List (Settlement, ¶ 7.4.2). The Notice describes how to dispute workweeks,
25 submit an objection in writing, in person, or through an attorney, or request
26 exclusion. (Settlement, ¶¶ 7.5 – 7.7);

27 (t) Notice Language: Notice will issue in English and Spanish. (Settlement, ¶¶ 1.11;
28 7.4.2);

- (u) Objections: Objections can be submitted in person, through an attorney, or in writing to the Settlement Administrator, with no pre-requisite to being heard. (Settlement, ¶¶ 7.7.1 – 7.7.3);
- (v) Exclusion Requests: The procedure for exclusion requests, mailing a request to the Settlement Administrator, is the same as the procedure for submitting a written objection. (Settlement, ¶¶ 7.5.1; 7.7.2);
- (w) PAGA Allocation: From the MSA, **\$40,000.00** will be allocated to settle claims brought pursuant to the California Private Attorneys General Act, Labor Code § 2699 *et seq.* (“PAGA”), and seventy-five percent (75%), or **\$30,000.00**, will be paid to the California Labor & Workforce Development Agency. (Settlement, ¶ 1.33);
- (x) Notice to LWDA: Notice was provided prior to the filing of this Motion. Evidence is attached hereto as **Exhibit “3”**;
- (y) Enhancement/Service Award to Plaintiff: Defendant will not oppose the application for Class Representative Service Payment of up to **\$7,500.00** for Plaintiff, to be paid from the MSA. (Settlement, ¶ 3.2.1);
- (z) Fees and Costs: Defendant will not oppose Class Counsel’s application for fees not to exceed 33 1/3% of the MSA (**\$139,166.67**), and capped costs in the amount of **\$24,000.00**, to be paid out of the MSA. (Settlement, ¶ 3.2.2);
- (aa) Check Void Period: Settlement checks will be valid for 180 days. (Settlement, ¶ 4.4.1);
- (bb) Uncashed Checks: Any settlement checks that are mailed to the Class Members and remain uncashed after 180 days of the date of issuance will be cancelled, and the moneys will be directed to the California State Controller’s Office, Unclaimed Property Division in the name of the Class Member. (Settlement, ¶ 4.4.3);
- (cc) Judgment Notice: Judgment will be posted on the Settlement Administrator’s website after entry. (Settlement, ¶ 7.8.1);

(dd) Confidentiality Provisions: The Settlement permits Class Counsel to discuss the Settlement with Class Members (Settlement ¶ 12.2).

12. A true and correct copy of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE is attached hereto as **Exhibit “1.”**

THE SETTLEMENT IS FAIR, JUST AND REASONABLE

13. Plaintiff and counsel have diligently investigated the claims of the Class Members. Plaintiff and Class Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution, including risks related to the outcome of certification and possible summary judgment efforts, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the putative Class and are fair and reasonable. Plaintiff’s counsel brought to bear a great deal of experience with class actions in negotiating the settlement of this case.

14. One fundamental purpose of the class action device is to promote efficiency. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under this settlement. But, before any other consideration, we have agreed to this settlement because it is objectively reasonable. The potential for resolution benefits the class members, since they do not have to wait additional years for a similar recovery. The efficiency of this litigation benefits the Court, the parties and their counsel. A class-wide resolution is the most realistic method for addressing the claims raised in this matter.

15. We have engaged in the necessary investigation in this case that made it possible for us to exercise informed judgment in those aspects of the settlement process in which we were involved. The exchange of time and wage data, wage and hour policy documents, and data about the composition of the Class, were sufficient to permit us counsel to adequately evaluate the settlement. We had more than enough information upon which to evaluate a fair and reasonable settlement amount.

16. In addition to disputing the merits of Plaintiff’s claims at trial, Defendant intended to aggressively challenge the case at the certification stage. Defendant contends that Plaintiff could not

1 prevail on a certification motion. We believe that the case was viable through trial. However, while
2 Plaintiff asserts a belief that this is a viable case for trial, we realize that there are always very
3 significant risks associated with certification and trials, and those risks cannot be eliminated in this
4 case. Continued litigation of this lawsuit presented Plaintiff and Defendant with substantial legal risks
5 and costs that were (and continue to be) difficult to assess. The risks in this matter include:

- 6 • the risk that Plaintiff would be unable to establish liability for allegedly unpaid straight time
7 or overtime wages, *see Duran v. US Bank Nat'l Ass'n*, 59 Cal. 4th 1, 39 & fn. 33 (2014)
8 (“*Duran*”), *citing Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014)
9 (dismissing certified off-the-clock claims based on proof at trial);
- 10 • the risk that Defendant’s challenged employment policies might not ultimately support class
11 certification or a class-wide liability finding, *see, Duran*, 59 Cal. 4th at 14 & fn. 28 (citing
12 Court of Appeal decisions favorable on class certification issue without expressing opinion
13 as to ultimate viability of proposition);
- 14 • the risk that uncertainties pertaining to the legality of Defendant’s policies and practices
15 could preclude class-wide awards of penalties under Labor Code §§ 203 and 226(e);
- 16 • the risk that individual differences between Class Members could be construed as
17 pertaining to liability, and not solely to damages, *see, Duran*, 59 Cal. 4th at 19;
- 18 • the risk that any civil penalties award under the PAGA could be reduced by the Court in its
19 discretion, *see* Labor Code § 2699(e)(1);
- 20 • the risk that lengthy trial or appellate litigation could ensue; and
- 21 • the risk that violation rate estimates could prove lower than expected.

22 These risks are non-exhaustive. While we remain confident that we possess credible strategies for
23 responding to the legal and factual risks facing them, those risks cannot be disregarded. We carefully
24 considered the risks created by all of these uncontrollable factors when evaluating the reasonableness of
25 this proposed settlement. This Settlement provides a benefit to the Class Members that is very
26 reasonable in light of these particular risks.

27 17. The Settlement is the product of arm’s-length negotiations between the Parties
28 occurring throughout the litigation. In light of the uncertainties of protracted litigation, and the state of

1 the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible
2 recovery for the Class Members. The settlement amount is, of course, a compromise figure. By
3 necessity it took into account risks related to liability, damages, and the defenses asserted by Defendant.
4 Moreover, each Class Member will be given the opportunity to opt-out of the Settlement, allowing
5 those who feel they have claims that are greater than the benefits they can receive under this Settlement
6 to pursue their own claims. For the **554** members of the Class, the average *gross* recovery before
7 deductions for taxes, fees, and other costs, is approximately **\$753.61** per class member, and the
8 estimated average *net* recovery for each Class Member is approximately **\$346.27**. Given that
9 Defendant could potentially defeat certification, this is a significant sum to have achieved in settlement.
10 Moreover, a Class Member who worked a greater number of weeks for Defendant will receive a larger
11 share of the Settlement than a Class Member who worked for a shorter amount of time during the class
12 period.

13 18. After analyzing the claims in this matter, Plaintiff has concluded that the value of this
14 Settlement is fair, adequate, and reasonable. The Class Settlement Amount of **\$417,500.00** is about 86%
15 of the **\$484,915.39** estimate of *risk-adjusted* recovery (excluding interest) at this stage in the litigation.
16 On that basis, it would be unwise to pass up this settlement opportunity. This assessment is based on a
17 carefully constructed model of the current fair value of the case, using estimated risks, average wage
18 rates, numbers of employees, and the amount of time covered by the class period. While Plaintiff would
19 certainly have preferred to recover more (and Defendant would have preferred to pay less), this outcome
20 is in line with a carefully constructed estimate of the current fair value of the case. On that basis, it
21 would be unwise to pass up this settlement opportunity. The maximum calculated reasonable exposure,
22 after removing the *most* implausible or extreme estimated recoveries, is **\$2,893,350.85**, *including* PAGA
23 penalties (which, nevertheless, includes a highly optimistic view of what could be proven in this matter).
24 The risk-adjusted value of each claim, on a claim-by-claim basis, is as follows:

- 25 • Based on Plaintiff's claim that she was required to perform work related tasks like
26 helping guests off-the-clock, a reasonably estimated exposure for unpaid off-the-clock
27 work for alleged guest-related services was calculated to be approximately **\$73,086.00**.
28 However, with the risk factor discounts for certification and liability proof, the value of
that claim is estimated by Plaintiff's counsel to be approximately **\$8,770.32**, assuming
certification probability of 40% and merits success at 30%. The off-the-clock time
resulted from Defendant maintaining only one timeclock at each of its hotel locations,

creating waiting times for both employees starting and ending their shifts, and temperature checks and sanitization routine required before clocking in for work. Here, a **\$8,770.32** exposure has a value of just over 12% of its maximum, given a likelihood of success on both events, which is an approximation of the chain probability of certification multiplied by merits chances: $0.4 \times 0.3 = 0.12$. This exposure assumption (1) ignores the fact that this may not have affected every employee, and (2) also assumes the off-the-clock contacts happened every day *and* took an average of at least 4 minutes. This theory of recovery also has a high degree of risk because it depends on Class Member estimates of the frequency and duration and is testimony dependent.

- Based on Plaintiff's claim of regularly missed rest periods and Defendant's rest period policies, which, at a minimum, discouraged employees from leaving the premises, a reasonably estimated exposure for rest break violations over the class period was calculated at **\$361,680.00**. However, with the risk factor discounts for certification and proof of liability (30% and 30% respectively), the value of the claim is estimated by Plaintiff's counsel to be **\$32,551.20**. Because this claim is based on class member testimonials, and Defendant's rest break policy does not specifically state that employees cannot leave the premises during rest periods despite making it clear that employees could leave the premises during meal periods, Plaintiff asserted value for settlement purposes, while understanding that the risk presented by this claim was low.
- Based on Plaintiff's claim of regularly not receiving complaint meal periods due to not being relieved of her duties, a reasonably calculated exposure for meal break violations over the class period was calculated at **\$84,690.25**, with chances of certification and liability risks (50% and 50% respectively) resulting in a risk-adjusted exposure of **\$21,172.56**. This exposure is based upon facial violations. The exposure valuation was still susceptible to attack. Employee choice is an issue in the context of a meal period claim. So long as an employee has the opportunity to take a lawful meal period, an employee can choose to take it late, cut it short, or skip it.
- A reasonably estimated exposure for unpaid wages due to regular rate issues was calculated to be approximately **\$237.10**. However, with the risk factor discounts for certification and liability proof, the value of that claim is estimated by Plaintiff's counsel to be approximately **\$116.18**, assuming certification probability of 70% and merits success at 70%.
- Risk-adjusted penalty recoveries for wage statement and Labor Code § 203 penalties were estimated to be approximately **\$82,359.38** and **\$176,555.75**, respectively, on maximum exposures of **\$235,312.50** and **\$504,445.00**, respectively (with certification and merits success chances of 70% and 50% respectively, based on the off-the-clock theory of unpaid wages, adjusted for the additional risk of needing to prove other elements in addition to the underlying wage claim and assuming that Defendant had a good faith belief that it was providing accurate wage statements).
- Performing risk-adjusted valuations for all claims yields a total value in the range of **\$321,525.39**, excluding PAGA.³ (*Id.*)
- PAGA penalties were calculated as having a maximum realistic exposure of

³ It is difficult to assign specific percentages to future events, but it does provide a specific method for attempting to reduce the concept of "very high risk" or "high risk" to a quantifiable amount. Certification of a claim is typically a binary event. One does not obtain a 20% certification; a claim is either certified or it is not. But the current expected value is best quantified by applying a risk reduction, based on the total experience of counsel.

1 **\$1,633,900.00**, but a risk adjusted value of **\$163,390.00**, after factoring in risks of
2 reduction in penalties pursuant to Court discretion and the high risk of the inability to
3 prove violations for all aggrieved employees.

4 The \$417,500.00 settlement here is fully supportable. Many risks are eliminated through settlement.
5 And, with respect to those risks, certification rates in California are **lower** than conventional wisdom
6 holds. The Judicial Council’s Class Certification in California: SECOND INTERIM REPORT FROM
7 THE STUDY OF CALIFORNIA CLASS ACTION LITIGATION - FEBRUARY 2010 (“Second
8 Interim Report”), at page 5, states that “less than a quarter of disposed cases in the study sample were
9 certified, either through a litigated motion for certification **or** as part of a classwide settlement
10 agreement.” *See*, Second Interim Report, at 5 (emphasis added).⁴ That “**or**” is significant. The
11 certification rates identified in the study of less than 25% includes **both** contested certifications and
12 settlement certifications, which are the majority of certifications. In other words, one must assume in any
13 wage and hour class action prior to certification that a contested certification motion will have a success
14 rate of well under 25%, and probably closer to 10% as a starting point for risk evaluation. The facts of
15 each case have significant bearing on these percentages. But it cannot be disputed that certification is an
16 exceptionally difficult procedural hurdle to successfully overcome. Thus, it is not unreasonable to start
17 from the proposition that a pre-certification settlement that is 10% to 15% of the maximum plausible
18 exposure is a valid starting point for valuation. If roughly 10% of class actions are certified on a
19 contested basis, then, on average, 90% of the time a class will not be certified and the result for the class
20 is *zero* dollars.

21 19. Here, the estimated certification probabilities are **above** the average rate at which cases
22 were certified in California over the study years, based upon data available through the California
23 Courts websites, given that well *under* 20% of all cases filed as proposed class actions are ultimately
24 certified by way of a *contested* motion. The recovery is roughly **14%** of the maximum plausible
25 recovery (estimated to be approximately **\$2,893,350.85**, including over \$1,633,900.00 in PAGA
26 penalties), which falls within the expected outcome under the likelihood of success metric and which

27 ⁴ The report is available at <https://www.courts.ca.gov/documents/classaction-certification.pdf> (last
28 viewed March 12, 2024).

1 compares favorably to other cases in which courts have granted approval of class wage and hour
2 settlements representing a smaller fraction of the maximum theoretical damages.⁵ It would also be
3 appropriate to evaluate the result by examining only the premium wages at issue (approximately
4 \$519,693.35, *with no risk reduction*), excluding penalties and interest. Because the total Settlement
5 amount and the proportion of the Settlement allocated to PAGA penalties fall within the range of what
6 is reasonable, the Settlement should be approved. In addition, the tax allocation is reasonably close to
7 the ratio of penalties and interest to the current expected value.

8 20. To the best of my knowledge there are no other like claims asserted or filed by Class
9 Members. To the best of my knowledge, no Class Member has refrained from bringing an action with
10 claims similar to those raised in the Action, whether in reliance on the Action or otherwise, and who thus
11 might be prejudiced by dismissal of the Action.

12 13 THE EXPERIENCE OF CLASS COUNSEL

14 21. Moon Law Group, PC (former named Moon & Yang, APC), has been engaged in the
15 practice of employment and labor law for almost a decade and presently focuses exclusively on
16 plaintiffs' employment law. The firm and its lawyers have handled many hundreds of wage-related class
17 actions between them. The firm and its lawyers have successfully settled more than 300 class action
18 matters during that time span. The firm and its lawyers have also tried both bench and jury trials
19 (representing both plaintiffs and defendants) relating to employment matters. Moon Law Group, PC, is
20 routinely appointed lead or co-lead class counsel (or counsel for representative plaintiffs in FLSA
21 representative actions) in federal and state courts in California and elsewhere, by way of motion for class
22 certification or motion for settlement approval, and Courts throughout California have approved the
23 firm's hourly billing rates for purposes of settlement approvals. I personally participated in the litigation
24 of more than 500 class actions since 1999, and more than 90 percent of those cases were wage and hour
25

26 ⁵ See, e.g., *Ferrell v. Buckingham Property Mgmt.* (E.D. Cal. Jan. 21, 2020) Case No. 1:19-cv-
27 00332-LJO-SAB, 2020 WL 291042, *17-20 (granting preliminary approval of settlement that
28 represented 5.2% of the original valuation of the claims); *Thomas v. Cognizant Tech. Sols. U.S. Corp.*
(C.D. Cal. June 24, 2013) No. SACV111123JSTANX, 2013 WL 12371622, at *6 (granting final
approval of settlement that encompassed between 4.4% and 5% of the maximum estimated liability).

1 matters. While I have not maintained a comprehensive list, I have been appointed as lead or co-lead
2 counsel in many hundreds of class actions.

3 22. Mr. Kane Moon received a B.A. in History in 1998 from UCLA. He received his J.D.
4 from Loyola Marymount Law School in 2006. He became an Active Member of the State Bar of
5 California in June 2007 and has been an Active Member in good standing continuously since then. He
6 is a current member of the California Employment Lawyers Association (CELA).

7 23. Mr. Moon co-founded Moon & Yang, APC, now Moon Law Group, PC, in March
8 2010. Since that time, Mr. Moon built his practice to have an emphasis on employment and related
9 civil litigation cases. In fact, the practice is focused almost exclusively on advocating for the rights of
10 employees in wage-and-hour litigation through class and representative actions. Moon Law Group, PC
11 is presently class counsel for many dozens of other putative wage-and-hour class and representative
12 action lawsuits pending in various state and federal jurisdictions throughout California. Moon Law
13 Group, PC has also successfully settled hundreds of wage-and-hour cases; tried both bench and jury
14 trials in employment-related matters, representing both plaintiffs and defendants; and been appointed
15 lead or co-lead class counsel in numerous federal and state courts in California. The following is a list
16 of some of the firm's class action settlements that have received preliminary and final approval: *Mark*
17 *Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 20, 2018) No. CV 17-6433 JVS(JCGx),
18 2018 WL 6616659 (class size approx. 2,650; lead counsel) (In approving my \$650 hourly rate, the
19 Court found: "Class Counsel's declarations show that the attorneys are experienced and successful
20 litigators. Other courts have approved the attorneys' current rates for the Moon & Yang, APC
21 attorneys." (*Id.* at *10.); *Sison v. Cha Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size
22 approx. 2,100; co-counsel); *Jones v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079
23 (class size approx. 1,000; lead counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class
24 size approx. 2,500; co-counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-
25 2018-00228252 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdeals, Inc.*, LASC
26 BC700366 (class size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc.*,
27 LASC 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment*
28 *Processing, Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline*

1 *Bail Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*,
2 LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*, LASC
3 BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen & Bakery, LLC*,
4 LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft Papercon III, LLC*, LASC
5 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v. Rossmoyne, Inc.*, LASC
6 BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS Paving, Inc.*, LASC BC722767
7 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A. Apparel, Inc.*, LASC BC709630 (class
8 size approx. 210; lead counsel); *Lagos v. ThyssenKrupp Elevator Corporation*, LASC BC682972
9 (\$750,000 for 79 Class Members; lead counsel); *Aparicio v. Lineage Logistics, LLC*, LASC
10 BC722764 (class size approx. 155; lead counsel). Mr. Moon's experience is and has been invaluable
11 in assessing the reasonableness of settlements such as the one at issue here.

12 24. Aside from myself and supervising Partner Kane Moon, attorneys and paralegals who
13 worked on this matter include Mariam Ghazaryan, Lilit Tunyan, Sandy Pham, and Sophia Tu.

14 (a) Mariam Ghazaryan is an associate at Moon Law Group, PC. Ms. Ghazaryan's
15 practice is focused on labor and employment class action lawsuits involving
16 various violations of California and federal labor laws. Ms. Ghazaryan received
17 her law degree from the Southwestern School of Law. Ms. Ghazaryan was
18 admitted to the California bar in December 2021. Ms. Ghazaryan's billing rate
19 is \$600 per hour.

20 (b) Lilit Tunyan is a former associate at Moon Law Group, PC. Ms. Tunyan's
21 practice was focused on labor and employment class action lawsuits involving
22 various violations of California and federal labor laws. Ms. Tunyan was
23 admitted to the California bar in January 2020. Ms. Tunyan's billing rate was
24 \$600 per hour.

25 (c) Sandy Pham is an associate at Moon Law Group, PC. Ms. Pham's practice is
26 focused on labor and employment class action lawsuits involving various
27 violations of California and federal labor laws. Ms. Pham's billing rate was
28 \$500 per hour. Ms. Pham received her law degree from the Southwestern

School of Law. Ms. Pham was admitted to the California bar in December 2023.

- (d) Sophia Tu is a former litigation assistant at Moon Law Group, PC. Ms. Tu's billing rate was \$250 per hour.

25. I received my undergraduate degree from Occidental College. Graduating cum laude, I majored in economics and received a "minor" emphasis in mathematics. Along with my study of economics and mathematics, I also had an emphasis in physics. This combination of scientific and economic education has been of assistance during my litigation of complex civil actions. I received my Juris Doctor degree from the University of Southern California Law Center.

26. My experience relevant to class action litigation includes the following:

- (a) I have been involved in the litigation of class actions since 1997, working as a law clerk on a number of class action matters. Since 1999, I have participated as an attorney in the litigation of hundreds of class actions, in California Superior Courts and in federal courts in California, Illinois, and Louisiana. I emphasized litigation of wage and hour class actions beginning in 2005, but I have focused on complex litigation of different types at all times since 1999.

- (b) Dating back to 1999, some of the earliest cases in which I contributed to my then-firm's efforts as co-lead/liaison counsel include:

i. *In re Paradise Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC130375; and,

ii. *In re Lincoln Memorial Park Litigation*, Los Angeles Superior Court Lead Case No. BC133643.

- (c) I have litigated contested class certification motions multiple times, prevailing on many. Examples include the following:

- 1) In 2025, I certified multiple wage and hour claims against Sun Valley Group, in the matter of *Duran v. Sun Valley Group*.

- 1 2) In 2023, I certified a rest break claim against SMS Transportation, in the
2 matter of *Beard v. SMS Transportation*. Rest break claims are notably
3 difficult to certify.
- 4 3) In 2023, I certified a regular rate claim against Downtown Women’s
5 Center, in the matter of *Evans v. Downtown Women’s Center*.
- 6 4) In 2018, I certified wage and hour claims against Home Depot, in the
7 matter of *Utne v. Home Depot*, in the United States District Court,
8 Northern District of California. The contested certification resulted in a
9 certified class of roughly 140,000 individuals.
- 10 5) In 2019, I certified a Fair Credit Reporting Act claim related to
11 employment background checks against Wal-Mart Stores, Inc., in the
12 matter of *Pitre v. Wal-Mart Stores, Inc.*, in the United States District
13 Court, Central District of California. The contested certification
14 resulted in a certified class of over 5,000,000 individuals.
- 15 6) In 2018, I fully briefed a contested class certification motion in the
16 matter of *Harelson v. U.S. Aviation*, in the United States District Court,
17 Northern District of California. After certification was fully briefed, the
18 matter successfully settled.
- 19 7) In 2013, I certified an investment fraud suit, in the matter of *Larsen v.*
20 *Coldwell Banker*, in the United States District Court, Central District of
21 California.
- 22 8) In 2012, I fully briefed a contested class certification motion, in the
23 wage and hour matter of *Gillings v. Time Warner*, in the United States
24 District Court, Central District of California. In that matter, summary
25 judgment was granted against my clients and the certification motion
26 was deemed moot. I appealed to the Ninth Circuit and obtained a
27 reversal of the District Court’s decision. Upon remand, the matter
28 settled.

- 9) In approximately 2011, I fully briefed a contested class certification motion, in the wage and hour matter of *Gomez v. Lincare, Inc.*, in the Superior Court of California, County of Orange. Certification was denied. The result was appealed, and a partial reversal was obtained.
 - 10) In approximately 2008, I fully briefed a contested class certification motion, in the wage and hour matter of *Ghazaryan v. Diva Limousine, LTD.*, Superior Court of California, County of Los Angeles. Certification was denied. I appealed, handling all briefing, and, in *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal.App.4th 1524 (2009), pet. for rev. denied, I obtained a decision directing the trial court to certify the class. *Ghazaryan* is now widely cited, including by the California Supreme Court, as a comprehensive source for the standards applied to certification motions in California.
 - 11) In approximately 2006, I fully briefed a contested class certification motion, in the wage and hour matter of *Laliberte v. Pacific Mercantile Bank*, Superior Court of California, County of Orange. Certification was denied. I appealed, handling all briefing. The published opinion of *Laliberte v. Pacific Mercantile Bank*, 147 Cal.App.4th 1 (2007), rev. denied, pet. for cert. den. resulted, and I petitioned for a Writ of Certiorari related to certification due process issues.
 - 12) In approximately 2008, I assisted with briefing of a contested class certification motion, in the wage and hour matter, against the Automobile Club of Southern California (AAA). A class was certified and the matter tried.
- (d) I have prosecuted appeals in more than 20 class action matters alone, arguing before the United States Court of Appeals for the Ninth Circuit Court and several of California's Courts of Appeal. I have taken several appeals through to Petitions for Writs of Certiorari to the United States Supreme Court. In

1 connection with the appeals I have handled, I have participated in appeals
2 resulting in decisions concerning or relating to class actions or wage and hour
3 issues. Among others, those include:

- 4 i. *Camp v. Home Depot, U.S.A., Inc.*, 84 Cal. App. 5th 638 (October
5 24, 2022), *rev. granted* (February 1, 2023);
- 6 ii. *Donohue v. AMN Services, Inc.*, (February 25, 2021) (amicus
7 counsel)
- 8 iii. *Gilberg v. California Check Cashing Stores, LLC*, 913 F.3d 1169
9 (9th Cir. Jan. 29, 2019), *pet. for rehearing and pet. for en banc*
10 *rehearing den.*;
- 11 iv. *Troester v. Starbucks Corporation*, 5 Cal. 5th 829 (2018), *as*
12 *modified on denial of reh'g* (Aug. 29, 2018);
- 13 v. *Gillings v. Time Warner Cable LLC*, 583 Fed.Appx. 712 (9th Cir.
14 2014);
- 15 vi. *Ghazaryan v. Diva Limousine, LTD.*, 169 Cal. App. 4th 1524
16 (2009), *pet. for rev. denied*;
- 17 vii. *Laliberte v. Pacific Mercantile Bank*, 147 Cal. App. 4th 1 (2007),
18 *rev. denied, pet. for cert. denied*;
- 19 viii. *Alvarez v. May Dept. Stores Co.*, 143 Cal. App. 4th 1223 (2006),
20 *rev. denied, pet. for cert. denied*;
- 21 ix. *Johnson v. Glaxosmithkline, Inc.*, 166 Cal. App. 4th 1497 (2008),
22 *rev. denied*;
- 23 x. *Howard, et al. v. America Online, Inc.*, 208 F.3d 741 (9th Cir.
24 2000), *pet. for cert. denied*;
- 25 xi. *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489 (2011)
26 (amicus counsel);
- 27 xii. *D. R. Horton, Inc. and Michael Cuda*, Case 12–CA–25764, 357
28 NLRB No. 184 (January 3, 2012) (amicus counsel). This NLRB

1 matter is of particular note, as it is at the center of a dispute
2 regarding the interplay between the Federal Arbitration Act (FAA)
3 and two labor relations laws, the National Labor Relations Act
4 (NLRA) and Norris-LaGuardia Act. Cases highlighting that issue
5 have been accepted by the United States Supreme Court.

6 (e) I was the lead appellate author in a matter before the California Supreme Court
7 that generated substantial interest in the field of wage and hour litigation. That
8 matter, *Troester v. Starbucks Corporation*, resolved a significant issue of
9 whether, under California law, a *de minimis* defense exists to the employer's
10 obligation to pay all wages for all compensable time worked by an employee.

11 (f) I was the lead appellate counsel in a matter before the California Court of
12 Appeal (Sixth Appellate District) that generated substantial interest in the field
13 of wage and hour litigation. That matter, *Camp v. Home Depot, U.S.A., Inc.*,
14 held that prior jurisprudence erroneously concluded that, under California law,
15 underpayment of wages as a result of rounding of time clock punches is lawful
16 so long as the rounding was neutral on its face and as applied. *Camp* is now
17 pending before the California Supreme Court but remains citable as authority
18 pursuant to an Order of the California Supreme Court.

19 (g) In addition to my work on complex litigation matters and class actions, I have
20 authored published articles and columns on issues related to class actions and
21 other litigation issues, including:

22 i. H. Scott Leviant, *Unintended Consequences*, 6 U.C. Davis Bus. L.J.
23 18 (2006), at <http://blj.ucdavis.edu/article.asp?id=636> (May 1,
24 2006);

25 ii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Where Troester Stops*
26 *Not Even Troester Knows*, DAILY JOURNAL (Los Angeles), July 2,
27 2019;

28 iii. H. Scott Leviant and Lilit Ter-Astvatsatryan, *Unaccounted Time*:

- 1 *Reading the Tea Leaves of Troester*, DAILY JOURNAL (Los Angeles),
2 September 12, 2018;
- 3 iv. Dennis F. Moss and H. Scott Leviant, *Class Actions: One step*
4 *forward after two steps back*, DAILY JOURNAL (Los Angeles),
5 January 11, 2012;
- 6 v. H. Scott Leviant, *Arbitration: A Look Back, a Look Ahead*, DAILY
7 JOURNAL (Los Angeles), December 28, 2010;
- 8 vi. H. Scott Leviant, *Witnesses Cannot Hide*, Daily Journal (Los
9 Angeles), April 21, 2010;
- 10 vii. H. Scott Leviant, *Divide and Conquer: The New Paradigm of Class*
11 *Action Defense?*, FORUM, January/February 2009
- 12 viii. H. Scott Leviant, *Class Action Appellate Report*, FORUM, 2009-
13 2010 (Ongoing series);
- 14 ix. H. Scott Leviant & Linh Hua, *Legislature Using Purse Strings to*
15 *Bind Judiciary*, Daily Journal (San Francisco), March 15, 2010;
- 16 x. H. Scott Leviant, *Wrongfully Recused?*, DAILY JOURNAL (Los
17 Angeles), December 2, 2009;
- 18 xi. H. Scott Leviant, *Cutting Class*, DAILY JOURNAL (Los Angeles),
19 April 15, 2008;
- 20 xii. H. Scott Leviant, *Leveling The Playing Field*, DAILY JOURNAL (Los
21 Angeles), May 4, 2007;
- 22 xiii. H. Scott Leviant, *A Bad Meal Deal: 'Brinker' Gets the Incentive*
23 *Question Wrong*, DAILY JOURNAL (Los Angeles), August 6, 2008;
- 24 xiv. H. Scott Leviant & Jason E. Barsanti, *Maximize Recovery in Unpaid*
25 *Wage Cases*, FORUM, January/February 2008;
- 26 xv. H. Scott Leviant, et al., *Electronic Evidence: No Longer an*
27 *Optional Element in a Comprehensive Litigation Plan*,
28 ADVOCATE, April 2006;

xvi. H. Scott Leviant, *Improving Rule 12(b)(6) survival odds: Some considerations for effective RICO pleading*, CIVIL RICO REPORT, Volume 15, Number 22, April 26, 2000 (LRP Publications).

- (h) In addition to publications in industry newspapers, periodicals and journals, I am the Supervising Editor, primary author and founder of the legal blog The Complex Litigator (<http://www.thecomplexlitigator.com>). The Complex Litigator reports and comments on news and topics relevant to class action and complex litigation practice, with a primary emphasis on wage and hour litigation issues. Through my blog, I have also, on occasion, published podcasts of round table discussions with preeminent members of the wage and hour practice bar on both the plaintiff and defense sides. My blog has been cited to the California Supreme Court in at least one Petition for Review. The Complex Litigator has been in existence since 2008, having outlasted many other legal blogs, and it has a unique readership that numbers in the tens of thousands.
- (i) I have also lectured on issues related to class actions and complex litigation, including the following educational seminars:
- i. *Strategies for Settlement of Individual and Wage & Hour Class Actions*, Bridgeport's Eighth Annual Wage & Hour Litigation Conference (December 16, 2011)
 - ii. *The Year in Review – Staying Abreast of Current Cases*, Consumer Attorneys of San Diego Class Action Symposium (October 14, 2011)
 - iii. *Concepcion v. AT&T and Derivative Wage & Hour Claims*, Bridgeport's Mid Year Wage & Hour Litigation Conference (June 3, 2011)
 - iv. *Advanced Principles: UCL Remedies and Defenses*, 20th Annual Golden State Antitrust and Unfair Competition Law Institute (October 21, 2010)

- v. *Refining Your Wage and Hour Practice*, 2010 CELA Annual Conference (October 2, 2010)
- vi. *Word v. WordPerfect Software, Tips, Tools and Tricks: Legal Technology for Plaintiffs Employment Lawyers* (September 30, 2010)
- vii. *California's 17200 -- Its Use and Abuse*, Federalist Society (May 19, 2010)
- viii. *20 Tips for Successful Navigation of e-Discovery Requirements*, Los Angeles County Bar Association's Thirtieth Annual Labor and Employment Law Symposium (March 31, 2010)
- ix. *Social Networking for Lawyers: A Roadmap to Success*, Los Angeles County Bar Association's 2nd Annual two-day 2009 Small Firm and Solo Practitioners Conference: MISSION POSSIBLE (June 25, 2009)
- x. *A Seminar Overview of the Current State of Employment Law*, The Westchester/LAX/Marina Del Rey Chamber of Commerce (February 23, 2006)

(j) I served three consecutive years as an elected member of the Board of Governors of the Consumer Attorneys of California. In that capacity, I worked to preserve the right of California's consumers and employees to bring proposed class actions. For example, I provided assistance to CAOC in its successful effort to defeat AB 298, which would have substantially impaired the ability of plaintiffs to prosecute class actions in California. More recently, on behalf of CAOC, I co-authored several requests for publication of unpublished class action decisions, including one such request in *Jaimez v. Daiohs USA, Inc.*, 181 Cal. App. 4th 1286 (2010), and authored amicus briefs for CAOC in the Eighth Circuit matter entitled *Avritt v. Reliastar Life. Ins. Co.*, Case No. 09-2843, the California Supreme Court matter entitled *Californians for Disability Rights v.*

1 *Mervyn's, LLC*, 39 Cal. 4th 223 (2006), and the California Court of Appeal
2 matter entitled *Brown v. Ralphs Grocery Company*, 197 Cal. App. 4th 489
3 (2011).

4 27. My current contingent billing rate is consistent with my practice area, legal market and
5 accepted hourly rates:

- 6 (a) In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town
7 Anymore,” *NATIONAL LAW JOURNAL*, the following hourly billing rates were
8 reported by Sheppard Mullin Richter & Hampton, a leading firm in the defense of
9 wage-and-hour class actions that I have frequently opposed when litigating wage-
10 and-hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year
11 - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th
12 Year - \$435, 8th Year - \$455.
- 13 (b) In 2009 I was retained as appellate counsel in the appeal of a denial of class
14 certification. For the specialized work on that appeal, I charged an hourly rate of
15 \$650.00 per hour, a rate the hiring co-counsel accepted.
- 16 (c) In the wage and hour class action *Savaglio, et al, v. WalMart*, Alameda County
17 Superior Court No. C-835687-7, Order Granting Class Counsel's Motion for
18 Attorneys' Fees, filed September 10, 2010, the Court approved hourly rates from
19 \$435 per hour for four years of experience to \$875 per hour for 51 years of
20 experience.
- 21 (d) The 2024-25 Adjusted Laffey Matrix states that an attorney with 20 or more years
22 experience can reasonably charge \$1,141 per hour.
23 <http://www.laffeymatrix.com/see.html>.⁶ That rate is derived from the Washington,
24 D.C. area and requires a costs of living evaluation for use in Los Angeles. Using
25 federal statistics for average attorney salaries, attorney pay is 4.9% lower in Los
26 Angeles, compared to Washington, D.C., indicating a 4.9% downward adjustment

27
28 ⁶Last viewed October 15, 2024.

to the Laffey Matrix may be appropriate.

<https://www.bls.gov/oes/current/oes231011.htm>.⁷ However, using federal employee pay tables, federal employee wages are equal when Los Angeles is compared to Washington, D.C., indicating no adjustment to the Laffey Matrix is appropriate. <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2017/general-schedule/>.⁸ And, using Schedule 9 of 5 U.S.C. § 5332, there is a 3% differential favoring Los Angeles. Thus, something in the range of a 4.4% locality reduction to a 3.0% locality increase appears appropriate here. Thus, applying an adjustment factor of 0.0%, the locality corrected Adjusted Laffey Matrix hourly rate for attorneys with 20 or more years of experience is \$1,141. The complete Adjusted Laffey Matrix is set forth below.

- (e) The full 2024-2025 Adjusted Laffey Matrix provides for the following hourly rates for paralegal/law clerks and attorneys falling into various ranges of years of experience:

Year	Adj. Factor**	Paralegal Clerk	1-3	4-7	8-10	11-19	20+
6/01/24-5/31/25	1.080182	\$258	\$473	\$581	\$839	\$948	\$1141

- (f) I have been selected to Super Lawyers from 2012-2025, achieving that professional recognition for more than a decade. I was selected for the Rising Stars edition of Super Lawyers in 2009.

- (g) Based upon my practice area, geographic market, experience, including all of the above information, reputation, and generally accepted hourly rates, my current, regular hourly billing rate is now \$975.00, which is well below the presumptively appropriate hourly rate of \$1,141 for attorneys with 20 or more years of experience.

⁷Last viewed January 30, 2024.

⁸ Last viewed January 30, 2024.

1
2 REASONABLENESS OF THE REQUESTED FEE AWARD

3 28. When this case was taken on a contingent fee basis, with the firm agreeing to assume
4 responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation,
5 Moon Law Group, PC, paid filing fees, copy charges, Westlaw fees, and mailing, telephone and express
6 mail charges. There was never a guarantee that Moon Law Group, PC, would recoup those expenditures.
7 The firm took on this case, which necessarily required the firm to forego other opportunities, given finite
8 resources to devote to cases.

9 29. Because of the uncertainty of the outcome in this and other wage and hour litigation
10 undertaken by Moon Law Group, PC, we took this case with the expectation that a risk enhancement,
11 either in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be
12 available if we prevailed. This expectation stems from the fact that many cases we undertake as putative
13 class actions do not resolve successfully.

14 30. Class Counsel's experience in employment class actions was integral in evaluating the
15 strengths and weaknesses of the case against Defendant and the reasonableness of the settlement.
16 Practice in the narrow fields of wage and hour litigation requires skill and knowledge concerning the
17 rapidly evolving substantive law (state and federal), as well as the procedural law of class action
18 litigation.

19 31. In the past 5 years, Moon Law Group, PC, has settled hundreds of wage & hour class
20 actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) observed, it
21 has been the experience at Moon Law Group, PC, that attorney fee awards of one-third of a common
22 settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they will seek
23 no more than one third of the settlement amount in fees. This is consistent with common practice,
24 consistent with Ninth Circuit practice, consistent with California law approving the percentage of the
25 fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503
26 (2016), and not inappropriate in light of the many hours expended by attorneys and paralegals
27 performing work for Plaintiff before and after the filing of this matter. That work includes:
28

- (a) Numerous interviews with the client, and review of documents provided by Plaintiff;
- (b) Legal research and investigation regarding the Defendant's practices at numerous points in the litigation;
- (c) Preparation of multiple drafts of the original class action complaint and finalization and filing of the original class action complaint;
- (d) Review of the first amended complaint, and finalization of that complaint;
- (e) Drafting of formal discovery;
- (f) Extensive "meet and confer" efforts with Defendant's counsel to obtain relevant documents and information through informal and formal discovery;
- (g) Contacting witnesses;
- (h) Drafting and revising a motion for class certification;
- (i) Drafting and revising an opposition to a motion for partial summary judgment;
- (j) Review of data and documents produced by Defendant;
- (k) Analysis of the audit results and preparation of a damages model with the aid of a statistics expert;
- (l) Research and preparation of Plaintiff's mediation brief;
- (m) Attendance at mediation;
- (n) Drafting, negotiating, and reviewing multiple drafts of the Settlement and attachments;
- (o) Preparation of the initial motion for preliminary approval and multiple revisions thereafter;
- (p) Monitoring the administration process, including data collection issues;
- (q) Drafting the motion for final approval; and
- (r) Submitting materials to the LWDA for PAGA approval.

32. The recorded lodestar incurred by Moon Law Group, PC, is approximately **\$248,202.50** to date, based on the firm's contemporaneous time recording software, and I did not bill for a significant amount of time related to discovery disputes (I estimate that I did not bill for approximately

5 hours of time reviewing correspondence, reviewing mediation data, and numerous other activities, for an unbilled lodestar of approximately \$4,875). The breakdown of work by attorney is as follows:

Attorney	Time	Rate	Total
H. Scott Leviant	168.7	\$975	\$164,482.50
Kane Moon	37.2	\$900	\$33,480.00
Mariam Ghazaryan	57.1	\$600	\$34,260.00
Sandy Pham	19.8	\$600	\$11,880.00
Sophia Tu	16.4	\$250	\$4,100.00
	299.2	Total:	\$248,202.50

That lodestar would be approximately \$4,875 higher if I included the estimated time that I did not include in by billing entries. I anticipate that Class Counsel will spend an additional ten hours on this matter, appearing at the final approval hearing, resolving any post-approval issues that may arise, and appearing at a final accounting hearing. I will incur most or all of that time myself, including time devoted to preparation of the motion for final approval and working with the administrator to resolve any issues and prepare a final declaration about the notice process, for an estimated additional lodestar of \$9,750.00. Added to the lodestar to date, I anticipate that Class Counsel's lodestar will be no less than **\$257,952.80**. Class Counsel requests **\$139,166.67** in attorneys' fees (33 and 1/3% of the GSA, including the amount triggered by the escalator clause), as authorized under the Agreement, and this represents a "negative" multiplier (a multiplier of less than one) of approximately **0.53**, which falls well within of the range of commonly approved lodestar multipliers, when compared to the recorded, unbilled, and estimated lodestar of **\$257,952.80**. It has long since been established that multipliers between two and four are common and reasonable for a lodestar crosscheck. A lodestar multiplier of approximately **0.53** is far below commonly approved lodestar multipliers and confirms that the proposed Settlement falls within a range of reasonableness. Class Counsel expended a prudent amount of time to achieve the excellent result. Class Counsel has also incurred costs in this matter of **\$24,732.88**, as set forth in **Exhibit "2"**, which is more than the originally anticipated amount. Exhibit 2 includes the estimated future costs for filing the Motion for Final Approval. These costs were reasonably incurred in

1 prosecuting the Action on behalf of the Class Members and should be approved by the Court. However,
2 Class Counsel does not seek reimbursement of costs over the maximum amount permitted under the
3 Settlement Agreement. Instead, Class counsel requests **\$24,000.00** in reimbursement of litigation costs.

4
5 THE CONTRIBUTION OF PLAINTIFF AND THE REASONABLENESS OF THE REQUESTED
6 INCENTIVE AWARD

7 33. Here, Plaintiff seeks a Service Payment of up to **\$7,500.00**. This amount is very
8 reasonable given the risks undertaken by Plaintiff for involvement in the Action. Taking the risk of filing
9 a lawsuit against an employer deserves recognition, especially in light of the settlement achieved by
10 Plaintiff. Additionally, Plaintiff was actively involved in the litigation and settlement negotiations of this
11 action, expending considerable effort in advancing the interests of the Class. Plaintiff provided
12 information to counsel before the filing of this matter; assisted with the settlement process (which
13 included conferring with counsel during the preparation of Plaintiff's mediation brief); and, regularly
14 conferred with counsel regarding the case whenever questions arose. Plaintiff's Declaration also
15 confirms that Plaintiff was an active participant in the filing and settlement of this case.

16
17 THE THIRD-PARTY ADMINISTRATOR QUALIFICATIONS AND STATEMENT OF NO
18 CONFLICTS OR AFFILIATION

19 34. The parties have agreed that administration will be handled by a third-party
20 administrator. In counsel's experience as class counsel in similar wage-and-hour actions with a similar
21 number of employees, ILYM Group, Inc., is fully capable of administering the settlement at a
22 competitive and reasonable cost and should be approved by the Court to administer the settlement
23 notice process. ILYM Group, Inc. was selected because it submitted a low bid in the amount of
24 **\$15,000.00** for administration services. ILYM Group, Inc. has also provided a declaration confirming
25 its experience and its implementation of measures designed to protect Class Member data and Class
26 Settlement funds. Finally, this firm has no relationship with ILYM Group, Inc. other than as a client
27 retaining a vendor of services via an arms-length transaction. We have no ownership interest in ILYM
28 Group, Inc.

1 EXHIBITS

2 35. As noted above, a true and correct copy of the CLASS ACTION AND PAGA
3 SETTLEMENT AGREEMENT AND CLASS NOTICE is attached hereto as **Exhibit “1.”** The
4 Settlement includes Exhibit A (the “Notice”).

5 36. Attached hereto as **Exhibit “2”** is a true and correct copy of the report of costs incurred
6 by Moon Law Group, PC, for this matter.

7 37. Attached hereto as **Exhibit “3”** is a true and correct copy of the notice provided to the
8 LWDA.

9
10 PAGA SETTLEMENT NOTIFICATION TO DIR

11 38. Counsel for Plaintiff provided notice of the requested approval of the PAGA settlement
12 through the online submission portal.

13
14 I declare under penalty of perjury, under the laws of the State of California, that the foregoing is
15 true and correct. Executed March 14, 2025, at Los Angeles, California.

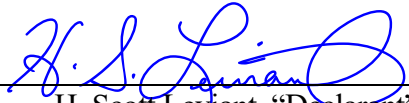
16
17 
18 H. Scott Leviant, “Declarant”

Exhibit “1”

Kane Moon (SBN 249834)
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H. Scott Leviant (SBN 200834)
hsleviant@moonlawgroup.com
Mariam Ghazaryan (SBN 341119)
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

NIKOL LOCKETT, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

OTO DEVELOPMENT, LLC; and DOES 1
through 10, inclusive,

Defendants

Case No.: 22STCV17405

CLASS ACTION

[Hon. Stuart M. Rice, Dept. 1]

**CLASS ACTION AND PAGA SETTLEMENT
AGREEMENT AND CLASS NOTICE**

Complaint filed: May 26, 2022
Trial date: Not set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiff Nikol Lockett (“Plaintiff”) and Defendant OTO Development, LLC. (“Defendant”). The Agreement refers to Plaintiff and DEFENDANT collectively as “Parties,” or individually as “Party.”

1. **DEFINITIONS.**

- 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Nikol Lockett, individually, and on behalf of all others similarly situated v. OTO Development, LLC, et al.*, filed on May 26, 2022 and pending in Superior Court of the State of California, County of Los Angeles.
- 1.2. “Administrator” means ILYM Group, Inc, the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval of the Settlement.
- 1.4. “Aggrieved Employee” means all current and former non-exempt employees who worked for Defendant in California during the PAGA Period, including those that signed arbitration agreements and those who did not.
- 1.5. “Class” means all current and former non-exempt employees who worked for Defendant in California during the Class Period and did not sign arbitration agreements.
- 1.6. “Class Counsel” means Kane Moon, H. Scott Leviant and Mariam Ghazaryan of Moon Law Group, PC.
- 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.8. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number,

and number of Class Period Workweeks and PAGA Pay Periods.

1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address (“NCOA”) database, skip traces, and direct contact by the Administrator with Class Members.

1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English [with a Spanish translation, if applicable] in the form, without material variation unless otherwise agreed by the Parties, attached as Exhibit A and incorporated by reference into this Agreement. The Parties, through counsel, may agree to modifications to the Class Notice required to correct errors or effectuate changes required by the Court without the need to amend this Agreement, and the revised Class Notice shall be incorporated herein in place of the original Exhibit A.

1.12. “Class Period” means the period from May 26, 2018 until November 13, 2023.

1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.

1.14. “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. “Court” means the Superior Court of California, County of Los Angeles.

1.16. “Defendant” means named Defendant OTO Development, LLC.

1.17. “Defense Counsel” means Daniel B. Chammas and Min K. Kim of Ford & Harrison LLP.

1.18. “Effective Date” means the date by when both of the following have occurred: (a) the Court’s final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been

1 filed.

2 1.19. "Final Approval" means the Court's order granting final approval of the Settlement.

3 1.20. "Final Approval Hearing" means the Court's hearing on the motion for final approval of
4 the Settlement.

5 1.21. "Gross Settlement Amount" means \$417,500.00 which is the total amount Defendant
6 agrees to pay as part of this Agreement, except as provided in Paragraphs 3.1 and 8 below.
7 The Gross Settlement Amount will be used to pay Individual Class Payments, Individual
8 PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class
9 Counsel Litigation Expenses Payment, Class Representative Service Payment and the
10 Administration Expenses Payment.

11 1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the
12 Net Settlement Amount calculated according to the number of Workweeks worked during
13 the Class Period.

14 1.23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of
15 the PAGA Penalties calculated according to the number of PAGA Pay Periods worked
16 during the PAGA Period.

17 1.24. "Judgment" means the judgment entered by the Court based upon the Final Approval.

18 1.25. "LWDA" means the California Labor and Workforce Development Agency, the agency
19 entitled, under Labor Code § 2699(i).

20 1.26. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA
21 under Labor Code § 2699(i).

22 1.27. "Net Settlement Amount" means the Gross Settlement Amount, less the following
23 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA
24 PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment,
25 Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment.
26 The remainder is to be paid to Participating Class Members as Individual Class Payments.

27 1.28. "Non-Participating Class Member" means any Class Member who opts out of the Class
28 portion of the Settlement by sending the Administrator a valid and timely Request for

1 Exclusion.

2 1.29. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked
3 for Defendant for at least one day during the PAGA Period.

4 1.30. "PAGA Period" means the period from April 7, 2021 until November 13, 2023.

5 1.31. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

6 1.32. "PAGA Notice" means Plaintiff's May 8, 2022 letter to Defendant and the LWDA
7 providing notice pursuant to Labor Code § 2699.3(a).

8 1.33. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the
9 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$10,000.00) and the
10 75% to LWDA (\$30,000.00) in settlement of PAGA claims.

11 1.34. "Participating Class Member" means a Class Member who does not submit a valid and
12 timely Request for Exclusion from the Class portion of the Settlement.

13 1.35. "Plaintiff" means Nikol Lockett, the named plaintiff in the Action.

14 1.36. "Preliminary Approval" means the Court's order granting preliminary approval of the
15 Class portion of the Settlement.

16 1.37. "Preliminary Approval Order" means the proposed order granting preliminary approval of
17 the Class portion of the Settlement.

18 1.38. "Released Class Claims" means the claims being released as described in Paragraph 5.2
19 below.

20 1.39. "Released PAGA Claims" means the claims being released as described in Paragraph 5.3
21 below.

22 1.40. "Released Parties" means: Defendant and each of its former and present directors, officers,
23 shareholders, owners, former and present managing employees, members, attorneys,
24 agents, insurers, predecessors, successors, assigns, subsidiaries, parent companies, related
25 companies, and affiliates.

26 1.41. "Request for Exclusion" means a Class Member's submission of a written request to be
27 excluded from the Class Settlement signed by the Class Member.

28 1.42. "Response Deadline" means 60 days after the Administrator mails Notice to Class

Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Class portion of the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. The Response Deadline for Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall be extended by 14 calendar days beyond the original Response Deadline.

1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.

1.44. “Workweek” means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1. On May 26, 2022 Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) Failure to Pay Minimum Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197); (2) Failure to Pay Overtime Compensation (Cal. Lab. Code §§ 1194 and 1198); (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7, 512); (4) Failure to Authorize and Permit Rest Breaks (Cal. Lab. Code §§ 226.7); (5) Failure to Indemnify Necessary Business Expenses (Cal. Lab. Code § 2802); (6) Failure to Timely Pay Final Wages at Termination (Cal. Lab. Code §§ 201-203); (7) Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226); and (8) Unfair Business Practices (Cal. Bus. & Prof. Code § 17200, *et seq.*). On January 19, 2023, Plaintiff filed a First Amended Complaint alleging an additional cause of action against Defendant for violation of the Private Attorneys General Act (“PAGA”). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and

the LWDA by sending the PAGA Notice.

2.3. On September 13, 2023, the Parties participated in an all-day mediation presided over by Steve Serratore, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through formal and informal discovery, policy documents, a sampling of Class Members' time and payroll records, and other relevant data points and information. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

2.5. Class certification has not been granted in this matter.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are aware of one other pending matter or action asserting claims that will be extinguished or affected by the Settlement. That matter is *Jorge Toscano v. OTO Development, LLC, et al.*, Orange County Superior Court Case No. 22CV400192. Counsel for Plaintiff represents that they have entered into a written fee sharing agreement with counsel for Jorge Toscano, and plaintiff Jorge Toscano will not oppose the settlement of this matter.

2.7. Plaintiff has entered into a separate individual settlement agreement with Defendant to resolve all claims not included within this Settlement. That individual settlement agreement is contingent upon approval of this Settlement and includes a general release and a waiver pursuant to Civil Code § 1542. The terms of that individual settlement agreement will be disclosed with the motion for preliminary approval of this Settlement.

3. **MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$417,500.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this

1 Agreement. The Administrator will disburse the entire Gross Settlement Amount without
2 asking or requiring Participating Class Members or Aggrieved Employees to submit any
3 claim as a condition of payment. None of the Gross Settlement Amount will revert to
4 Defendant.

5 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
6 following payments from the Gross Settlement Amount, in the amounts specified by the
7 Court in the Final Approval:

8 3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of
9 not more than \$7,500.00 (in addition to any Individual Class Payment, and any
10 Individual PAGA Payment the Class Representative is entitled to receive as a
11 Participating Class Member). Defendant will not oppose Plaintiff's request for a
12 Class Representative Service Payment that does not exceed this amount. As part of
13 the motion for Class Counsel Fees Payment and Class Litigation Expenses
14 Payment, Plaintiff will seek Court approval for any Class Representative Service
15 Payments no later than 16 court days prior to the Final Approval Hearing. If the
16 Court approves a Class Representative Service Payment less than the amount
17 requested, the Administrator will retain the remainder in the Net Settlement
18 Amount. The Administrator will pay the Class Representative Service Payment
19 using IRS Form 1099. Plaintiff assumes full responsibility and liability for
20 employee taxes owed on the Class Representative Service Payment.

21 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than one-third,
22 which is currently estimated to be \$139,166.67 and a Class Counsel Litigation
23 Expenses Payment of not more than \$24,000.00. Defendant will not oppose
24 requests for these payments provided that they do not exceed these amounts.
25 Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment
26 and Class Litigation Expenses Payment no later than 16 court days prior to the
27 Final Approval Hearing. If the Court approves a Class Counsel Fees Payment
28 and/or a Class Counsel Litigation Expenses Payment less than the amounts

requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$15,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration expenses are less or the Court approves payment less than \$15,000.00 the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on

1 their Individual Class Payment.

2 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
3 Class Payments. Non-Participating Class Members will not receive any
4 Individual Class Payments. The Workweeks of Non-Participating Class
5 Members are not included in the calculation of payments to Participating
6 Class Members and therefor have no effect on the calculation of Individual
7 Class Payments paid from the Net Settlement Amount.

8 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
9 \$40,000.00 to be paid from the Gross Settlement Amount, with 75% (\$30,000.00)
10 allocated to the LWDA PAGA Payment and 25% (\$10,000.00) allocated to the
11 Individual PAGA Payments.

12 3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a)
13 dividing the amount of the Aggrieved Employees' 25% share of PAGA
14 Penalties \$10,000.00 by the total number of PAGA Period Pay Periods
15 worked by all Aggrieved Employees during the PAGA Period and (b)
16 multiplying the result by each Aggrieved Employee's PAGA Period Pay
17 Periods. Aggrieved Employees assume full responsibility and liability for
18 any taxes owed on their Individual PAGA Payment.

19 3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested,
20 the Administrator will allocate the remainder to the Net Settlement
21 Amount. The Administrator will report the Individual PAGA Payments on
22 IRS 1099-MISC Forms.

23
24 **4. SETTLEMENT FUNDING AND PAYMENTS.**

25 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
26 to date, Defendant estimates there are 565 Class Members who collectively worked a total
27 of 27,365 Workweeks, and 1,826 of Aggrieved Employees who worked a total of 32,198
28

1 PAGA Pay Periods as of August 25, 2023.

2 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the
3 Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a
4 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator
5 must maintain the Class Data in confidence, use the Class Data only for purposes of this
6 Settlement and for no other purpose, and restrict access to the Class Data to Administrator
7 employees who need access to the Class Data to effect and perform under this Agreement.
8 Defendant has a continuing duty to immediately notify Class Counsel if it discovers that
9 the Class Data omitted class member identifying information and to provide corrected or
10 updated Class Data as soon as reasonably feasible. Without any extension of the deadline
11 by which Defendant must send the Class Data to the Administrator, the Parties and their
12 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise
13 resolve any issues related to missing or omitted Class Data.

14 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement
15 Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll
16 taxes by transmitting the funds to the Administrator no later than 60 calendar days after the
17 Effective Date.

18 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the
19 Gross Settlement Amount, the Administrator will mail checks for all Individual Class
20 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the
21 Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel
22 Litigation Expenses Payment, and the Class Representative Service Payment.
23 Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
24 Payment and the Class Representative Service Payment shall not precede disbursement of
25 Individual Class Payments and Individual PAGA Payments.

26 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
27 Individual PAGA Payments and send them to the Class Members via First Class
28 U.S. Mail, postage prepaid. The face of each check shall prominently state the

1 date (not less than 180 days after the date of mailing) when the check will be
2 voided. The Administrator will cancel all checks not cashed by the void date. The
3 Administrator will send checks for Individual Settlement Payments to all
4 Participating Class Members (including those for whom Class Notice was returned
5 undelivered). The Administrator will send checks for Individual PAGA Payments
6 to all Aggrieved Employees including Non-Participating Class Members who
7 qualify as Aggrieved Employees (including those for whom Class Notice was
8 returned undelivered). The Administrator may send Participating Class Members a
9 single check combining the Individual Class Payment and the Individual PAGA
10 Payment. Before mailing any checks, the Settlement Administrator must update
11 the recipients' mailing addresses using the NCOA database.

12 4.4.2. The Administrator must conduct a Class Member Address Search for all other
13 Class Members whose checks are returned undelivered without a United States
14 Postal Service ("USPS") forwarding address. Within 7 days of receiving a
15 returned check the Administrator must re-mail checks to the USPS forwarding
16 address provided or to an address ascertained through the Class Member Address
17 Search. The Administrator need not take further steps to deliver checks to Class
18 Members whose re-mailed checks are returned as undelivered. The Administrator
19 shall promptly send a replacement check to any Class Member whose original
20 check was lost or misplaced, requested by the Class Member prior to the void date.

21 4.4.3. For any Class Member whose Individual Class Payment check or Individual
22 PAGA Payment check is uncashed and cancelled after the void date, the
23 Administrator shall transmit the funds represented by such checks to the California
24 Controller's Unclaimed Property Fund in the name of the Class Member thereby
25 leaving no "unpaid residue" subject to the requirements of California Code of Civil
26 Procedure § 384(b).

27 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
28 not obligate Defendant to confer any additional benefits or make any additional

1 payments to Class Members (such as 401(k) contributions or bonuses) beyond
2 those specified in this Agreement.

3
4 **5. RELEASES OF CLAIMS.**

5 Effective on the date when DEFENDANT fully funds the entire Gross Settlement Amount and funds all
6 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class
7 Members, Aggrieved Employees, and Class Counsel will release claims against all Released Parties as
8 follows:

9 5.1. Plaintiff's Release. Plaintiff, on behalf of herself and her former and present
10 representatives, agents, attorneys, heirs, administrators, successors, and assigns, releases
11 Released Parties from (i) all claims that were pled in the operative complaint, or which
12 were asserted in the litigation, or which could have been pled in any of the complaints in
13 the Action or PAGA notice submitted by Plaintiff with the Labor Workforce Development
14 Agency based on the factual allegations therein, that arose during the Class Period,
15 including:

- 16 a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and
17 1197];
18 b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
19 c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
20 d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
21 e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code §§ 2800,
22 2802];
23 f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-
24 203];
25 g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];
26 h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and
27 i. Except as set forth in Section 5.3 of this Agreement, Plaintiff does not release
28 any other claims under this Agreement, including claims for vested benefits,

wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were pled in the operative complaint, or which were asserted in the litigation, or which could have been pled in any of the complaints in the Action or PAGA notice submitted by Plaintiff with the Labor Workforce Development Agency based on the factual allegations therein, that arose during the Class Period, including:

- a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
- b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
- c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
- d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
- e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code §§ 2800, 2802];
- f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203];
- g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226];
- h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and
- i. Except as set forth in Section 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Class Members Who Are Aggrieved Employees: All Class Members, including Plaintiff, who are Aggrieved Employees are deemed to release, on behalf of themselves

and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA notice submitted by Plaintiff with the Labor Workforce Development Agency, and in the Operative Complaint, or which could have been pled in any of the complaints in the Action or PAGA notice based on the factual allegations therein, including:

- a. Failure to pay for all hours worked, including any claims for failure to pay minimum wages due to alleged rounding policies, “off-the-clock” hours, alleged failure to pay split shift premiums;
- b. Failure to pay overtime, including but not limited to alleged failure to incorporate all remuneration when calculating the correct overtime rate of pay;
- c. Failure to provide legally compliant meal periods;
- d. Failure to authorize and permit legally compliant rest periods;
- e. Failure to maintain accurate and complete records;
- f. Failure to reimburse and indemnify employees for business expenses;
- g. Failure to pay all vacation wages at termination;
- h. Failure to pay all wages owed at termination;
- i. Failure to provide accurate itemized wage statements;
- j. Failure to pay all earned wages two times per month;
- k. Violations of California Labor Code sections 232, 246, 6310, 6311, 6400, 6401, 6402, 6403, 6404.

6. MOTION FOR PRELIMINARY APPROVAL.

The Parties agree to jointly prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for preliminary approvals, to the extent the Court maintains such a checklist.

6.1. Defendant’s Declaration in Support of Preliminary Approval. Within 7 days of the full

1 execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed
2 declaration from Defendant and/or Defense Counsel disclosing all facts relevant to any
3 actual or potential conflicts of interest with the Administrator, *if any such actual or*
4 *potential conflicts exist*. Similarly, if any other pending matter or action asserting claims
5 will be extinguished or adversely affected by the Settlement, Defendant shall prepare and
6 deliver to Class Counsel a signed declaration from Defendant and/or Defense Counsel
7 identifying any other pending matter or action asserting claims that will be extinguished or
8 adversely affected by the Settlement. Alternatively, if such other actions are filed between
9 the execution of this Agreement and the filing of the Motion for Preliminary Approval and
10 become known to Defendant and/or Defense Counsel, Defense Counsel will advise Class
11 Counsel.

12 6.2. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel
13 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the
14 notice, and memorandum in support, of the Motion for Preliminary Approval that includes
15 an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA
16 Settlement under Labor Code § 2699(f)(2)); (ii) a draft proposed order granting
17 preliminary approval and approval of PAGA settlement; (iii) a draft proposed Class
18 Notice; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid
19 for administering the Settlement and attesting to its willingness to serve; competency;
20 operative procedures for protecting the security of Class Data; insurance coverage for any
21 data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or
22 potential conflicts of interest with Class Members and the nature and extent of any
23 financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed
24 declaration from Plaintiff confirming willingness and competency to serve and disclosing
25 all facts relevant to any actual or potential conflicts of interest with Class Members, and
26 the Administrator and, (vi) a signed declaration from each Class Counsel firm attesting to
27 its competency to represent the Class Members; its timely transmission to the LWDA of all
28 necessary PAGA documents (initial notice of violations [Labor Code § 2699.3(a)],

Operative Complaint [Labor Code § 2699(l)(1)], this Agreement [Labor Code § 2699(l)(2)]; and, all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator. Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement or disclose the existence of any such pending matters.

Alternatively, if such other actions are filed between the execution of this Agreement and the filing of the Motion for Preliminary Approval and become known to Class Counsel, Class Counsel will advise Defense Counsel.

6.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 45 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator. Class Counsel shall provide a draft of the Motion for Preliminary Approval to Defense Counsel with sufficient time so the Parties can agree on the finalized version of the motion.

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

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc., to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.,

1 agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in
2 this Agreement in exchange for payment of Administration Expenses. The Parties and
3 their Counsel represent that they have no interest or relationship, financial or otherwise,
4 with the Administrator other than a professional relationship arising out of prior
5 experiences administering settlements.

6 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
7 Identification Number for purposes of calculating payroll tax withholdings and providing
8 reports state and federal tax authorities.

9 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
10 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §
11 468B-1.

12 7.4. Notice to Class Members.

13 7.4.1. No later than three (3) business days after receipt of the Class Data, the
14 Administrator shall notify Class Counsel that the list has been received and state
15 the number of Class Members, Aggrieved Employees, Workweeks, and Pay
16 Periods in the Class Data.

17 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14 days
18 after receiving the Class Data, the Administrator will send to all Class Members
19 identified in the Class Data, via first-class USPS mail, the Class Notice with
20 Spanish translation, substantially in the form attached to this Agreement as **Exhibit**
21 **A**. The first page of the Class Notice shall prominently estimate the dollar amounts
22 of each Individual Class Payment and/or Individual PAGA Payment payable to the
23 Class Member and/or Aggrieved Employee, and the number of Workweeks and
24 PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing
25 Class Notices, the Administrator shall update Class Member addresses using the
26 NCOA database.

27 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
28 returned by the USPS as undelivered, the Administrator shall re-mail the Class

1 Notice using any forwarding address provided by the USPS. If the USPS does not
2 provide a forwarding address, the Administrator shall conduct a Class Member
3 Address Search, and re-mail the Class Notice to the most current address obtained.
4 The Administrator has no obligation to make further attempts to locate or send
5 Class Notice to Class Members whose Class Notice is returned by the USPS a
6 second time.

7 7.4.4. The deadlines for Class Members' written objections, challenges to Workweeks
8 and/or pay periods, and Requests for Exclusion will be extended an additional 14
9 days beyond the 60 days otherwise provided in the Class Notice for all Class
10 Members whose notices are re-mailed. The Administrator will inform the Class
11 Member of the extended deadline with the re-mailed Class Notice.

12 7.4.5. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
13 discovers any persons who believe they should have been included in the Class
14 Data and should have received Class Notice, the Parties will expeditiously meet
15 and confer in person or by telephone, and in good faith, in an effort to agree on
16 whether to include them as Class Members. If the Parties agree, such persons will
17 be Class Members entitled to the same rights as other Class Members, and the
18 Administrator will send, via email or overnight delivery, a Class Notice requiring
19 them to exercise options under this Agreement not later than 14 days after receipt
20 of Class Notice, or the deadline dates in the Class Notice, which ever are later.

21 7.5. Requests for Exclusion (Opt-Outs).

22 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class portion of
23 the Settlement must send the Administrator, by fax, email, or mail, a signed written
24 Request for Exclusion not later than 60 days after the Administrator mails the Class
25 Notice (plus an additional 14 days for Class Members whose Class Notice is re-
26 mailed). A Request for Exclusion is a letter from a Class Member or his/her
27 representative that reasonably communicates the Class Member's election to be
28 excluded from the Class portion of the Settlement and includes the Class Member's

1 name, address and email address or telephone number. To be valid, a Request for
2 Exclusion must be timely faxed, emailed, or postmarked by the Response
3 Deadline.

4 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
5 fails to contain all the information specified in the Class Notice. The Administrator
6 shall accept any Request for Exclusion as valid if the Administrator can reasonably
7 ascertain the identity of the person as a Class Member and the Class Member's
8 desire to be excluded. The Administrator's determination shall be final and not
9 appealable or otherwise susceptible to challenge. If the Administrator has reason to
10 question the authenticity of a Request for Exclusion, the Administrator may
11 demand additional proof of the Class Member's identity. The Administrator's
12 determination of authenticity shall be final as to the Parties, but a Class Member
13 whose Request for Exclusion is rejected by the Administrator may present a
14 challenge to that determination to the Court.

15 7.5.3. Every Class Member who does not submit a timely and valid Request for
16 Exclusion is deemed to be a Participating Class Member under this Agreement,
17 entitled to all benefits and bound by all terms and conditions of the Settlement,
18 including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3
19 of this Agreement, regardless whether the Participating Class Member actually
20 receives the Class Notice or objects to the Settlement.

21 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
22 Non-Participating Class Member and shall not receive an Individual Class
23 Payment or have the right to object to the class action components of the
24 Settlement. Because future PAGA claims are subject to claim preclusion upon
25 entry of the Judgment, Non-Participating Class Members who are Aggrieved
26 Employees are deemed to release the claims identified in Paragraph 5.3 of this
27 Agreement and are eligible for an Individual PAGA Payment.

28 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 60 days after the

1 Administrator mails the Class Notice (plus an additional 14 days for Class Members whose
2 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay
3 Periods (if any) allocated to the Class Member in the Class Notice. The Class Member
4 may challenge the allocation by communicating with the Administrator via fax, email or
5 mail. The Administrator must encourage the challenging Class Member to submit
6 supporting documentation. In the absence of any contrary documentation, the
7 Administrator is entitled to presume that the Workweeks contained in the Class Notice are
8 correct so long as they are consistent with the Class Data. The Administrator's
9 determination of each Class Member's allocation of Workweeks and/or PAGA Pay
10 Periods shall be final as to the Parties (although Defendant shall retain the right to correct
11 erroneous Class Data if subsequently discovered), but a Class Member whose Workweek
12 and/or Pay Period challenge is rejected by the Administrator may present the same
13 evidence supporting the Workweek and/or Pay Period challenge to the Court for review.
14 The Administrator shall promptly provide copies of all challenges to calculation of
15 Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the
16 Administrator's determination the challenges.

17 **7.7. Objections to Settlement.**

18 7.7.1. Only Participating Class Members may object to the class action components of
19 the Settlement and/or this Agreement, including contesting the fairness of the
20 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
21 Counsel Litigation Expenses Payment and/or Class Representative Service
22 Payment.

23 7.7.2. Participating Class Members may send written objections to the Administrator, by
24 fax, email, or mail. In the alternative, Participating Class Members may appear in
25 Court (or hire an attorney to appear in Court) to present verbal objections at the
26 Final Approval Hearing. A Participating Class Member who elects to send a
27 written objection to the Administrator must do so not later than 60 days after the
28 Administrator's mailing of the Class Notice (plus an additional 14 days for Class

Members whose Class Notice was re-mailed).

7.7.3. Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use a webpage or webpages of its internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval Order, the Class Notice, the motion for final approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final approval Order and the Judgment. No separate domain for this Settlement will be established by the Administrator. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered,

1 Requests for Exclusion (whether valid or invalid) received, objections received,
2 and challenges to Workweeks and/or PAGA Pay Periods received and/or resolved
3 (“Weekly Report”). The Weekly Reports must include provide the Administrator’s
4 assessment of the validity of Requests for Exclusion and attach copies of all
5 Requests for Exclusion and objections received. In addition to the Weekly Reports,
6 the Administrator shall report to the Parties when it has completed the initial
7 distribution of the Individual Class Payments and Individual PAGA Payments to
8 all individuals with valid addresses.

9 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
10 address and make decisions consistent with the terms of this Agreement on all
11 Class Member challenges over the calculation of Workweeks and/or PAGA Pay
12 Periods. The Administrator’s determination of each Class Member’s allocation of
13 Workweeks and/or PAGA Pay Periods shall be final as to the Parties (although
14 Defendant shall retain the right to correct erroneous Class Data if subsequently
15 discovered), but a Class Member whose Workweek and/or Pay Period challenge is
16 rejected by the Administrator may present the same evidence supporting the
17 Workweek and/or Pay Period challenge to the Court for review.

18 7.8.5. Administrator’s Declaration. Not later than 10 days before the date by which
19 Plaintiff is required to file the Motion for Final Approval of the Settlement, the
20 Administrator will provide to Class Counsel and Defense Counsel, a signed
21 declaration suitable for filing in Court attesting to its due diligence and compliance
22 with all of its obligations under this Agreement, including, but not limited to, its
23 mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing
24 of Class Notices, attempts to locate Class Members, the total number of Requests
25 for Exclusion from Settlement it received (both valid or invalid), the number of
26 written objections and attach the Exclusion List. The Administrator will
27 supplement its declaration as needed or requested by the Parties and/or the Court.
28 Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.

7.8.6. Final Report by Settlement Administrator. Within 7 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, (1) there are 565 Class Members and 27,365 Total Workweeks during the Class period as of August 25, 2023 and (2) there were 1,826 Aggrieved Employees who worked 32,198 Pay Periods during the PAGA Period as of August 25, 2023.

9. DEFENDANT'S RIGHT TO WITHDRAW.

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members, Defendant may, but is not obligated to, withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement administration expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a

1 motion for final approval of the Settlement that includes a request for approval of the PAGA settlement
2 under Labor Code § 2699(I), a Proposed final approval order and a proposed Judgment (collectively
3 “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not
4 later than five days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will
5 expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements
6 concerning the Motion for Final Approval.

7 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by
8 a Participating Class Member, including the right to file responsive documents in Court no
9 later than five court days prior to the Final Approval Hearing, or as otherwise ordered or
10 accepted by the Court.

11 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
12 Approval on any material change to the Settlement (including, but not limited to, the scope
13 of release to be granted by Class Members), the Parties will expeditiously work together in
14 good faith to address the Court’s concerns by revising the Agreement as necessary to
15 obtain Final Approval. The Court’s decision to award less than the amounts requested for
16 the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
17 Litigation Expenses Payment and/or Administration Expenses Payment shall not constitute
18 a material modification to the Agreement within the meaning of this paragraph.

19 10.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
20 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
21 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
22 administration matters, and (iii) addressing such post-Judgment matters as are permitted by
23 law.

24 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
25 conditions of this Agreement, specifically including the Class Counsel Fees Payment and
26 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the
27 Parties, their respective counsel, and all Participating Class Members who did not object to
28 the Settlement as provided in this Agreement, waive all rights to appeal from the

Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final.

10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

11. AMENDED JUDGMENT.

If any amended judgment is required under Code of Civil Procedure § 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12. ADDITIONAL PROVISIONS.

12.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed

1 as an admission by Plaintiff that Defendant's defenses in the Action have merit. The
2 Parties agree that class certification and representative treatment is for purposes of this
3 Settlement only. If, for any reason the Court does grant Preliminary Approval, Final
4 Approval or enter Judgment, Defendant reserves the right to contest certification of any
5 class for any reasons, and Defendant reserves all available defenses to the claims in the
6 Action, and Plaintiff reserves the right to move for class certification on any grounds
7 available and to contest Defendant's defenses. The Settlement, this Agreement and Parties'
8 willingness to settle the Action will have no bearing on, and will not be admissible in
9 connection with, any litigation (except for proceedings to enforce or effectuate the
10 Settlement and this Agreement).

11 12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and
12 Defense Counsel separately agree that, until the Motion for Preliminary Approval of
13 Settlement is filed, they and each of them will not disclose, disseminate and/or publicize,
14 or cause or permit another person to disclose, disseminate or publicize, any of the terms of
15 the Agreement directly or indirectly, specifically or generally, to any person, corporation,
16 association, government agency, or other entity except: (1) to the Parties' attorneys,
17 accountants, or spouses, all of whom will be instructed to keep this Agreement
18 confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to
19 appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in
20 response to an inquiry or subpoena issued by a state or federal government agency. Each
21 Party agrees to immediately notify each other Party of any judicial or agency order,
22 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and
23 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or
24 other communication, before the filing of the Motion for Preliminary Approval, with any
25 third party regarding this Agreement or the matters giving rise to this Agreement except to
26 respond only that "the matter was resolved," or words to that effect. This paragraph does
27 not restrict Class Counsel's communications with Class Members in accordance with Class
28 Counsel's ethical obligations owed to Class Members.

- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 12.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 12.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 12.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 12.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230

(31 CFR Part 10, as amended) or otherwise.

12.9. Modification of Agreement. Except as otherwise provided herein at Paragraph 1.11, this Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

12.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

12.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

12.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.

12.15. Headings. The descriptive heading of any section or paragraph of this Agreement is

1 inserted for convenience of reference only and does not constitute a part of this
2 Agreement.

3 12.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be
4 to calendar days. In the event any date or deadline set forth in this Agreement falls on a
5 weekend or federal legal holiday, such date or deadline shall be on the first business day
6 thereafter.

7 12.17. Notice. All notices, demands or other communications between the Parties in connection
8 with this Agreement will be in writing and deemed to have been duly given as of the third
9 business day after mailing by United States mail, or the day sent by email or messenger,
10 addressed as follows:

11 To Plaintiff:

12 Kane Moon (SBN 249834)
13 kmoon@moonlawgroup.com
14 H. Scott Leviant (SBN 200834)
15 hsleviant@moonlawgroup.com
16 Mariam Ghazaryan (SBN 341119)
17 mghazaryan@moonlawgroup.com
18 **MOON LAW GROUP, PC**
19 1055 W. Seventh St., Suite 1880
20 Los Angeles, California 90017
21 Telephone: (213) 232-3128
22 Facsimile: (213) 232-3125

23 To Defendant:

24 Daniel B. Chammas (SBN 204825)
25 dchammas@fordharrison.com
26 Min K. Kim (SBN 305884)
27 mkim@fordharrison.com
28 **FORD & HARRISON LLP**
350 South Grand Avenue, Suite 2300
Los Angeles, CA 90071
Telephone: (213) 237-2400

24 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts
25 by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement
26 shall be accepted as an original. All executed counterparts and each of them will be
27 deemed to be one and the same instrument if counsel for the Parties will exchange between
28 themselves signed counterparts. Any executed counterpart will be admissible in evidence

to prove the existence and contents of this Agreement.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff & Class Representative:

Dated: March 18, 2024

By: _____

Plaintiff, Nikol Lockett

DocuSigned by:



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Plaintiff's Counsel:

Dated: March 19, 2024

MOON LAW GROUP, PC

By: _____

Kane Moon
H. Scott Leviant
Mariam Ghazaryan

Attorneys for Plaintiff

Defendant:

Dated: March ___, 2024

OTO DEVELOPMENT, LLC

By: _____

Print Name

Signature

Title

to prove the existence and contents of this Agreement.

12.19. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff & Class Representative:

Dated: March __, 2024

By: _____
Plaintiff, Nikol Lockett

Plaintiff's Counsel:

Dated: March __, 2024

MOON LAW GROUP, PC

By: _____
Kane Moon
H. Scott Leviant
Mariam Ghazaryan
Attorneys for Plaintiff

Defendant:

Dated: March 19, 2024

OTO DEVELOPMENT, LLC

Jason C. Lynch

By: _____

Print Name

DocuSigned by:

Jason Lynch

309F0A284DFD497...

Signature

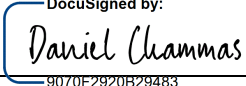
General Counsel

Title

Defendant's Counsel:

Dated: March ¹⁹__, 2024

FORD HARRISON LLP

By: 
Daniel B. Chammas
Min K. Kim

Attorneys for Defendant, OTO Development,
LLC

Exhibit “A”

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

Lockett et. al., v. OTO Development, LLC, Case No. 22STCV17405

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

You may be eligible to receive money from an employee class action lawsuit (“Action”) against defendant OTO Development, LLC (“OTO” or “Defendant”) for alleged wage and hour violations. The Action was filed by former OTO employee Nikol Lockett and seeks payment of (1) back wages and other relief for a class of hourly employees (“Class Members” or “Class Member”) who worked for OTO during the “Class Period” (May 26, 2018 through November 13, 2023); and, (2) penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for OTO during the “PAGA Period” (April 7, 2021 to November 13, 2023) (“Aggrieved Employees” or “Aggrieved Employee”).

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

Based on Defendant’s records, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records, you are not eligible for such a payment under the Settlement because you didn’t work during the covered period commencing April 7, 2021.)

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

The court has preliminarily approved the proposed Settlement and approved this Notice. The court has not yet decided whether to grant final approval. Your legal rights are affected, depending on whether you take action or do nothing in response to this Notice. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the final approval hearing, the court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The court will also decide whether to enter a judgment that requires OTO to make payments under the Settlement and requires Class Members and the LWDA to give up their rights to assert certain claims against OTO. The final approval hearing is scheduled to be held on _____ at _____ in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012.

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

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment as a Class Member and/or an Individual PAGA Payment as an Aggrieved Employee. As a Class Member, though, you will give up your right to assert Class Period wage claims against OTO. You will have the right to object to any part of the proposed Settlement if you do not exclude yourself from the Class Settlement.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting a Request for Exclusion to the Administrator, or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against OTO, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment in the Action. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a participant in the Settlement, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against OTO that are covered by this Settlement ("Released Claims").
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a "Non-Participating Class Member" and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. OTO must pay individual PAGA Settlement payments to all Aggrieved Employees, and the LWDA and Plaintiff give up their rights to pursue Released PAGA Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The court's Final Approval Hearing is scheduled to take place on . You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the court's remote appearance options. Participating Class Members can verbally object to the Settlement at the final approval hearing. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by	The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period, and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period workweeks and number of PAGA Period pay periods you worked according to OTO's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by . See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former OTO employee. The Action accuses OTO of violating California labor laws by failing to pay overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Moon Law Group, APC ("Class Counsel.")

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

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

So far, the court has made no determination whether OTO or Plaintiff are correct on the merits. In the meantime, Plaintiff and OTO (the "Parties") hired an experienced, neutral mediator, Steve Serratore, Esq., in an effort to resolve the Action by negotiating and to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a written settlement agreement ("Agreement") and agreeing to jointly ask the court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and OTO have

negotiated a proposed Settlement that is subject to the court's final approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, OTO does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) OTO has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine final approval.

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

1. OTO will pay \$417,500.00 as the Gross Settlement Amount ("Gross Settlement"). OTO has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsels' attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the court grants final approval, OTO will fund the Gross Settlement 60 days after the judgement entered by the court becomes final. The judgment will be final on the date the Court enters judgment, or a later date if Participating Class Members object to the proposed Settlement or the judgment is appealed.

2. Court approved deductions from Gross Settlement. At the final approval hearing, Plaintiff and/or Class Counsel will ask the court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the court at the final approval hearing:

A. Up to \$139,166.67 (33 and 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$24,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$7,500.00 for the class representative service award for filing the Action, working with Class Counsel and representing the Class. A class representative award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment, and any Individual PAGA Payment.

C. Up to an estimated \$15,000.00 to the Administrator for services administering the Settlement.

D. \$40,000.00 for PAGA penalties, allocated 75% to the LWDA (\$30,000.00) and 25% in Individual PAGA Payments (\$10,000.00) to the Aggrieved Employees based on their PAGA Period pay periods.

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

3. Net Settlement distributed to Class Members. After making the above deductions in amounts approved by the court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period workweeks.

4. Taxes owed on payments to Class Members. Plaintiff and OTO are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. OTO will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

5. Need to promptly cash payment checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be cancelled, and the monies will be redirected to California Controller's Unclaimed Property Fund in your name.

6. Requests for exclusion from the Class Settlement ("Opt-Outs"). You will be treated as a Settlement Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], that you wish to Opt-Out. The easiest way to notify the Administrator is to send in a Request for Exclusion by the [REDACTED] response deadline. The Request for Exclusion should be signed. Excluded Class Members (i.e., Non-

Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against OTO.

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

7. The proposed settlement will be void if the court denies final approval. It is possible the court will decline to grant final approval of the Settlement or decline to enter a judgment. It is also possible the court will enter a judgment that is reversed on appeal. Plaintiff and OTO have agreed that, in either case, the Settlement will be void: OTO will not pay any money and Class Members will not release any claims against OTO.

8. Administrator. The court has appointed a neutral company, ILYM Group, Inc. (the “Administrator”), to send this Notice, calculate and make payments, and process Class Members’ requests for exclusion. The Administrator will also decide Class Member challenges over workweeks and/or pay periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.

9. Participating Class Members’ release. After the judgment is final and OTO has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of another lawsuit against OTO or related entities for wages and related claims based on the Class Period facts as alleged in the Action and resolved by this Settlement. Class Members cannot opt out of the PAGA release.

The “Released Parties” are OTO and each of its former and present directors, officers, shareholders, owners, former and present managing employees, members, attorneys, agents, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (i) all claims that were pled in the operative complaint, or which were asserted in the litigation, or which could have been pled in any of the complaints in the Action or PAGA notice submitted by Plaintiff with the Labor Workforce Development Agency based on the factual allegations therein, that arose during the Class Period, including:

- a. Failure to Pay Minimum Wages [Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197];
- b. Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198];
- c. Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512];
- d. Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7];
- e. Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code §§ 2800, 2802];
- f. Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201- 203];
- g. Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and
- h. Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.].

10. The PAGA release. After the court’s judgment is final, and OTO has paid the Gross Settlement (and separately paid the employer-side payroll taxes), Plaintiff and the LWDA will release the PAGA claim for violations identified in Plaintiff’s PAGA Notice to the LWDA.

The PAGA Release is as follows:

All Class Members, including Plaintiff, who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the PAGA notice submitted by Plaintiff with the Labor Workforce Development Agency, and in the Operative Complaint, or which could have been pled in any of the complaints in the Action or PAGA notice based on the factual allegations therein, including:

- a. Failure to pay for all hours worked, including any claims for failure to pay minimum wages due to alleged rounding policies, “off-the-clock” hours, alleged failure to pay split shift premiums;
- b. Failure to pay overtime, including but not limited to alleged failure to incorporate all remuneration when calculating the correct overtime rate of pay;

- c. Failure to provide legally compliant meal periods;
- d. Failure to authorize and permit legally compliant rest periods;
- e. Failure to maintain accurate and complete records;
- f. Failure to reimburse and indemnify employees for business expenses;
- g. Failure to pay all vacation wages at termination;
- h. Failure to pay all wages owed at termination;
- i. Failure to provide accurate itemized wage statements;
- j. Failure to pay all earned wages two times per month; and
- k. Violations of California Labor Code sections 232, 246, 6310, 6311, 6400, 6401, 6402, 6403, 6404.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$10,000.00 by the total number of PAGA Period pay periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period pay periods worked by each individual Aggrieved Employee.
3. Workweek/pay period challenges. The number of Class Period workweeks you worked during the Class Period and the number of PAGA pay periods you worked during the PAGA Period, as recorded in OTO's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of workweeks and/or pay periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept OTO's calculation of workweeks and/or pay periods based on OTO's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve workweek and/or pay period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Class Members) and OTO's Counsel.

5. HOW WILL I GET PAID?

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

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

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

Send in a Request for Exclusion to the Administrator. A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Class portion of the Settlement and includes the Class Member's name, address and email address or telephone number. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to identify the Action in a way that is clear (include the case name and case number). The Administrator must receive your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Notice has the Administrator's contact information.

If you wish to opt-out of the Class Settlement, DO NOT send in a written objection.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and OTO are asking the court to approve. At least 16 court days before the [REDACTED] final approval hearing, Class Counsel and/or Plaintiff will file in court a motion for final approval that includes, among other things, the reasons why the proposed Settlement is fair, and a request for awards of fees, litigation expenses and a service award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount

Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you.

A Participating Class Member who disagrees with any aspect of the Settlement, the motion for final approval and for awards of fees, litigation expenses and service award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator in your written objection what you object to, why you object, and any facts that support your objection. If you submit a written objection, make sure you identify the Action (by including the case name and case number) and print your name, address and email address or telephone number and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

If you wish to object in writing or in person, DO NOT send in a Request for Exclusion.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the final approval hearing on [REDACTED] at [REDACTED] in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the hearing, the court will decide whether to grant final approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The court will invite comment from objectors, Class Counsel and defense counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or telephonically.

It's possible the court will reschedule the final approval hearing. You should contact Class Counsel to verify the date and time of the final approval hearing if you are planning to attend the hearing or have your own lawyer attend.

9. HOW CAN I GET MORE INFORMATION?

The Agreement signed by the Parties and attached to the document entitled "DECLARATION OF H. SCOTT LEVIANT IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT," filed on <<[REDACTED]>>, in support of the motion for preliminary approval sets forth everything GCC and Plaintiff have promised to do under the proposed Settlement. The easiest way to obtain and read the Agreement or any other Settlement document is to go to the Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to <https://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>, selecting the case number search and entering the case number for the Action, 22STCV17405, as instructed on the web form.

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

Class Counsel:

Kane Moon
kmoon@moonlawgroup.com
H. Scott Leviant
hsleviant@moonlawgroup.com
Mariam Ghazaryan
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MOON LAW GROUP, PC
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Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Defendant's Counsel

Daneil B. Chammas
dchammas@fordharrison.com
Min K. Kim
mkim@fordharrison.com
FORD & HARRISON LLP
350 South Grad Avenue, Suite 2300
Los Angeles, CA 90071
Telephone: (213) 237-2400
Facsimile: (213) 237-2401

Settlement Administrator:

Name of Company: IYLM Group, Inc.
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit “2”

Date	Description	Charges
5/24/2022	LWDA PAGA Violation Notice Letter	\$ 75.00
5/27/2022	Complaint fee	\$ 1,481.72
5/27/2022	Administrative Case Database Initiation Fee	\$ 750.00
6/15/2022	Ace - Attorney Service	\$ 106.25
7/1/2022	Ace - Attorney Service	\$ 50.90
6/30/2022	Journal	\$ 7.26
7/17/2023	US Legal Support - Attorney Service	\$ 352.65
7/17/2023	First Legal - Attorney Service	\$ 2,641.70
7/17/2023	First Legal - Attorney Service	\$ 1,080.00
8/4/2023	Mediation Fee - Plaintiff's Share	\$ 12,500.00
10/18/2023	Berger Consulting Group	\$ 5,280.00
2/2/2024	LASC Service Charge	\$ 7.26
3/21/2024	Ace - Attorney Service	\$ 103.25
3/14/2024	LASC Service Charge	\$ 27.81
3/21/2024	LASC Service Charge	\$ 7.26
6/6/2024	LASC Service Charge	\$ 68.91
6/6/2024	LASC Service Charge	\$ 7.26
6/14/2024	LASC Service Charge	\$ 7.26
6/7/2024	Ace - Attorney Service	\$ 130.25
10/24/2024	One Legal - Attorney Service	\$ 21.37
10/25/2024	One Legal - Attorney Service	\$ 21.37
12/3/2024	LASC Service Charge	\$ 5.40
Total:		<u>\$ 24,732.88</u>

Exhibit “3”

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 725 S. Figueroa St., 31st Floor, Los Angeles, CA 90017.

On the date indicated below, I served the document described as: **DECLARATION OF H. SCOTT LEVIANT IN SUPPORT OF PLAINTIFF'S MOTION FOR FINAL APPROVAL OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by sending ☐ the original [or] ☒ a true copy thereof ☒ to interested parties as follows [or] ☐ as stated on the attached service list:

Daniel Benjamin Chammas, Esq.
Min Kyung Kim, Esq.
FORD & HARRISON LLP
350 South Grand Avenue, Suite 2300
Los Angeles, CA 90071
Telephone: (213) 237-2400
Facsimile: (213) 237-2401
E-mail: dchammas@fordharrison.com
E-mail: mkim@fordharrison.com

Counsel for Defendant

☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service CASEANYWHERE. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed this **March 17, 2025**, at Los Angeles, California.

H. Scott Leviant
Type or Print Name


Signature