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

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiffs,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: **22-CIV-03291**

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

Hearing Date: March 21, 2024
Hearing Time: 9:00 a.m.

Judge: Hon. Susan L. Greenberg
Dept.: 3

Action Filed: September 27, 2022
Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel for Plaintiffs ChaMarie Spears and Kathleen Leonard (“Plaintiffs”) in this matter. As such,
4 I am fully familiar with the facts, pleadings and history of this matter. The following facts are
5 within my own personal knowledge, and if called as a witness, I could testify competently to the
6 matters stated herein.

7 2. This declaration is being submitted in support of Plaintiffs’ unopposed motion for
8 preliminary approval of the proposed class action settlement with Defendant Vitalant
9 (“Defendant”), which motion seeks entry of an order: (1) preliminarily approving the proposed
10 settlement of this class action with Defendant; (2) for settlement purposes only, conditionally
11 certifying the Class, which consists of both the California Class and the FCRA Class, with the
12 California Class defined as all individuals who were employed by Defendant in California and
13 classified as non-exempt at any time during the California Class Period, and the FCRA Class
14 defined as all individuals who applied to work for Defendant who were classified as either exempt
15 or non-exempt in the United States during the FCRA Class Period for whom background checks
16 were run using the same federal FCRA form as that contained on page 2 of the forms provided to
17 Plaintiff Spears; (3) provisionally appointing Plaintiffs as the representatives of the Class; (4)
18 provisionally appointing Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas
19 J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De
20 Blouw LLP as Class Counsel; (5) approving the form and method for providing class-wide notice;
21 (6) directing that notice of the proposed settlement be given to the class; (7) appointing ILYM
22 Group as Administrator, and (8) scheduling a final approval hearing date, proposed for July 25,
23 2024 which is at least 120 days from preliminary approval, to consider Plaintiffs’ motion for final
24 approval of the settlement and for approval of attorneys’ fees and expenses. Attached hereto as
25 Exhibit #1 is a copy of the fully executed Class Action and PAGA Settlement Agreement
26 (“Agreement”) along with exhibits thereto. The form of the Agreement is based upon the Los
27 Angeles County Superior Court model form for a class and PAGA settlement. This Declaration
28 incorporates by reference the definitions in the Agreement, and all terms defined therein shall have

1 the same meaning as set forth in the Agreement.

2
3 Fairness of Settlement

4 3. As consideration for this Settlement, the non-reversionary Total Settlement Amount
5 of Two Million Dollars (\$2,000,000) (the “Total Settlement Amount”) is to be paid by Defendant,
6 as set forth in the Agreement. The Total Settlement Amount will settle all issues pending in the
7 Action between the Parties and will be made in full and final settlement of the Released Class
8 Claims in exchange for the payments to Participating Class Members from the Net Settlement
9 Amount, and includes (a) the costs of administration of the settlement, (b) all attorneys' fees and
10 costs, (c) Class Representative Service Payments, and (d) the PAGA Payment allocated 75% to the
11 LWDA and 25% to the PAGA Members. (Agreement at ¶ 1.25.)

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

17 5. On April 28, 2023, the Parties participated in an all-day mediation session presided
18 over David A. Rotman, Esq., a respected jurist and experienced mediator of wage and hour class
19 actions. In preparation for the mediation, Defendant provided Class Counsel with payroll and
20 employment data and other information regarding the Class Members, various internal documents,
21 and other compensation and employment-related materials. Class Counsel analyzed the data with
22 the assistance of damages expert Berger Consulting and prepared and submitted a mediation brief to
23 the mediator. The final settlement terms were negotiated and set forth in the Agreement now
24 presented for this Court’s approval. Importantly, Plaintiffs and Class Counsel believe that this
25 Settlement is fair, reasonable and adequate.

26 6. Based upon 1,212 California Class Members who collectively worked 125,657
27 Workweeks, the Total Settlement Amount provides an average value of \$1,598 per California Class
28 Member and \$15 per Workweek and after deductions the Net Settlement Amount provides an

1 average recovery of \$937.22 per California Class Member and a recovery of \$9.03 per Workweek.
2 The calculations to compensate for the amount due for the Class at the time of the mediation were
3 calculated by Berger Consulting, Plaintiffs' damage expert. As to the Class whose claims are at
4 issue in this Action, Plaintiffs used the expert to analyze the data and determine the potential unpaid
5 wages for the employees. The maximum potential damages were calculated to be \$78,442 for the
6 alleged unpaid wages due to rounding practices which ended in October 2020, \$3,130,235 for the
7 alleged unpaid wages due to alleged off-the-clock work at 10 minutes per shift, \$828,971 for
8 alleged meal period damages based upon a 16.7% potential violation rate for shifts worked and after
9 deducting the meal premiums (\$1,339,827) actually paid by Defendant, \$2,354,409 for alleged rest
10 period damages based upon the same potential 16.7% violation rate observed for meal periods,
11 \$795,930 for alleged unreimbursed business expenses for personal cell phone usage at \$30 per
12 month. Decl. Nordrehaug, ¶6. As a result, the total damage valuation was calculated that
13 Defendant was subject to a maximum damage claim in the amount of \$7,187,986. As to potential
14 penalties, Plaintiffs calculated that potential waiting time penalties were a maximum of between
15 \$1,277,620 and \$4,435,375, depending on the predicate violation giving rise to the penalty, and
16 potential maximum wage statement penalties were \$2,072,950.¹ Defendant vigorously disputed
17 Plaintiffs' calculations and exposure theories. Consequently, the Total Settlement Amount of
18 \$2,000,000, after deducting the \$62,422.50 allocated to FCRA payments, represents more than 26%
19 of the maximum value of the alleged damages at issue in this case at the time this Settlement was
20 negotiated.² The above maximum calculations should then be adjusted in consideration for both the
21

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

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

1 risk of class certification and the risk of establishing class-wide liability on all claims. As to the
2 FCRA Class, FCRA provides for statutory damages of \$100 to \$1,000 per willful violation. 15
3 U.S.C. § 1681n. This means the maximum value of the FCRA claim for the 3,567 individuals in the
4 FCRA Class is between \$356,700 and \$3,567,000. In this Settlement, the allocation is \$17.50 for
5 each Participating FCRA Class Member. A comparison of approved FCRA settlements involving
6 similar facts further confirms the reasonableness of this Settlement. In *Greco v. Selection Mgmt.*
7 *Sys.*, San Diego County Superior Court, a FCRA settlement of \$11.97 per class member was
8 approved; in *Fernandez v. Home Depot USA, Inc.*, United States District Court C.D. Cal., a FCRA
9 settlement of \$12.71 per class member was approved; and in *Aceves v. Autozone, Inc.*, United States
10 District Court C.D. Cal., a FCRA settlement of \$20 per class member was approved.³ Here, the
11 Settlement allocation of \$17.50 per FCRA Class Member is certainly fair and reasonable given the
12 prior approved FCRA settlements. Given the amount of the settlement as compared to the potential
13 value of claims in this case and the defenses asserted by Defendant, this settlement is fair and
14 reasonable.

15
16 Procedural History of the Litigation

17 7. On June 29, 2022, Plaintiff Spears filed with the LWDA and served on Defendant a
18 notice under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover
19 civil penalties on behalf of PAGA Members for various Labor Code violations. The PAGA Notice
20 by Plaintiff Spears is attached hereto as Exhibit #3 for the Court's reference.

21 8. On August 11, 2022, Plaintiff Spears filed a class action Complaint against
22
23

24
25 ³ See also *Moore v. Aerotek, Inc.*, 2017 WL 2838148, at *4 (S.D. Ohio 2017) (per-capita gross
26 recovery of \$25 in FCRA case); *Aceves v. Autozone Inc.*, No. 5:14-cv-2032, ECF No. 58 (C.D. Cal.
27 2016) (approval of FCRA settlement with gross recovery of \$20 per class member); *Patrick v.*
28 *Interstate Mgmt. Co., LLC*, No. 8:15-cv-1252, ECF No. 42 (M.D.Fla. 2016) (approval of FCRA
claim where class members received \$9 each); *Landrum v. Acadian Ambulance Serv., Inc.*, No.
14-cv-1467, ECF No. 37 (S.D. Tex. 2015) (approval of FCRA disclosure settlement of \$10 per
person).

1 Defendant in the Superior Court of the State of California, County of San Mateo. This class action
2 Complaint asserted claims against Defendant for: (1) unfair competition in violation of Cal. Bus &
3 Prof. Code §§ 17200, et seq.; (2) failure to to pay minimum wages in violation of California Labor
4 Code §§ 1194, 1197, and 1197.1; (3) failure to pay overtime wages in violation of California Labor
5 Code §§ 510, 1194 & 1198; (4) failure to provide required meal periods in violation of Cal. Labor
6 Code §§ 226.7 and 512; (5) failure to provide required rest periods in violation of Cal. Labor Code
7 §§ 226.7 and 512; (6) failure to reimburse employees for required expenses in violation of
8 California Labor Code § 2802; (7) failure to provide accurate itemized wage statements in violation
9 of California Labor Code § 226; (8) failure to pay sick wages in violation of California Labor Code
10 §§ 201-204, 233, 246; (9) violation of the Fair Credit Reporting Act for failure to make proper
11 disclosures [15 U.S.C. § 1681, et seq.]; and, (10) violations of the Fair Credit Reporting Act for
12 failure to obtain proper authorization [15 U.S.C. § 1681, et seq.]. On October 31, 2022, Defendant
13 removed the Class Action to the United States District Court for the Northern District of California,
14 Case No. 3:22-cv-06711-VC. On September 14, 2022, Plaintiff Spears filed a separate
15 Representative Action Complaint against Defendant in the Superior Court of the State of California,
16 County of San Mateo (the "PAGA Action"), alleging one cause of action for Civil Penalties
17 Pursuant to Labor Code § 2699, et seq. for various alleged wage and hour violations of Labor Code
18 including, but not limited to, the following: Labor Code §§ 201, 202, 203, 204 et seq., 210, 218,
19 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code
20 of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage Orders.

21 9. As part of this Settlement, the Parties agree to stipulate to remand of the Class
22 Action to State Court and then stipulate to the filing of a First Amended Class Action and
23 Representative Action Complaint that adds the claims and parties from the PAGA Action into the
24 first-filed Class Action in state court. On June 13, 2023, Plaintiff filed a First Amended Class and
25 Representative Action Complaint in the Action, which also added Plaintiff Leonard as a named
26 plaintiff. The First Amended Class Action and Representative Action Complaint is the operative
27 complaint in the Action (the "Operative Complaint").

28 10. Over the course of litigation, the Parties engaged in the investigation of the claims,

1 including informal discovery, and the production of documents, class data, and other information,
2 allowing for the full and complete analysis of liabilities and defenses to the claims in the Action.
3 The information for mediation obtained by Plaintiff included: (1) data concerning the class; (2)
4 payroll data and time punch data for the class covering 924 employees, 263,407 and 59,495
5 workweeks; (3) Defendant's wage and hour policies; (4) the employment files for the Plaintiffs;
6 and, (5) samples of wage statements provided by Defendant. As such, Class Counsel received the
7 data and information for the Class, which was sufficient for Plaintiffs' expert to prepare the
8 valuations of the claims for the Class.

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

15 12. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
16 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
17 documents and information in connection with the Action. On April 28, 2023, the Parties
18 participated in an all-day mediation presided over by david A. Rotman, Esq., a respected and
19 experienced mediator of wage and hour class actions. Following the mediation, each side,
20 represented by its respective counsel, were able to agree to settle the Action based upon a
21 mediator's proposal which was memorialized in a memorandum of understanding. The Parties then
22 negotiated the final terms of the settlement as set forth in the Agreement. At all times, the
23 negotiations were arm's length and contentious.

24 13. Although a settlement has been reached, Defendant denies any liability or
25 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for
26 any purpose other than settlement, the Action is appropriate for class and/or representative
27 treatment. Defendant contends, among other things, that it has complied at all times with the
28 California Labor Code, applicable Wage Order, and all other laws and regulations. Further,

1 Defendant contends that class certification is inappropriate for any reason other than for settlement.
2 Plaintiffs contends that Defendant violated California wage and hour laws. Plaintiffs further
3 contends that the Action is appropriate for class certification on the basis that the claims meet the
4 requisites for class certification. Without admitting that class certification is proper, Defendants
5 have stipulated that the above Class may be certified for settlement purposes only. (Agreement at ¶
6 2.12.) The Parties agree that certification for settlement purposes is not an admission that class
7 certification is proper. Further, the Agreement is not admissible in this or any other proceeding as
8 evidence that the Class could be certified absent a settlement. Solely for purposes of settling the
9 Action, the Parties stipulate and agree that the requisites for establishing class certification with
10 respect to the Class are satisfied.

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

23 24 Settlement Terms and Plan of Allocation

25 15. The Total Settlement Amount is Two Million Dollars (\$2,000,000). (Agreement at ¶
26 1.25.) Under the Settlement, the Total Settlement Amount consists of the following elements: (1)
27 payment of the Individual Class Payments to the Participating Class Members; (2) payment of
28 Individual FCRA Class Payments to the Participating FCRA Class Members; (3) Class Counsel

1 Fees Payment and Class Counsel Litigation Expenses Payment; (4) Administration Expenses
2 Payment; (5) the Class Representative Service Payments to the Plaintiffs; and (6) the PAGA
3 Payment. (Agreement at ¶ 3.1.) The Total Settlement Amount does not include Defendant's share
4 of payroll taxes. (Agreement at ¶ 3.1.) The Total Settlement Amount shall be all-in with no
5 reversion to Defendant. (Agreement at ¶ 3.1.)

6 16. Within fifteen (15) days of the Effective Date, Defendant shall deposit the Total
7 Settlement Amount with the Administrator. (Agreement at ¶ 4.3.) The distribution of Individual
8 Class Payments to Participating Class Members along with the other Court-approved distributions
9 shall be made by the Administrator within fourteen (14) days after Defendant funds the Total
10 Settlement Amount. (Agreement at ¶ 5.1.)

11 17. The amount remaining in the Total Settlement Amount after the deduction of
12 Court-approved amounts for Individual PAGA Payments, the LWDA PAGA Payment, the Class
13 Representative Service Payments, the Class Counsel Fees Payment, the Class Counsel Litigation
14 Expenses Payment, and the Administration Expenses Payment (called the "Net Settlement
15 Amount") shall be allocated to Class Members. (Agreement at ¶¶ 1.28 and 3.2.) First, for the
16 Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class
17 Payments will be \$17.50 per person for what is estimated to be approximately 3,567 persons for an
18 approximate total of \$62,422.50. (Agreement at ¶ 3.2(e).) Second, from the Net Settlement
19 Amount, the Individual Class Payment for each Participating Class Member will be calculated by
20 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
21 Participating Class Members during the California Class Period and (b) multiplying the result by
22 each Participating Class Member's Workweeks during the California Class Period. (Agreement at ¶
23 3.2(e).) Workweeks will be based on Defendant's records, however, Class Members will have the
24 right to challenge the number of Workweeks.

25 18. Class Members may choose to opt-out of the Settlement by following the directions
26 in the Class Notice. (Agreement at ¶ 8.5, Ex. A.) All Class Members who do not "opt out" will be
27 deemed Participating Class Members who will be bound by the Settlement and will be entitled to
28 receive an Individual Class Payment. (Agreement at ¶ 8.5(c).) All PAGA Members, including

1 those who submit an opt-out request, will still be paid their allocation of the PAGA Payment
2 (Individual PAGA Payment) and will remain subject to the release of the Released PAGA Claims
3 regardless of their request for exclusion from the class action settlement. (Agreement at ¶¶ 6.3 and
4 8.5(d).) Finally, the Class Notice will advise the Class Members of their right to object to the
5 Settlement and/or dispute their Workweeks and/or PAGA Pay Periods. (Agreement at ¶¶ 8.6 and
6 8.7, Ex. A.)

7 19. A Participating Class Member must cash his or her Individual Class Payment check
8 within 180 days after it is mailed. (Agreement at ¶ 5.2.) Any settlement checks not cashed within
9 180 days will be voided and any funds represented by such checks sent to the California
10 Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid
11 residue" subject to the requirements of C.C.P. § 384(b). (Agreement at ¶ 5.4.)

12 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the
13 settlement in this action ("Administrator"). (Agreement at ¶ 1.2.) The Administrator will be paid
14 for settlement administration in an amount not to exceed \$40,000. (Agreement at ¶ 3.2(c).)

15 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
16 a sum not to exceed one-third of the Total Settlement Amount, as the Class Counsel Fees Payment.
17 (Agreement at ¶ 3.2(b).) Class Counsel will also be allowed to apply separately for an award of
18 Class Counsel Litigation Expenses Payment in an amount not to exceed \$20,000. (Agreement at ¶
19 3.2(b).) Subject to Court approval, the Agreement provides for a payment of no more than \$12,500
20 each to the Plaintiffs as the Class Representative Service Payments. (Agreement at ¶ 3.2(a).)

21 22. Subject to Court approval, the PAGA Payment will be paid from the Total
22 Settlement Amount for settlement of all claims for civil penalties under the California Private
23 Attorneys General Act, Cal. Labor Code Section 2698, *et seq.* ("PAGA"). The PAGA Payment is
24 \$50,000. (Agreement at ¶¶ 1.36 and 3.2(d).) Pursuant to the express requirements of Labor Code §
25 2699(i), the PAGA Payment shall be allocated as follows: 75% shall be allocated to the Labor
26 Workforce Development Agency ("LWDA") as its share of the civil penalties (LWDA PAGA
27 Payment) and 25% allocated to the Individual PAGA Payments to be distributed to the PAGA
28 Members based on the number of their respective PAGA Pay Periods. (Agreement at ¶ 3.2(d).) As

1 set forth in the accompanying proof of service, the LWDA has been served with this motion and the
2 Agreement.

3
4 Risks of Continued Litigation and Standards for Approval

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

12 24. Here, a number of defenses asserted by Defendant present serious threats to the
13 claims of the Plaintiffs and the other Class Members. Defendant asserted that Defendant's practices
14 complied with all applicable Labor laws. Defendant argued that Class Members were paid for all
15 time worked, that all work time was properly recorded, and that any rounding was facially neutral
16 and was lawful at the time. Defendant contends that its meal and rest period policies fully complied
17 with California law and Defendant did not fail to provide the opportunity for legally required meal
18 and rest breaks. Defendant could argue that its payment of significant meal period premiums is
19 evidence of lawful practices. Defendant contends that there was no failure to pay for business
20 expenses and any cell phone usage was merely convenient and voluntary such that reimbursement
21 was not legally required. Finally, Defendant could argue that the Supreme Court decision in
22 *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), weakened Plaintiffs' claims, on liability, value,
23 and class certifiability as to the meal and rest period claims. Defendant also argues that based on its
24 facially lawful practices, Defendant acted in good faith and without willfulness, which if accepted
25 would negate the claims for waiting time penalties and/or inaccurate wage statements. As to FCRA
26 claim, Defendant argued that its forms complied with FCRA in all respects. *Coleman v. Kohl's*
27 *Dep't Stores, Inc.*, 2015 U.S. Dist. LEXIS 135746, *17 (N.D. Cal. 2015) (holding a release in a
28 separate document does not violate FCRA); *Luna v. Hansen & Adkins Auto Transp., Inc.*, 2018 U.S.

1 Dist. LEXIS 100055, *18-*19 & n.6 (C.D. Cal. 2018). Finally, the court may find
2 remitter/reduction of the statutory damages appropriate. *See e.g. Klingensmith v. Max & Erma's*
3 *Restaurants, Inc.*, 2007 U.S. Dist. LEXIS 81029, 2007 WL 3118505, at *5 (E.D.Pa. 2007). If
4 successful, Defendant's defenses could eliminate or substantially reduce any recovery to the Class.
5 While Plaintiffs believe that these defenses could be overcome, Defendant maintains these defenses
6 have merit and therefore present a serious risk to recovery by the Class.

7 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
8 be unable to obtain a certified class and maintain the certified class through trial, and thereby not
9 recover on behalf of any employees other than themselves. At the time of the mediation, Defendant
10 forcefully opposed the propriety of class certification, arguing that individual issues precluded class
11 certification. Further, as demonstrated by the California Supreme Court decision in *Duran v. U.S.*
12 *Bank National Assn.*, 59 Cal. 4th 1 (2014), there are significant hurdles to overcome for a class-
13 wide recovery even where the class has been certified. While other cases have approved class
14 certification in wage and hour claims, class certification in this action was hotly disputed and the
15 maintenance of a certified class through trial was by no means a foregone conclusion.

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

19 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
20 consideration for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶
21 3.2(a).) Plaintiffs performed their duties admirably by working with Class Counsel over the course
22 of litigation. The Declarations of the Plaintiffs are submitted herewith in support. At this stage, the
23 requested service award not to exceed of \$12,500 is well within the accepted range of awards for
24 purposes of preliminary approval. *See e.g. Andrews v. Plains All Am. Pipeline L.P.*, 2022 U.S. Dist.
25 LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested service awards of \$15,000 each
26 are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S. Dist. LEXIS 149865, at *19 (N.D.
27 Cal. 2019) (granting request for \$12,500 service award); *Mathein v. Pier 1 Imps. (U.S.), Inc.*, 2018
28 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500 where average class member payment

1 was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*, 2008 WL 4473183, *7 (S.D.Cal. Oct. 06,
2 2008) (awarding \$25,000 service award to each of six plaintiffs in overtime class action); *Glass v.*
3 *UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D.Cal. Jan. 27 2007) (awarding \$25,000 service
4 award in overtime class action and a pool of \$100,000 in enhancements).

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

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

23 24 Class Certification Issues

25 30. Plaintiffs contend that the proposed settlement meet all of the requirements for class
26 certification under California Code of Civil Procedure § 382 as demonstrated below, and therefore,
27 the Court may appropriately approve the Class as defined in the Agreement. This Court should
28 conditionally certify the California Class for settlement purposes only, defined as follows:

1 All individuals who were employed by Defendant in California and classified as
2 non-exempt at any time during the California Class Period.

3 (Agreement at ¶ 1.6.)

4 The California Class Period is August 11, 2018 through July 28, 2023. (Agreement at ¶ 1.5.) This
5 Court should also conditionally certify the FCRA Class for settlement purposes only, defined as
6 follows:

7 All individuals who applied to work for Defendant who were classified as either
8 exempt or non-exempt in the United States during the FCRA Class Period for whom
background checks were run using the same federal FCRA form as that contained on
page 2 of the forms provided to Plaintiff Spears.

9 (Agreement at ¶ 1.6.)

10 The Class Period is September 27, 2018 to August 17, 2023. (Agreement at ¶ 1.13.)

11 a. **Numerosity** - Here, Plaintiff asserts that the 1,212 current and former
12 employees that comprise the California Class, and the 3,567 individuals in the FCRA Class, can be
13 identified based on Defendant's records and are sufficiently numerous for class certification.
14 Defendants has verified the number of class members in the Declaration of Elizabeth Sweely at ¶¶
15 2-4, which is attached hereto as Exhibit #5.

16 b. **Common Issues Predominate** - Here, Plaintiffs contend that common
17 questions of law and fact are present, specifically the common questions of whether Defendant's
18 employment practices were lawful, whether Defendant failed to provide meal and rest periods to
19 Class Members, whether Class members were lawfully compensated for all hours worked, whether
20 Defendant correctly recorded work time, whether Defendant failed to provide required expense
21 reimbursement, whether Defendant violated the FCRA in performing background checks, and
22 whether Class Members are entitled to damages and penalties as a result of these practices.
23 Plaintiffs contend that certification of this Class is appropriate because Defendant allegedly
24 engaged in uniform practices with respect to the Class Members. As a result, these common
25 questions of liability could be answered on a class wide basis.

26 c. **Typicality** - In this Action, Plaintiffs contend that the typicality requirement
27 is fully satisfied. Plaintiffs, like every other member of the Class, were employed by Defendant as
28 non-exempt employees, and, like every other member of the Class, were subject to the same alleged

1 employment practices. Plaintiffs, like every other member of the Class, also claim owed
2 compensation as a result of the Defendant's uniform company policies and practices. They also
3 contend that Plaintiff Spears received the same background check forms as every other member of
4 the FCRA Class. Thus, the claims of Plaintiffs and the members of the Class arise from the same
5 course of conduct by Defendant, involve the same issues, and are based on the same legal theories.

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

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

adequate counsel by the courts throughout California. We have been approved as experienced class counsel by both state and federal courts in California in contested class certification proceedings. A true and correct copy of the resume of my firm is attached hereto as Exhibit #2. The California Class in this settlement is defined as “all individuals who were employed by Defendant in California and classified as non-exempt at any time during the California Class Period.” I have reviewed my firm’s cases and representation of other plaintiffs and there is no conflict or representation which would prevent my firm from representing the interests of the Class this case. My firm only represents employees, and not employers. My firm has never represented Defendant nor any affiliate of the Defendant. My firm’s only interest in the subject matter of this litigation is to ensure a recovery to the Class and to maximize that recovery. Finally, our allegiance to the Class and the claims of the Class is not inconsistent with our allegiance to pursue the claims on behalf of other employees and classes as the claims are all against different and distinct employers. I can think of no conflict that would arise in our representation of the Class and our adequate representation of the Class is evidenced by the successful prosecution of the class claims to reach an excellent recovery for the Class. Moreover, neither the Plaintiffs nor Class Counsel have any affiliation with the proposed Administrator for this settlement. Thus, the adequacy requirement for my firm is satisfied.

32. The Class Notice, drafted jointly and agreed upon by the Parties through their respective counsel and to be approved by the Court, includes all relevant information. (*See Exhibit “A” to the Agreement.*) The Class Notice will include, among other information: (i) information regarding the Action; (ii) the impact on the rights of the Class Members if they do not opt out, including a description of the applicable release; (iii) information to the Class Members regarding how to opt out and how to object to the Settlement; (iv) the estimated Individual Class Payment for each of the Class Members; (iii) the amount of attorneys’ fees and expenses to be sought; (v) the amount of the Plaintiffs’ service award request; and (vi) the anticipated expenses of the Administrator. The Class Notice will state that the Class Members shall have sixty (60) days from the date that the Class Notice is mailed to them (the “Response Deadline”) to request exclusion (opt-out) or to submit a written objection. (Agreement at ¶¶ 1.47, 8.5, 8.7.) Class Members shall be

1 given the opportunity to object to the Settlement and/or requests for attorneys' fees and expenses
2 and to appear at the Final Approval Hearing. (Agreement at ¶ 8.7.) Class Members who do not
3 submit a timely and proper request to opt-out will automatically receive a payment of their
4 Individual Class Payment. This notice program was designed to meaningfully reach the Class
5 Members and it advises them of all pertinent information concerning the Settlement.

6 33. The PAGA Claim -

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

19 b. **Valuation of the PAGA Claim.** For mediation, Plaintiff calculated the
20 value of the alleged PAGA claim as to PAGA Members for civil penalties to be between
21 \$1,057,550 and \$2,115,100 for a single violation in every one of the 21,151 pay periods at issue in
22 the PAGA Period, depending on whether the violation was \$50 per pay period as in the case of
23 Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of Labor Code
24 § 1198. This valuation assumed that PAGA civil penalties would be awarded at the maximum rate
25 per pay period but without stacking.⁴ The PAGA allocation in the Settlement is the amount of

26 _____
27 ⁴ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
28 The valuation of between \$1,057,550 and \$2,115,100 is the civil penalty amount without stacking.
If stacking is permitted, then the valuation increases with each additional penalty added to each pay

1 \$50,000. This allocation is justified by several important considerations. First, the PAGA claim
2 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional
3 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.
4 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and
5 I am aware of one Court which has so ruled. These additional defenses present a risk to the PAGA
6 claim and the potential that some or all of the PAGA penalties sought may not be awarded. Third,
7 in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the court affirmed a judgment which
8 only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA penalties
9 awarded could be significantly less than Plaintiffs' calculation even where Plaintiffs prevailed on
10 the PAGA claim. Even if we assume that violations for all 21,151 pay periods were established,
11 using the valuation from *Carrington* results in a potential recovery of only \$105,755 under PAGA.
12 This means that the PAGA allocation in the Agreement is a reasonable percentage of this potential
13 PAGA recovery. Fourth, the interests of PAGA are also served by the Class recovery under the
14 reasoning of the LWDA in *O'Connor v. Uber*.

15 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
16 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
17 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
18 approximately 2.5% of the total settlement value to resolve the PAGA claims applicable to the class
19 is also supported by what has been approved in other wage-and-hour class settlements. Indeed,
20 Courts typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the
21 total settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015)
22 (PAGA Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated*
23 *Logistics, Inc.*, 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for
24 PAGA on a \$1.5 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637
25 (N.D. Cal. 2015) (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs*,

26
27
28 period. Plaintiffs, however, are not aware of any PAGA award which permitted stacking and in the
cases cited herein, only one penalty per pay period was assessed.

1 *Inc.*, 2014 U.S. Dist Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA
2 for PAGA out of \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL
3 672645, *1 (N.D. Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9
4 million common-fund settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13
5 (E.D. Cal. 2012) (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million
6 common-fund settlement); *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009)
7 (approving PAGA allocation that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon*
8 *Trucking, Inc.*, 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement
9 of \$3,700,000, with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*,
10 CV 10-02420 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount
11 of \$8.25 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*,
12 8:10-cv-00112-DOC (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000
13 allocated to PAGA); *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted
14 as PAGA penalties or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive*
15 *Educational Services Inc.*, Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000
16 allotted as PAGA penalties or 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell*
17 *Banker Residential Brokerage Company*, Los Angeles Superior Court Case No. BC495767 (2016)
18 (\$10,000 allotted as PAGA penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los*
19 *Robles Medical Center*, No. 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or
20 0.40% of \$3,775,000 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441
21 (E.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount);
22 *Nehrlich v. RPM Mortgage Inc.*, Orange County Superior Court Case No.
23 30-2013-00666783-CU-OE-CXC (2017) (\$10,000 allotted as PAGA penalties or 0.40% of
24 \$2,500,000 settlement amount); *Rubio v. KTI Incorporated*, San Bernardino Superior Court Case
25 No. CIVDS-14-06132 (2015) (\$1,000 allotted as PAGA penalties or 0.18% of \$550,000 settlement
26 amount); *Gray v. Mountain View Child Care Inc.*, San Bernardino Superior Court Case No.
27 CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA penalties or 0.37% of \$675,000 settlement
28 amount); *Perez v. West Coast Liquidators Inc. d/b/a Big Lots*, San Bernardino Superior Court Case

1 No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA penalties or 0.33% of \$900,000 settlement
2 amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles Superior Court No. BC471369 (2013)
3 (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000 settlement amount); *Mejia v. DHL*
4 *Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000 allotted as PAGA penalties or
5 0.34% of \$1,450,000 settlement amount).

6
7 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
8 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
9 reasonable, and at the time of final approval, my firm will present lodestar to further support the
10 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
11 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
12 of the class action awards obtained by Class Counsel in similar employment actions throughout the
13 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
14 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
15 Superior Court, Case No. JCCP 4919) Judge Carolyn Kuhl awarded Class Counsel a one-third fee
16 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
17 *Cases* (San Mateo Superior Court, Case No. JCCP 4945) Judge Marie Weiner awarded Class
18 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
19 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307) Judge Edward Weil
20 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December
21 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
22 BC672235) Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
23 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
24 County Superior Court Case No. JCCP 4957) Judge William Claster awarded Class Counsel a one-
25 third award in a wage and hour class settlement. On December 3, 2020, in *Blackshear v. California*
26 *Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-00245842) Judge Christopher
27 Krueger awarded BNBD a one-third fee award in a wage and hour class settlement. On June 2,
28 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case No. BC709666), Judge Amy

1 D. Hogue awarded Class Counsel a one-third fee award in a wage and hour class settlement. On
2 November 8, 2021, in *Securitas Wage and Hour Cases* (Los Angeles Superior Court Case No.
3 JCCP4837) Judge David Cunningham awarded a one-third fee award in a wage and hour class
4 settlement. On March 17, 2022, in *See's Candies Wage and Hour Cases* (Los Angeles Superior
5 Court Case No. JCCP5004) Judge Maren Nelson awarded a one-third fee award in a wage and hour
6 class action settlement. On April 12, 2022, in *O'Donnell v. Okta, Inc.*, (San Francisco Superior
7 Court Case No. CGC-20-587665) Judge Richard Ulmer awarded a one-third fee award in a wage
8 and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v. Prometric LLC* (Los
9 Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson awarded a one-third fee
10 award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D Carwash Management*
11 *LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge Christopher E. Krueger
12 awarded a one-third fee award in a wage and hour class action settlement. On August 10, 2022, in
13 *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court Case No. 34-2017-
14 00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee award in a wage
15 and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v. Kone, Inc.*, (San
16 Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr. awarded a one-
17 third fee award in a wage and hour class action settlement. On November 4, 2022, in *Infinity Energy*
18 *Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri Katz awarded
19 a one-third fee award in a wage and hour class action settlement. On February 1, 2023, in *Hogan v.*
20 *AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No. 19STCV40072), Judge
21 Stuart Rice awarded a one-third fee award in a wage and hour class settlement. On February 28,
22 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior Court Case No. CGC-21-
23 591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a wage and hour class
24 action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings County Superior
25 Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee award in a wage and
26 hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank* (San Bernardino
27 County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a one-third fee
28 award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands Ventures*

(Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley approved a one-third fee award in a wage and hour class settlement. On August 5, 2023, in *Correia v. Gallo Glass Company* (Stanislaus County Superior Court Case No. CV-21-006459) Judge Sonny Sandhu approved a one-third fee award in a wage and hour class settlement. On September 15, 2023, in *Moran v. Sharp Healthcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge Richard Whitney awarded a one-third fee award in a wage and hour class settlement. On October 10, 2023, in *Arango v. Schlumberger Technology*, (Orange County Case No. 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a one-third fee award in a wage and hour class action. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a wage and hour class settlement. On October 20, 2023, in *Pond v. Glen Ivy Hot Springs* (Riverside County Superior Court Case No. CVRI2104986), Judge Harold W. Hopp awarded a one-third fee award in a wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee award in a wage and hour class settlement. On November 20, 2023, in *Steele v. Legoland California* (San Diego County Superior Court Case No. 37-2021-00052868), Judge Carolyn M. Caietti awarded a one-third fee award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third of the common fund is therefore reasonable in light of the fees that have been awarded in other similar cases.

35. Class Representative Service Payments - The reasonableness of the requested service award is also established by reference to the amounts that other California courts have found to be reasonable in wage and hour class action settlements: *Zamora v. Balboa Life & Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American Residential Services, LLC*, Case No.

1 BC423798, Los Angeles County Superior Court (Apr. 21, 2011)(awarding \$15,000 service award);
2 *Mares v. BFS Retail & Commercial Operations, LLC*, Case No. BC375967, Los Angeles County
3 Superior Court (June 24, 2010)(awarding \$15,000 service award); *Baker v. L.A. Fitness Int'l, LLC*,
4 Case No. BC438654, L.A. County Superior Court (Dec. 12, 2012)(awarding \$10,000 service
5 awards to three named plaintiffs); *Blue v. Coldwell banker Residential Brokerage Co.*, Case No.
6 BC417335, Los Angeles County Superior Court (Mar. 21, 2011)(awarding \$10,000 service award);
7 *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795, Los Angeles County Superior Court (June,
8 11, 2010)(awarding \$10,000 service awards); *Coleman v. Estes Express Lines, Inc.*, Case No.
9 BC429042, Los Angeles County Superior Court (Oct. 3, 2013)(awarding \$10,000 service award);
10 *Ethridge v. Universal Health Services, Inc.*, Case No. BC391958, Los Angeles County Superior
11 Court (May 27, 2011)(awarding \$10,000 service award); *Hickson v. South Coast Auto Ins.*
12 *Marketing, Inc.*, Case No. BC390395, Los Angeles County Superior Court (Mar. 27,
13 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*, Case No. BC422934, Los
14 Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service award); *Kambamba v.*
15 *Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County Superior Court, (Aug. 19,
16 2011)(awarding \$10,000 service award together with additional compensation for their general
17 release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los Angeles County Superior Court
18 (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose Hills Mortuary, L.P.*, Case No.
19 BC386500, Los Angeles County Superior Court, (Mar. 19, 2010)(awarding \$10,000 service award);
20 *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior
21 Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*,
22 Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000
23 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los
24 Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser*
25 *Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28,
26 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa
27 Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v.*
28 *Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22,

2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

36. Potentially Related Other Actions - Besides this Action, I am not aware of any other related cases pending against Defendant which would be impacted by this settlement. I have searched the LWDA database and there are no other pending PAGA claims alleged against the Defendant in the LWDA database.

37. Administration - After seeking bids from qualified administrators, the estimate from ILYM Group was selected, as it provided for an estimate of \$33,495 to perform the settlement administration for a Class of up to 4,694, with any difference between the actual expenses and the budget of \$40,000 to be retained in the Net Settlement Amount for distribution to the Class. I have used ILYM Group successfully as the administrator in more than twenty class settlements in the last few years and know them to be competent and experienced. My firm has no relationship or connection with ILYM Group, and thus no conflict of interest exists. Attached hereto as Exhibit #4 is a true and correct copy of Declaration of Lisa Mullins from ILYM Group which includes the estimate for administration from ILYM Group.

1 Service on the LWDA:

2 38. At the same time as the filing and service of this declaration, I am also serving the
3 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA
4 Settlement Agreement. This service is verified by the accompanying proof of service.
5

6 I declare under penalty of perjury under the laws of the State of California that the foregoing
7 is true and correct. Executed this 28th day of February, 2024, at La Jolla, California.
8

9 By:


Kyle Nordrehaug

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs ChaMarie Spears and Kathleen Leonard (“Plaintiffs”) and defendant Vitalant (“Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as the “Parties,” or individually as “Party.”

1. DEFINITIONS

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

- 1.1. “Action” collectively means: (1) Plaintiff Spears’s Class Action lawsuit alleging wage and hour violations against Defendant captioned *ChaMarie Spears v. Vitalant*, Case No. 22-CIV-03291, initiated on August 11, 2022 in the Superior Court of the State of California, County of San Mateo, formerly pending in the United States District Court for the Northern District of California, and remanded on May 26, 2023 to the Superior Court of the State of California, County of San Mateo, pursuant to the Parties’ stipulation; and (2) Plaintiff Spears’s PAGA Representative Action lawsuit alleging wage and hour violations against Defendant captioned *ChaMarie Spears v. Vitalant*, Case No 22-CIV-03751, initiated on September 13, 2022 and pending in the Superior Court of the State of California, County of San Mateo.
- 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 Total Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary Approval.
- 1.4. “PAGA Members” means all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period.
- 1.5. “California Class Period” means the period of time from August 11, 2018 through July 28, 2023.
- 1.6. “Class” means both the California Class and the FCRA Class, as defined herein. The California Class is defined as all individuals who were employed by Defendant in California and classified as non-exempt at any time during the California Class Period (the “California Class”). The FCRA Class is defined as all individuals who applied to

work for Defendant who were classified as either exempt or non-exempt in the United States during the FCRA Class Period for whom background checks were run using the same federal FCRA form as that contained on page 2 of the forms provided to Plaintiff Spears (the “FCRA Class”).

- 1.7. “Class Counsel” means Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik, Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug Bhowmik De Blouw LLP.
- 1.8. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
- 1.9. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, email address (if known and available to Defendant), and number of Workweeks and PAGA Pay Periods.
- 1.10. “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 a PAGA Member).
- 1.11. “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.
- 1.12. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.
- 1.13. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Administrator).
- 1.14. “Class Period” means, collectively, the California Class Period (defined above) for the California Class and the FCRA Class Period (defined below) for the FCRA Class.

- 1.15. “Class Representatives” means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.
- 1.16. “Class Representatives Service Payments” means the service payment made to each of the Plaintiffs as Class Representatives in order to compensate them for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses, and for the general release of all claims by the Plaintiffs.
- 1.17. “Court” means the Superior Court of California, County of San Mateo.
- 1.18. “Defendant” means Vitalant.
- 1.19. “Defense Counsel means Thomas M. McInerney, Carolyn B. Hall, and Jade Butman of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
- 1.20. “Effective Date” means the date by when both of the following have occurred the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, fifteen (15) days after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, fifteen (15) days after the appellate court affirms the Judgment and issues a remittitur.
- 1.21. “FCRA” means the Fair Credit Reporting Act.
- 1.22. “FCRA Class Period” means the period of time from August 11, 2020 through December 9, 2022.
- 1.23. “Final Approval” means the Court’s order granting final approval of the Settlement substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.24. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- 1.25. “Total Settlement Amount” means Two Million Dollars (\$2,000,000) which is the total amount to be paid by Defendant as provided by this Agreement except as provided in Paragraph 9 below. The Total Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments and the Administration Expenses Payment. This Total Settlement Amount is an all-in amount without any reversion to Defendant, and

excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Total Settlement and shall be the separate additional obligation of Defendant.

- 1.26. “Individual Class Payments” means the Participating Class Members’ pro rata shares of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.27. “Individual FCRA Class Payments” means Participating FCRA Class Members’ payment of \$17.50 per person.
- 1.28. Individual PAGA Payments” means the pro rata shares to be paid from the PAGA Payment to PAGA Members that shall in the aggregate comprise 25% of the PAGA Payment, namely \$12,500 as consideration for settlement of claims for civil penalties under PAGA, calculated according to the number of PAGA Pay Periods worked during the PAGA Period.
- 1.29. “Judgment” means the judgment entered by the Court based upon Final Approval substantially in the form attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- 1.30. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.31. “LWDA PAGA Payment” means the payment to be made to the LWDA as its 75% share of the PAGA Payment, namely \$37,500, as consideration for settlement of claims for civil penalties under Labor Code PAGA.
- 1.32. “Net Settlement Amount” means the Total Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- 1.33. “Non-Participating Class Member” means a Class Member who opts out of the Class Settlement by submitting a valid and timely Request for Exclusion to the Administrator.
- 1.34. “PAGA Pay Period” means any Pay Period during which a PAGA Member worked for Defendant for at least one (1) day during the PAGA Period.
- 1.35. “PAGA Period” means the period of time from June 29, 2021 through July 28, 2023.
- 1.36. “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698. et seq.).

- 1.37. “PAGA Notice” means Plaintiff Spears’s June 29, 2022 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.38. “PAGA Payment” means a gross payment in the aggregate of \$50,000 that is comprised of the LWDA PAGA Payment and all of the Individual PAGA Payments to PAGA Members in settlement of all claims for civil penalties pursuant to PAGA.
- 1.39. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion.
- 1.40. “Participating FCRA Class Member” means a FCRA Class Member who does not submit a valid and timely Request for Exclusion.
- 1.41. “Plaintiffs” means, collectively, ChaMarie Spears (“Plaintiff Spears”) and Kathleen Leonard (“Plaintiff Leonard”) the named plaintiffs in the Action.
- 1.42. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement, substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- 1.43. “Released Class Claims” means the following: for the California Class Members, all wage and hour Class claims that were alleged, or reasonably could have been alleged, based on the wage and hour factual or legal theories alleged in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198 and 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, the alleged failure to pay reporting time pay and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the Operative Complaint, including

the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims under the Business & Professions Code (including Section 17200 *et seq.*) premised on the facts, claims, and causes of action alleged in the Operative Complaint; and (k) for the FCRA Class Members, all FCRA class claims pled or that could have been pled based on the FCRA factual allegations contained in the Operative Complaint which occurred during the FCRA Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims based on facts occurring outside the Class Period.

- 1.44. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts or legal theories alleged in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period, including the following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for civil penalties for rest period violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all

claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) all claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violations of the Fair Employment and Housing Act, unemployment insurance, disability, social security, and worker's compensation, and PAGA claims outside of the PAGA Period.

- 1.45. "Released Parties" means: Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, executors, insurers, parent companies, subsidiaries (including Blood Centers of the Pacific and BloodSource, Inc.), affiliates, divisions (including United Blood Services), consultants, subcontractors, predecessors, successors, assigns, and joint venturers, and all persons acting under, by, through, or in concert, with any of them, and each of them.
- 1.46. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member. Specific details of how to submit a "Request for Exclusion" will be provided by the Class Notice.
- 1.47. "Response Deadline" means sixty (60) calendar days after the Administrator mails Class Notice Packet to Class Members and PAGA Members and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, (b) submit his or her Objection to the Settlement; or (c) dispute the information contained the Class Notice. Class Members to whom Class Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the Response Deadline has expired.
- 1.48. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement and the Judgment.

1.49. “Workweek” means any week during the Class Period in which a Class Member worked for Defendant as a Class Member for at least one (1) day.

2. RECITALS

The Class Action

2.1. On August 11, 2022, Plaintiff Spears commenced this Action by filing a Class Action Complaint against Defendant in the Superior Court of the State of California, County of San Mateo (the “Class Action”). Plaintiff Spears’s Class Action Complaint asserted several wage and hour claims against the Defendant including, but not limited to, the following claims that Defendant:

- (a) Violated California Business and Professions Code § 17200 et seq.;
- (b) Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
- (c) Failed to pay overtime wages in violation of California Labor Code § 510, et seq.;
- (d) Failed to provide required meal periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (e) Failed to provide required rest periods in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
- (f) Failed to reimburse employees for required expenses in violation of California Labor Code § 2802.
- (g) Failed to provide accurate itemized wage statements in violation of California Labor Code § 226; and,
- (h) Failed to pay sick wages in violation of California Labor Code §§201-204, 233, 246;
- (i) Violated the Fair Credit Reporting Act for failure to make proper disclosures [15 U.S.C. § 1681, et seq.]; and,
Violated the Fair Credit Reporting Act for failure to obtain proper authorization [15 U.S.C. § 1681, et seq.].

2.2. On October 31, 2022, Defendants removed the Class Action to the United States District Court for the Northern District of California, Case No. 3:22-cv-06711-VC.

2.3. On November 7, 2022, Defendant filed a Motion to Dismiss the Class Action Complaint, which Plaintiff Spears opposed on November 21, 2023.

2.4. On November 17, 2022, the Parties filed a Stipulation to Stay the Class Action pending mediation, which was granted on November 28, 2022, and in so doing, the Court denied Defendant’s Motion to Dismiss without prejudice.

The PAGA Action

2.5. On September 14, 2022, Plaintiff Spears filed a separate Representative Action

Complaint against Defendant in the Superior Court of the State of California, County of San Mateo (the “PAGA Action”), alleging one cause of action for Civil Penalties Pursuant to Labor Code § 2699, *et seq.* for various alleged wage and hour violations of Labor Code including, but not limited to, the following: Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the Applicable Wage Orders.

- 2.6. On November 15, 2022, the Parties filed a Stipulation to Stay the PAGA Action pending mediation, which was granted on November 23, 2022.

Remand and Pleading Amendment

- 2.7. As part of this Settlement Agreement, the parties agree to stipulate to remand of the Class Action to State Court and then stipulate to the filing of a First Amended Class Action and Representative Action Complaint that adds the claims and parties from the PAGA Action into the first-filed Class Action in state court. The First Amended Class Action and Representative Action Complaint shall also add Plaintiff Leonard as a named plaintiff to the class claims. The First Amended Class Action and Representative Action Complaint, which was filed on June 13, 2023, is the operative complaint in the Action (the “Operative Complaint”)
- 2.8. 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.
- 2.9. Defendant retains all rights to remove the Operative Complaint to federal court in the event the state court does not grant final approval of the settlement and Plaintiffs will not oppose such removal on timeliness grounds, though Plaintiffs retain their rights to move to remand in such instance.

Mediation and Settlement

- 2.10. On April 28, 2023, the Parties participated in an all-day mediation presided over by David A. Rotman, Esq., a respected mediator of wage and hour representative and class actions. The mediator facilitated an agreement among the Parties that was memorialized in the form of a Memorandum of Understanding. This Agreement replaces and supersedes the Memorandum of Understanding and any other agreements, understandings, or representations between the Parties.
- 2.11. Prior to mediation, Plaintiffs obtained documents and information sufficient to investigate the claims such that Plaintiffs’ investigation satisfied the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801

and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

- 2.12. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiffs or the Class have merit or that Defendant bears any liability to Plaintiffs or the Class on those claims or any other claims, or as an admission by Plaintiffs that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.
- 2.13. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS

- 3.1. Total Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$2,000,000 and no more as the Total Settlement Amount. This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages which shall be separately paid by Defendant to the Administrator. Defendant has no obligation to pay the Total Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Total Settlement Amount without asking or requiring Participating Class Members or PAGA Members to submit any claim as a condition of payment. None of the Total Settlement Amount will revert to Defendant.
- 3.2. Payments from the Total Settlement Amount. Subject to the terms and conditions of this Agreement, the Administrator will make the following payments out of the Total Settlement Amount, in the amounts specified by the Court in the Final Approval.
- (a) To Plaintiffs: Class Representative Service Payments to the Class Representatives of not more than \$12,500 to each Plaintiff (in addition to any Individual Class Payment, any Individual PAGA Payment each Class Representative is entitled to receive as a Participating Class Member, and Plaintiff Spears’s Separate Agreement and Release). Defendant will not oppose Plaintiffs’ request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay

the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments. In the event that the Court reduces or does not approve the requested Class Representative Service Payments, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request or demand an increase to the Total Settlement Amount on that basis.

- (b) To Class Counsel: A Class Counsel Fees Payment of not more than one-third (1/3) of the Total Settlement Amount, which is currently estimated to be \$666,666, and a Class Counsel Litigation Expenses Payment of not more than \$20,000. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiffs' Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these payments. This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Fees Payment and/or Class Litigation Expenses Payment, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request or demand an increase to the Total Settlement Amount on that basis.
- (c) To the Administrator: An Administration Expenses Payment not to exceed \$40,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less, or the Court approves payment less than \$40,000, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.
- (d) To the LWDA and PAGA Members: PAGA Payment in the amount of \$50,000 to be paid from the Total Settlement Amount, with 75% (\$37,500) allocated to the LWDA PAGA Payment and 25% (\$12,500) allocated to the Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of PAGA Payment (\$12,500) by

the total number of PAGA Period Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Period Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves a PAGA Payment of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.
- (e) To Each Participating Class Member: For the Participating Class Members, an Individual Class Payment is calculated as follows: For the California Class members, by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member's Workweeks during the California Class Period. For the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person for what is estimated to be approximately 3,567 persons for an approximate total of \$62,422.50.
- i. Tax Allocation of Individual Class Payments. For the Individual Class Payments, 20% of each California Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each California Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). For the Individual FCRA Class Payments, 100% Participating FCRA Class Member's Individual Class Payment shall be attributed to penalties. The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
 - ii. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

4. SETTLEMENT FUNDING

- 4.1. Class Workweeks and PAGA Member Pay Periods. Based on its records, Defendant has represented that, as of April 28, 2023, the Class consists of 1,127 California Class Members who collectively worked a total of 127,038 Workweeks during the California Class Period, 845 PAGA Members who worked a total of 21,151 PAGA Pay Periods, and

3,567 FCRA Class Members to whom disclosures were made that were the same as those on page 2 of Spears's federal during the FCRA Class Period.

- 4.2. Class Data. Not later than twenty (20) days after the Court grants Preliminary Approval of the proposed settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted Class Member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- 4.3. Funding of the Total Settlement Amount. Defendant shall fully fund the Total 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 fifteen (15) days after the Effective Date.

5. PAYMENTS FROM THE TOTAL SETTLEMENT AMOUNT

- 5.1. Within fourteen (14) days after Defendant funds the Total Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment.
- 5.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date", which is one hundred eighty (180) days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Members including Non-Participating Class Members who qualify as PAGA Members (including those for whom Class Notice was returned undelivered). The Individual Class Payment and Individual PAGA Payment may be combined into a single check by the Administrator, unless otherwise ordered by the Court. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the

National Change of Address Database. If a Participating Class Member's or PAGA Member's check is not cashed within one hundred twenty (120) days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

- 5.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 5.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 5.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.
6. **RELEASE OF CLAIMS.** Effective on the date when Defendant fully funds the entire Total Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs, Participating Class Members, PAGA Members and the LWDA will release claims against all Released Parties as follows:
 - 6.1. Plaintiffs' Release. Plaintiffs and their respective former and present spouses/domestic partners, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred through the Effective Date, including, but not limited to: all known and unknown claims against the Released Parties, including any Released Class Claims and Released PAGA Claims as well as all other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act ("PAGA"), claims under the Fair Labor Standards Act ("FLSA"), and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum wages, penalties, liquidated damages, and interest, and all other claims under state,

federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, the Age Discrimination in Employment Act of 1967 (as to Plaintiff Kathleen Leonard only) as well as the common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to each Plaintiff's relationship, or termination of relationship, with any Released Party through the date of Final Approval for any type of relief. Plaintiffs further covenant that each of them will not become a member of any other legal actions against the Released Parties asserting any of Plaintiffs' Released Claims, and will opt out of any such actions if necessary. For the avoidance of doubt, this is a complete and general release to the maximum extent permitted by law. The scope of this release does not include claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

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

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

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

- (b) Plaintiff Spears' Separation Agreement and Release. Plaintiff Spears represents that they are also entering into a Separation Agreement and Release. The amount paid to Plaintiff Spears under this Separation Agreement and Release is in addition to the Total Settlement Amount and is memorialized in a Separation Agreement and Release that is separate from this Agreement. If the Court requires the Parties to submit the terms of this Separation Agreement and Release to obtain approval of this Settlement, the Parties agree that the Separation Agreement and Release will be submitted in camera under seal to the Court.
- (c) ADEA Waiver for Kathleen Leonard. Without limiting the scope of this Agreement, Plaintiff Kathleen Leonard agrees that this Agreement constitutes a knowing and

voluntary waiver of any and all rights or claims that exist or that she may claim to have under the Age Discrimination in Employment Act of 1967 (“ADEA”). Plaintiff Kathleen Leonard acknowledges that she has been advised by this writing, as required by the Older Workers’ Benefit Protection Act: (i) her waiver and release does not apply to any rights or claims that may arise after she signs this Agreement; (ii) she should consult with an attorney prior to executing this Agreement; (iii) she has at least twenty-one (21) days to consider this Agreement (although she may by her own choice execute this Agreement earlier); (iv) she has seven (7) days following her execution of this Agreement to revoke the Agreement; and (v) this Agreement shall not be effective until the next business day following the expiration of this 7-day revocation period. Plaintiff Kathleen Leonard may revoke this Agreement only by giving Defendant formal, written notice of her revocation of this Agreement, addressed to: Thomas M. McInerney, Esq., at Ogletree, Deakins, Nash, Smoak & Stewart, P.C., One Embarcadero Center, Suite 900, San Francisco, California 94111. In the event Plaintiff Kathleen Leonard revokes the waiver of ADEA claims, she understands and agrees that she will not be entitled to a Class Representative Service Payment.

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

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

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

7.1. Defendant’s Responsibilities. Within 21 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a declaration under penalty of perjury confirming the number of California Class Member and workweeks they worked during the Class Period and that the number of FCRA Class Members is estimated to be 3,567.

7.2. Plaintiffs’ Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to its willingness to serve;

competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiffs, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699, subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or potential conflict of interest with Class Members, the Administrator. In their Declarations, Plaintiffs and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement, and that Class Counsel does not represent any employees of Defendant other than Plaintiffs.

7.3. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

8. SETTLEMENT ADMINISTRATION

8.1. Selection of Administrator. The Parties have jointly selected ILYM Group, Inc to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice

Packets that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

8.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 1.468B-1.

8.4. Notice to Class Members.

- (a) No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and Pay Periods in the Class Data.
- (b) Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- (c) Not later than seven (7) days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

- (d) The deadlines for Class Members' written objections, Challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- (e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than fourteen (14) days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

8.5. Requests for Exclusion (Opt-Outs).

- (a) Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative must: (1) contain the name, address and telephone number of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the Response Deadline and returned to the Settlement Administrator at the specified address. The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action. Any Class Member who requests to be excluded from the Settlement Class will not be entitled to any recovery under the class Settlement and will not be bound by the terms of the Class Settlement or have any right to object to or appeal the class settlement. A Request for Exclusion has no effect to the PAGA portion of this Settlement; PAGA Members cannot request exclusion from the PAGA Settlement and will receive an Individual PAGA Payment regardless of whether they submit a Request for Exclusion.
- (b) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraph 6.2 of the Agreement,

regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.6. Challenges to Calculation of Workweeks. Each Class Member shall have until the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

8.7. Objections to Settlement.

- (a) Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the proposed settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.
- (b) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional fourteen (14) days for Class Members whose Class Notice was re-mailed).
- (c) Non-Participating Class Members have no right to object to any of the class action components of the Settlement.

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

- (a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative

Service Payment, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

- (b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than seven (7) days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).
- (c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- (d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include providing the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.
- (e) Administrator’s Declaration. Not later than seven (7) days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) in Court.
- (f) Final Report by Administrator. Within ten (10) days after the Administrator disburses all funds of the Total Settlement Amount, the Administrator will provide Class

Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least seven (7) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least seven (7) days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

- 9. CLASS SIZE MODIFICATION AND ESCALATOR CLAUSE.** Based on its records, Defendant provided estimated figures as to the Class size as set forth in paragraph 4.1 above. Should the number of actual workweeks as of April 28, 2023 increase by more than 10% of the amount stated herein in paragraph 4.1, Defendant shall increase the Total Settlement Amount proportionally by 1% for every 1% increase in workweeks over the 10% threshold. Should the number of FCRA Class Members exceed 10% of the amount stated herein in paragraph 4.1 (i.e., 4,447), Defendant will increase the Total Settlement Amount proportionally by 1% for every 1% increase in the number of FCRA Class members over the 10% threshold.
- 10. DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may elect, 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 Administration Expenses incurred as of the date Defendant makes this election to withdraw. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.
- 11. MOTION FOR FINAL APPROVAL.** Unless otherwise ordered by the Court, not later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699(l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.
- 11.1. Response to Objections.** Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court

no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

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

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Total Settlement Amount remains unchanged. In the event that Class Counsel appeals the Court's ruling as to the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment, the Parties agree that any such appeal constitutes a dispute between Class Counsel and the Court, and that Defendant and Defendant's Counsel will not be involved and will not be expected to appear, file papers, argue any position, or participate in any manner. In the event of any such appeal, Defendant shall not fund the settlement, and its obligation to fund it will be stayed until such appeal is fully resolved.

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

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an

admission by 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 as an admission by Plaintiffs that Defendant's defenses in the Action have merit. Defendant contends that at all times it has complied with all applicable state, federal and local laws related to the Class Members' and/or PAGA Members' employment. Nevertheless, Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant, or an admission that class or representative action treatment would be allowed outside the settlement context. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or Judgment pursuant to this Agreement, Defendant reserves the right to contest certification of any class for any reason, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement). The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent litigation. Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall not be admissible in evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendant to support a stay of such subsequent action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment bar, or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

- 13.2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, any with third party regarding this Agreement or the matters giving rise to this Agreement

except to respond only that “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

- 13.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.
- 13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and 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.
- 13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 13.7. Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 13.8. Tax Advice. Neither Plaintiffs, 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. Participating Class Members, PAGA Members and Class Counsel shall be solely responsible for the reporting any payment of their share of any federal, state and/or local income tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this Settlement. Defendant makes no representation, and it is understood and agreed that Defendant has made no representation, as to the taxability of any Participating Class Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding the Individual

PAGA Payments, the payment of attorneys' fees and expenses to Class Counsel, or the payment of the Class Representative Service Payments to the Class Representatives. The Class Notice will advise each Class and PAGA Member to seek his/her own personal tax advice prior to acting in response to the Class Notice.

- 13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 13.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 13.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by 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 ninety (90) days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy, all paper and electronic versions of Class Data received from Defendant.
- 13.15. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 13.16. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 13.17. Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given

as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs and the Class:

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

To Defendant:

Thomas M. McInerney
Carolyn B. Hall
Jade Butman
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
One Embarcadero Center, Suite 900
San Francisco, CA 94111
Tel: (415) 442-4810
Fax: (415) 442-4870
E-Mail: tmm@ogletree.com
carolyn.hall@ogletree.com
jade.butman@ogletree.com

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

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

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

14. EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: Aug 21, 2023

Chamary Spears
Chamary Spears (Aug 21, 2023 10:47 PDT)

Plaintiff Chamary Spears

Dated: Aug 24, 2023

Kathleen Leonard
Kathleen Leonard (Aug 24, 2023 11:47 PDT)

Plaintiff Kathleen Leonard

Dated: _____

Bhavi A. Shah

Executive Vice President, Chief Legal Officer, General Counsel
For Defendant Vitalant

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

Dated: Aug. 24, 2023

Kyle Nordrehaug
Kyle Nordrehaug

Blumenthal Nordrehaug Bhownik De Blouw LLP

Attorney for Plaintiffs

APPROVED AS TO FORM AND CONTENT ON BEHALF OF DEFENDANT:

Dated: _____

Thomas M. McInerney,
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Attorney for Defendant

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

14. EXECUTION BY PARTIES AND COUNSEL

The Parties hereby execute this Agreement.

Dated: _____

Plaintiff ChaMarie Spears

Dated: _____

Plaintiff Kathleen Leonard

Dated: 8/21/23



Bhavi A. Shah

Executive Vice President, Chief Legal Officer, General Counsel
For Defendant Vitalant

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

Dated: _____

Kyle Nordrehaug
Blumenthal Nordrehaug Bhowmik De Blouw LLP
Attorney for Plaintiffs

APPROVED AS TO FORM AND CONTENT ON BEHALF OF DEFENDANT:

Dated: 8/24/23



Thomas M. McInerney,
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
Attorney for Defendant

EXHIBIT A

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

EXHIBIT “A”

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

***Spears v. Vitalant, Superior Court of the State of California,
County of San Mateo, Case No. 22-CIV-03291***

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

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Vitalant (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiffs ChaMarie Spears and Kathleen Leonard (“Plaintiffs”) and seeks payment of (1) wages and other relief on behalf of all individuals who were employed by Defendant in California and classified as non-exempt at any time during the California Class Period (August 11, 2018 through July 28, 2023) (“California Class Members”), (2) penalties and other relief on behalf of all individuals who applied to work for Defendant who were classified as either exempt or non-exempt in the United States during the FCRA Class Period (August 11, 2020 through December 9, 2022) for whom certain background checks were run (“FCRA Class Members”), and (3) penalties under the California Private Attorney General Act (“PAGA”) for all individuals who were employed by Defendant in California and classified as a non-exempt employee at any time during the PAGA Period (June 29, 2021 through July 28, 2023) (“PAGA Members”).

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

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be <<\$_____>> (less withholding), your Individual FCRA Class Payment is estimated to be <<\$_____>>, and your share of the PAGA Payment is estimated to <<be \$_____>>.** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant’s records showing that **you worked <<_____>> workweeks** during the Class Period and **you worked <<_____>> pay periods** during the PAGA Period. If you believe that these numbers need correction, you can submit a challenge by the deadline date. See Section 5 of this Notice below.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to

finally approve the Settlement and how much of the Settlement will be paid to Plaintiffs and Plaintiffs' attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and PAGA Members to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the California Class Period and/or the PAGA Period, or applied for employment and were subject to a background check during the FCRA Class Period, you have two basic options under the Settlement:

- (1) **Do Nothing and receive your share of the Settlement amount.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment, an Individual FCRA Class Payment, and/or a share of the PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims, FCRA class claims and PAGA Period penalty claims against Defendant as described below in Section 4 below.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment or an Individual FCRA Class Payment and you will keep your right as an individual to sue Defendant separately about the same legal claims that are being settled. If you are a PAGA Member, you remain eligible for a share of the PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and/or an Individual FCRA Class Payment, and a share of the PAGA Payment (if any).
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 or an Individual FCRA Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 7 of this Notice. However, you cannot opt-out of the PAGA portion of the proposed Settlement. If you are also a PAGA Member and exclude yourself, you will still be paid your share of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion.

Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by the Response Deadline _____	If you think that the Settlement is not fair, and you don't opt out of the Settlement, then you can object to the Settlement in writing as explained in Section 8 of this Notice.
You Can Participate in the _____ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on _____ at _____ [a.m./p.m.], at the San Mateo County Superior Court, located at 400 County Center, Redwood City, CA 94063, in Department 3 and Courtroom 2B before Judge Susan Greenberg. This hearing may change as explained below in Section 9. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 9 of this Notice
You Can Challenge the Calculation of Your Workweeks / Pay Periods Written Challenges Must be Submitted by the Response Deadline (_____)	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The amount of your share of the PAGA Payment (if any) depends on 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 Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____. See Section 5 of this Notice

1. What is action about?

Plaintiffs ChaMarie Spears and Kathleen Leonard are former employees of Defendant. The Action alleges that Defendant failed to pay minimum and overtime wages, failed to provide meal and rest breaks and related premiums, failed to pay sick pay, failed to provide accurate itemized wage statements, failed to reimburse business expenses, failed to provide timely wage payments failed to make proper disclosures and to obtain proper authorizations pertaining to background checks, and unfair competition. Plaintiffs also seek penalties under the Private Attorneys General Act ("PAGA").

Defendant denies that it has done anything wrong and disputes all the claims in the Action. After good-faith negotiations, in which both sides recognized the substantial risk of an uncertain outcome, Plaintiffs and the Defendant agreed to settle the Action pursuant to the terms and

conditions of the Settlement. The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by Defendant that Plaintiffs' claims in the Action have merit or that Defendant has any liability to Plaintiffs or the proposed class on those claims. Defendant denies all such liability.

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

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

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

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

3. What are the terms of the Settlement?

Total Settlement Amount. Defendant has agreed to pay an "all in" amount of Two Million Dollars (\$2,000,000) (the "Total Settlement Amount") to fund the settlement of the Action. The Total Settlement Amount includes all payments of Individual Class Payments and Individual FCRA Class Payments to Class Members, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, the Administration Expenses Payment, and the PAGA Payment for alleged civil penalties under PAGA. Any employer-side payroll taxes on the portion of the Individual Class Payments allocated to wages shall be separately paid by Defendant. Within fifteen (15) days of the Effective Date, Defendant will fund the Total Settlement Amount by depositing the money with the Administrator. The Effective Date means the date the Judgment is entered, unless there are objections in which case the Effective Date is when the Judgment is no longer subject to appeal. Fourteen (14) days after the Settlement is funded, the Administrator will mail checks for the Individual Class Payments and Individual FCRA Class Payments to Participating Class Members.

Court Approved Deductions from Total Settlement Amount. The proposed payments, subject to Court approval, will be deducted from the Total Settlement Amount before payments of Individual Class Payments and Individual FCRA Class Payments are made to Class Members who do not request exclusion ("Participating Class Members"). At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the

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

- Administration Expenses Payment. Payment to the Administrator, estimated not to exceed \$40,000, for expenses, including expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing settlement checks and tax forms.
- Attorneys' Fees and Costs. Payment to Class Counsel of reasonable attorneys' fees not to exceed one-third (1/3) of the Total Settlement Amount, which presently equals \$666,666, and an additional amount to reimburse actual litigation costs incurred by the Plaintiffs not to exceed \$20,000. Class Counsel has been prosecuting the Action on behalf of Plaintiffs and the proposed Class on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payments. A Class Representative Service Payment in an amount not more than \$12,500 to each of the two named Plaintiffs as service awards, or such lesser amount as may be approved by the Court, to compensate them for services on behalf of the Class in initiating and prosecuting the Action, and for the risks they undertook. The amounts stated are what Plaintiffs will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- PAGA Payment. A payment of \$50,000 relating to Plaintiffs' claim under PAGA, \$37,500 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA"). The remaining \$12,500 will be distributed to the PAGA Members as Individual PAGA Payments. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Members' 25% share of PAGA Payment (\$12,500) by the total number of PAGA Pay Periods worked by all PAGA Members during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Pay Periods. PAGA Members assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. "PAGA Pay Period" means any pay period during which a PAGA Member was employed by Defendant for at least one day during the PAGA Period, which is June 29, 2021 through July 28, 2023.
- To Each Participating Background Class Member. An Individual FCRA Class Payment paid out at a flat rate of \$17.50 per individual. Individual FCRA Class Payments are 100% for penalties and interest, which are not subject to wage withholdings and will be reported on IRS 1099 Forms. Non-Participating Class Members will not receive any Individual FCRA Class Payments.

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

Calculation of Payments to Class Members. After all of the payments of the court-approved Attorneys' Fees and Costs, the Class Representative Service Payments, the PAGA Payment, and the Administration Expenses Payment are deducted from the Total Settlement Amount, the

remaining portion, the “Net Settlement Amount”, shall be distributed to the Participating Class Members. The Net Settlement Amount is estimated to be at least \$ _____. The Administrator will distribute the Net Settlement Amount to each Participating Class Member as follows: First, for the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person for what is estimated to be approximately 3,567 persons for an approximate total of \$62,422.50 from the Net Settlement Amount. Second, for the California Class Members, the amount remaining in the Net Settlement amount will be allocated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member’s Workweeks during the California Class Period. “Workweek” means any week during the California Class Period in which a Class Member was employed by Defendant as a Class Member for at least one day.

If the Settlement is approved by the Court and you do not exclude yourself, you will automatically be mailed a check for your Individual Class Payment and/or Individual FCRA Class Payment to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. The Parties agree that twenty Percent (20%) of each Participating California Class Member’s Individual Class Payment is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Eighty Percent (80%) of each Participating California Class Member’s Individual Class Payment is in settlement of claims for alleged non-wages, expense reimbursement, interest and penalties due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099. For the Individual FCRA Class Payments, 100% Participating FCRA Class Member’s Individual Class Payment shall be attributed to penalties. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement and your receipt of the Individual Class Payment is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

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. Plaintiffs and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.

Need to Promptly Cash Payment Checks. The front of every check issued will show the date when the check expires (the void date). If you don’t cash it by the void date, your check will be automatically cancelled, and the funds represented by such checks to the California

Controller's Unclaimed Property Fund in the name of the individual who failed to cash their check.

Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than _____, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the _____ Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against the Defendant.

Administrator. The Court has appointed a neutral company, _____ (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and/or PAGA 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.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date and upon full funding of the Total Settlement Amount by Defendant, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims. "Released Class Claims" means the following: for the California Class Members, all wage and hour Class claims that were alleged, or reasonably could have been alleged, based on the wage and hour factual or legal theories alleged in the Operative Complaint, including all of the following: (a) all class claims stated in the Operative Complaint alleging violations of California Labor Code sections 201, 202, 203, 204, 210, 218, 221, 226, 226.7, 233, 246, 246.5, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198 and 2802; (b) all claims for unpaid wages, including claims for minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, the alleged failure to pay reporting time pay and the alleged unlawful deductions from earned wages; (c) all claims for meal period violations, including claims for late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for rest break violations, including claims for late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the

Operative Complaint, including the allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer, and including claims for injuries suffered therefrom; (g) all claims for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims under the Business & Professions Code (including Section 17200 *et seq.*) premised on the facts, claims, and causes of action alleged in the Operative Complaint; and (k) for the FCRA Class Members, all FCRA class claims pled or that could have been pled based on the FCRA factual allegations contained in the Operative Complaint which occurred during the FCRA Class Period. Except as expressly set forth in this Agreement, Participating Class Members do not release any other claims, including claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, and Class claims based on facts occurring outside the Class Period.

Released PAGA Claims. As of the Effective Date and upon full funding of the Total Settlement Amount by Defendant, all PAGA Members and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from the Released PAGA Claims. The "Released PAGA Claims" are all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts or legal theories alleged in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period, including the following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages, including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged failure to pay for drug testing and other required testing and examinations, the alleged failure to pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay for all hours worked at correct rates, including overtime at the correct rates including, but not limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged unlawful deductions from earned wages; (c) all claims for civil penalties for meal period violations, including late, short, interrupted, rounded, and missed meal periods and the failure to pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal periods; (d) all claims for civil penalties for rest period violations, including late, short, interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage, and home office expenses; (f) all claims for civil penalties for inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the facts and legal theories contained in the PAGA Notice, including the

allegation that the wage statements lacked the total number of hours worked and corresponding rates and the proper legal entity of the employer; (g) all claims for civil penalties for the untimely payment of wages, including regular, overtime, premium wages, paid sick leave, and reporting time pay to current employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits, wrongful termination, violations of the Fair Employment and Housing Act, unemployment insurance, disability, social security, and worker's compensation, and PAGA claims outside of the PAGA Period.

Released Parties. The Released Parties are: Defendant and each of its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, executors, insurers, parent companies, subsidiaries (including Blood Centers of the Pacific and BloodSource, Inc.), affiliates, divisions (including United Blood Services), consultants, subcontractors, predecessors, successors, assigns, and joint venturers, and all persons acting under, by, through, or in concert, with any of them, and each of them.

5. How much will my payment be?

Individual Class Payments. The Administrator will calculate Individual Class Payments as follows: For the California Class members, by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the California Class Period and (b) multiplying the result by each Participating Class Member's Workweeks during the California Class Period. For the Participating FCRA Class Members, the allocation of payment of the Individual FCRA Class Payments will be \$17.50 per person.

Defendant's records reflect that you worked <<____>> Workweeks during the California Class Period (August 11, 2018 through July 28, 2023).

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

Your estimated FCRA Class Payment is <<____>>.

Defendant's records reflect that you worked <<____>> PAGA Pay Periods during the during the PAGA Period (June 29, 2021 through July 28, 2023). Based on this information your estimated Individual PAGA Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Administrator at the

address provided in this Class Notice no later than the Response Deadline, which is _____ [sixty (60) days after the mailing of the Class Notice or an additional 14 days in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than the Response Deadline. Any dispute should include credible written evidence and will be resolved by the Administrator.

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

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Individual Class Payment and or Individual FCRA Class Payment will be mailed automatically to the same address as this Class Notice.

Your check will be sent to the same address as this 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.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Class portion of the Settlement or "opt out." **If you opt out, you will not receive an Individual Class Payment or an Individual FCRA Class Payment from the Settlement, and you will not be bound by the class settlement, which means you will retain the right to sue Defendant for the Released Class Claims.** However, PAGA Members who opt out will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether they submit a request for exclusion. **The PAGA Payment is \$50,000, of which \$12,500 will be distributed to the PAGA Members to be allocated based on their respective PAGA Pay Periods. Your share of the PAGA Payment, if any, is set forth in Section 5 above.**

To opt out, you must submit to the Administrator a written, signed and dated request to opt-out postmarked no later than the Response Deadline which is _____. You may also fax your request to opt out to _____ or email the dispute to _____ by no later than the Response Deadline. The request to opt-out should state in substance that you wish to be excluded from the class settlement in the *Spears v. Vitalant* lawsuit. The request to opt-out should state the Class Member's full name, address and email address or telephone number. Please include the name and number of the case, which is *Spears v. Vitalant*, Case No. 22-CIV-03291. The request to opt-out must be completed and signed by you. No other person may opt-out for a living member of the Class.

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

8. How do I Object to the Settlement?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiffs and Defendant are asking the Court to approve. At least sixteen (16) court days before the Final Approval Hearing, scheduled for _____, Class Counsel and Plaintiffs will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Awards stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as Class Representative Service Payments. Upon reasonable request, Class Counsel (whose contact information is below) will send you copies of these documents at no cost to you. You can also view them on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant* or on the Court's website (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-03291

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Awards may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The Response Deadline for sending written objections to the Administrator is _____** [sixty (60) days after the date of the Notice or an additional 14 days after the Notice in the case of re-mailing]. You may also fax the dispute to _____ or email the dispute to _____ by no later than this Response Deadline. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Spears v. Vitalant*, Case No. 22-CIV-03291, and include your name, current address, email or telephone number, and approximate dates of employment for Defendant and sign the objection. The Administrator's contact information is as follows:

Administrator:

Name of Company: _____

Email Address: _____

Mailing Address: _____

Telephone Number: _____

Fax Number: _____

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. You also have the option to appear at the hearing by audio or video. Instructions on how to do so are available on the Court's website at https://www.sanmateocourt.org/court_divisions/civil/. Check the Court's website for the most current information. See Section 9 of this Notice (immediately below) for specifics regarding the Final Approval Hearing

The address for Class counsel is as follows:

CLASS COUNSEL:

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

9. Can I Attend the Final Approval Hearing?

You can, but don't have to, attend the Final Approval Hearing at _____ (Pacific Standard Time) on _____, in Department 3 - Courtroom 2B of the Superior Court of California, County of San Mateo, 400 County Center, Redwood City, CA 94063, before Judge Susan Greenberg. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payments to Plaintiffs. If there are objections, the Court will consider them. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing remotely using the Court Connect procedure at https://www.sanmateocourt.org/court_divisions/civil/. You may also appear in person. Check the Court's website for the most current information on appearing in Court.

It's possible the Court will reschedule the Final Approval Hearing. If the hearing is continued, notice will be posted on Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant*. In addition, hearing dates are posted on the Internet via the Case Access page for the San Mateo County Superior Court (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-03291.

10. How Can I Get More Information?

You may call the Administrator at _____ or write to *Spears v. Vitalant* Administrator, c/o _____.

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs and service awards, the motion for final approval or other Settlement documents by going to Class Counsel's website at www.bamlawca.com under "Class Notices" for *Spears v. Vitalant*. You may get more details by examining the Court's file on the Internet via the Case Access page for the California Superior Court for the County of San Mateo (<http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil>) and entering the Case No. 22-CIV-03291. If you wish to view the Court files in person, you are encouraged to make an appointment with the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- **What if Your Address Changes** - To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.
- **What if You Fail to Cash a Check** - Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date is printed on the check. In such events, the Administrator shall direct all unclaimed funds to be paid to the California Controller's Unclaimed Property Fund in the name of and for the benefit of the individual who did not cash their check. The funds may be claimed at https://www.sco.ca.gov/upd_msg.html.
- **What if You Lose Your Check** - If your check is lost or misplaced, you should contact the Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL]

EXHIBIT "B"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 22-CIV-03291

**[PROPOSED] PRELIMINARY
APPROVAL ORDER**

Hearing Date: _____
Hearing Time: _____

Judge: Susan L. Greenberg
Dept: 3

Date Filed: August 22, 2022
Trial Date: Not yet set

This matter came before the Honorable Susan L. Greenberg of the Superior Court of the State of California, in and for the County San Mateo, on _____[DATE], for hearing on the unopposed motion by Plaintiffs ChaMarie Spears and Kathleen Leonard (collectively, "Plaintiffs") for preliminary approval of the Settlement with Defendant Vitalant ("Defendant"). The Court, having considered the briefs, argument of counsel and all matters presented to the Court and good

PRELIMINARY APPROVAL ORDER

1 cause appearing, hereby GRANTS Plaintiffs' Motion for Preliminary Approval of Class Action
2 Settlement.

3 **IT IS HEREBY ORDERED:**

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

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

12 3. The Total Settlement Amount that Defendant shall pay is Two Million Dollars
13 (\$2,000,000). It appears to the Court on a preliminary basis that the settlement amount and terms
14 are fair, adequate and reasonable as to all potential Class Members when balanced against the
15 probable outcome of further litigation and the significant risks relating to certification, liability and
16 damages issues. It further appears that investigation and research have been conducted such that
17 counsel for the Parties are able to reasonably evaluate their respective positions. It further appears
18 to the Court that the Settlement will avoid substantial additional costs by all Parties, as well as
19 avoid the delay and risks that would be presented by the further prosecution of the Action. It
20 further appears that the Settlement has been reached as the result of serious and non-collusive,
21 arms-length negotiations.

22 4. The Court preliminarily finds that the Settlement appears to be within the range of
23 reasonableness of a settlement that could ultimately be given final approval by this Court. The
24 Court has reviewed the monetary recovery that is being granted as part of the Settlement and
25 preliminarily finds that the monetary settlement awards made available to the Class is fair,
26 adequate, and reasonable when balanced against the probable outcome of further litigation and the
27 significant risks relating to certification, liability, and damages issues.

1 5. The Agreement specifies for an attorneys' fees award not to exceed one-third of the
2 Total Settlement Amount, an award of litigation expenses incurred, not to exceed \$20,000, and
3 proposed Class Representative Service Payments to the two Plaintiffs in an amount not to exceed
4 \$12,500 each. The Court will not approve the amount of attorneys' fees and costs, nor the amount
5 of any service award, until the Final Approval Hearing. Plaintiffs will be required to present
6 evidence supporting these requests, including lodestar, prior to final approval.

7 6. The Court recognizes that Plaintiffs and Defendants stipulate and agree to
8 representative treatment and certification of a class for settlement purposes only. This stipulation
9 will not be deemed admissible in this or any other proceeding should this Settlement not become
10 final. For settlement purposes only, the Court conditionally certifies the Class which consists of
11 both the California Class and the FCRA Class. The California Class is defined as all individuals
12 who were employed by Defendant in California and classified as non-exempt at any time during
13 the California Class Period. The "California Class Period" is from August 11, 2018 through July
14 28, 2023. The FCRA Class is defined as all individuals who applied to work for Defendant who
15 were classified as either exempt or non-exempt in the United States during the FCRA Class Period
16 for whom background checks were run using the same federal FCRA form as that contained on
17 page 2 of the forms provided to Plaintiff Spears. The "FCRA Class Period" is from August 11,
18 2020 through December 9, 2022.

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

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

3 8. The Court provisionally appoints Plaintiffs as the representatives of the Class. The
4 Court provisionally appoints Norman B. Blumenthal, Kyle R. Nordrehaug, Aparajit Bhowmik,
5 Nicholas J. De Blouw, Jeffrey S. Herman, and Sergio J. Puche of Blumenthal Nordrehaug
6 Bhowmik De Blouw LLP as Class Counsel for the Class.

7 9. The Agreement provides for a PAGA Payment out of the Total Settlement Amount
8 of \$20,000, which shall be allocated \$37,500 to the Labor & Workforce Development Agency
9 (“LWDA”) as the LWDA’s 75% share of the settlement of civil penalties paid under this
10 Agreement pursuant to the PAGA and \$12,500 will be distributed to the PAGA Members as
11 Individual PAGA Payments. “PAGA Members” are all individuals who were employed by
12 Defendant in California and classified as a non-exempt employee at any time during the PAGA
13 Period. The PAGA Period is from June 29, 2021 through July 28, 2023. Pursuant to Labor Code
14 section 2699, subdivision (1)(2), the LWDA will be provided notice of the Agreement and these
15 settlement terms. The Court finds the PAGA Payment to be reasonable.

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

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

9 12. The Court hereby preliminarily approves the proposed procedure for exclusion
10 from the Settlement. Any Class Member may individually choose to opt out of and be excluded
11 from the Class as provided in the Class Notice by following the instructions for requesting
12 exclusion from the Class that are set forth in the Class Notice. All requests for exclusion must be
13 postmarked or received no later than sixty (60) calendar days after the date of the mailing of the
14 Class Notice (“Response Deadline”). If a Class Notice Packet is re-mailed, the Response Deadline
15 for requests for exclusion will be extended an additional fourteen (14) days. A Request for
16 Exclusion may also be faxed or emailed to the Administrator as indicated in the Class Notice.
17 Any such person who chooses to opt out of and be excluded from the Class will not be entitled to
18 any recovery under the Class Settlement and will not be bound by the Class Settlement or have
19 any right to object, appeal or comment thereon. Class Members who have not requested exclusion
20 shall be bound by all determinations of the Court, the Agreement and the Judgment. A Request
21 for Exclusion may only serve to effect an opt out as to that particular individual, and any attempt
22 to effect an opt-out of a group, class, or subclass of individuals is not permitted and will be
23 deemed invalid.

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

6 14. A final approval hearing shall be held before this Court on _____
7 _____ at _____ in Department 3 – Courtroom 2B at the San Mateo County
8 Superior Court to hear the motion for final approval and the motion for attorneys’ fees and costs,
9 and to determine all necessary matters concerning the Settlement, including: whether the proposed
10 settlement of the Action on the terms and conditions provided for in the Agreement is fair,
11 adequate and reasonable and should be finally approved by the Court; whether the Final Approval
12 Order and Judgment should be entered herein; whether the plan of allocation contained in the
13 Agreement should be approved as fair, adequate and reasonable to the Class Members; and to
14 finally approve attorneys’ fees and costs, service awards, and the fees and expenses of the
15 Administrator. All papers in support of the motion for final approval and the motion for attorneys’
16 fees, costs and service awards shall be filed with the Court and served on all counsel no later than
17 sixteen (16) court days before the hearing and both motions shall be heard at this final approval
18 hearing.

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

4 16. In the event the Settlement does not become effective in accordance with the terms
5 of the Agreement, or the Settlement is not finally approved, or is terminated, canceled or fails to
6 become effective for any reason, this Order shall be rendered null and void and shall be vacated,
7 and the Parties shall revert to their respective positions as of before entering into the Agreement,
8 and expressly reserve their respective rights regarding the prosecution and defense of this Action,
9 including all available defenses and affirmative defenses, and arguments that any claim in the
10 Action could not be certified as a class action and/or managed as a representative action . In such
11 an event, the Court's orders regarding the Settlement, including this Order, shall not be used or
12 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of
13 the Agreement with respect to the effect of the Agreement if it is not approved.

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

18 **IT IS SO ORDERED.**

19 Dated: _____

20 _____
21 HON. SUSAN L. GREENBERG
22 JUDGE OF THE SUPERIOR COURT OF CALIFORNIA
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EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 22-CIV-03291

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

Hearing Date: _____
Hearing Time: _____

Judge: Susan L. Greenberg
Dept: 3

Date Filed: August 22, 2022
Trial Date: Not yet set

FINAL APPROVAL ORDER AND JUDGMENT

1 The unopposed motion of Plaintiffs ChaMarie Spears and Kathleen Leonard (collectively
2 “Plaintiffs”) for an order finally approving the Class Action and PAGA Settlement Agreement
3 (“Agreement”) with Defendant Vitalant (“Defendant”), attorneys’ fees and costs, service
4 payments, and the expenses of the Administrator duly came on for hearing on _____
5 before the Honorable Susan L. Greenberg.

6 **I.**

7 **FINDINGS**

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

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

22 **Preliminary Approval of the Settlement**

- 23 5. On _____, the Court granted preliminary approval of the Settlement. At
24 this same time, the Court approved conditional certification of the Class for settlement purposes
25 only.
- 26
- 27
- 28

1 **Notice to the Class**

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

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

22 **Fairness of the Settlement**

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

25 a. The settlement was reached through arm's-length bargaining between the
26 Parties during an all-day mediation before David Rotman, an experienced mediator of wage and
27 hour class actions. There has been no collusion between the Parties in reaching the Settlement.

1 b. Plaintiffs and their counsel's investigation and discovery have been
2 sufficient to allow the Court and counsel to act intelligently.

3 c. Counsel for all Parties are experienced in similar employment class action
4 litigation. Plaintiffs' counsel recommended approval of the Agreement.

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

7 e. The participation rate was high. _____ Class Members will be mailed a
8 settlement payment, representing _____ % of the overall Class.

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

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

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

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

22 **Class Representative Service Payments**

23 12. The Agreement provides for a Class Representative Service Payment of not more
24 than \$12,500 each to the Plaintiffs, subject to the Court's approval. The Court finds that Class
25 Representative Service Payments in the amount of \$ _____ each to the Plaintiffs are
26 reasonable in light of the risks and burdens undertaken by the Plaintiffs in this litigation, the result
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1 achieved, and for their time and effort in bringing and prosecuting this matter on behalf of the
2 Class.

3 **Administration Expenses Payment**

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

10 **PAGA Payment**

11 14. The Agreement provides for a PAGA Payment in the amount of \$50,000 out of
12 the Total Settlement Amount, which shall be allocated \$37,500 to the Labor & Workforce
13 Development Agency ("LWDA") as the LWDA's 75% share of the settlement of civil penalties
14 paid under this Agreement pursuant to the PAGA and \$12,500 to be distributed to the PAGA
15 Members and allocated by (a) dividing the amount of the PAGA Members' 25% share of PAGA
16 Payment (\$12,500) by the total number of PAGA Pay Periods worked by all PAGA Members
17 during the PAGA Period and (b) multiplying the result by each PAGA Member's PAGA Pay
18 Periods. "PAGA Members" are all individuals who were employed by Defendant in California
19 and classified as a non-exempt employee at any time during the PAGA Period (June 29, 2021
20 through July 28, 2023). Pursuant to Labor Code section 2699, subdivision (1)(2), the LWDA was
21 provided notice of the Agreement and these settlement terms and has not indicated any objection
22 thereto. The Court finds the PAGA Payment to be reasonable.

23 **II.**

24 **ORDERS**

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

26 15. The Class is certified for the purposes of settlement only. The Class consists of
27 both the California Class and the FCRA Class, which are defined as follows:

1 The **California Class** is defined as: “all individuals who were employed by
2 Defendant in California and classified as non-exempt at any time during the
3 California Class Period.” The “California Class Period” is from August 11, 2018
through July 28, 2023.

4 The **FCRA Class** is defined as: “all individuals who applied to work for Defendant
5 who were classified as either exempt or non-exempt in the United States during the
6 FCRA Class Period for whom background checks were run using the same federal
FCRA form as that contained on page 2 of the forms provided to Plaintiff Spears.”
The “FCRA Class Period” is from August 11, 2020 through December 9, 2022.

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

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

12 18. Class Counsel are awarded attorneys’ fees in the amount of \$_____ and
13 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other
14 compensation or reimbursement from Defendant, Plaintiffs or members of the Class.

15 19. The payment of Class Representative Service Payments in the amount of \$_____
16 each to the Plaintiffs is approved.

17 20. The payment of \$_____ to the Administrator for its fees and expenses is
18 approved.

19 21. The PAGA Payment of \$50,000 is approved and is to be distributed in accordance
20 with the Agreement.

21 22. Pursuant to Labor Code section 2699, subdivision (1)(2), Class Counsel shall
22 submit a copy of this Final Approval Order and Judgment to the LWDA within 10 days after its
23 entry.

24 23. Neither the Agreement nor this Settlement is an admission by Defendant, nor is this
25 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
26 wrongdoing by Defendant or that this Action is appropriate for class or representative treatment
27 (other than for settlement purposes). Neither this Final Approval Order and Judgment, the
28

1 Agreement, nor any document referred to herein, nor any action taken to carry out the Agreement
2 is, may be construed as, or may be used as an admission by or against Defendant of any fault,
3 wrongdoing or liability whatsoever. The entering into or carrying out of the Agreement, and any
4 negotiations or proceedings related thereto, shall not in any event be construed as, or deemed to be
5 evidence of, an admission or concession with regard to the denials or defenses by Defendant.
6 Notwithstanding these restrictions, Defendant may file in the Action or in any other proceeding
7 this Final Approval Order and Judgment, the Agreement, or any other papers and records on file in
8 the Action as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel,
9 release, or other theory of claim or issue preclusion or similar defense as to the Released Class
10 Claims and/or Released PAGA Claims.

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

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

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

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

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

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

5 29. Effective on the date when Defendant fully funds the Total Settlement Amount,
6 Plaintiffs, Participating Class Members, PAGA Members and the LWDA will release claims
7 against all Released Parties as follows:

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

22 (b) All PAGA Members and the LWDA are deemed to release, on behalf of
23 themselves and their respective former and present representatives, agents, attorneys, heirs,
24 administrators, successors, and assigns, the Released Parties from the Released PAGA Claims.
25 The “Released PAGA Claims” are all claims for PAGA civil penalties that were alleged, or
26 reasonably could have been alleged, based on the facts or legal theories alleged in the Operative
27 Complaint and the PAGA Notice, which occurred during the PAGA Period, including the
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1 following: (a) all claims for civil penalties stated in the Operative Complaint alleging violations of
2 sections 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512,
3 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section
4 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure
5 to Provide Seating), and applicable Industrial Welfare Commission Wage Order(s) including
6 Industrial Wage Order 7(A)(3); (b) all claims for civil penalties for violations of unpaid wages,
7 including unpaid minimum, overtime, double-time wages and incentive compensation, the alleged
8 failure to pay for all time worked, the alleged failure to pay for off the clock work, the alleged
9 failure to pay for drug testing and other required testing and examinations, the alleged failure to
10 pay for temperature checks and symptom questionnaires for Covid-19, the alleged failure to pay
11 for all hours worked at correct rates, including overtime at the correct rates including, but not
12 limited to, the regular rate of pay, the alleged improper rounding of time entries, and the alleged
13 unlawful deductions from earned wages; (c) all claims for civil penalties for meal period
14 violations, including late, short, interrupted, rounded, and missed meal periods and the failure to
15 pay premiums at all, or at the correct regular rates, and the alleged failure to properly record meal
16 periods; (d) all claims for civil penalties for rest period violations, including late, short,
17 interrupted, missed, or otherwise improperly controlled rest breaks and the failure to pay
18 premiums at all or at the correct regular rates; (e) all claims for civil penalties for unreimbursed
19 expenses, including, but not limited to, expenses incurred for personal cell phone usage, mileage,
20 and home office expenses; (f) all claims for civil penalties for inaccurate itemized wage
21 statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the
22 facts and legal theories contained in the PAGA Notice, including the allegation that the wage
23 statements lacked the total number of hours worked and corresponding rates and the proper legal
24 entity of the employer; (g) all claims for civil penalties for the untimely payment of wages,
25 including regular, overtime, premium wages, paid sick leave, and reporting time pay to current
26 employees under sections 204 and 210 of the Labor Code; (h) all claims for civil penalties for the
27 untimely payment of final wages and associated waiting time penalties under sections 201 to 203
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1 of the Labor Code Section; (i) all claims for civil penalties for unpaid sick leave, including claims
2 that paid sick leave was not paid at the correct regular rate of pay; (j) all claims for civil penalties
3 for failing to provide suitable seating; (k) all claims for civil penalties for alleged violations of
4 Industrial Wage Order 7(A)(3) for failure to keep time records showing when employees began
5 and ended each shift and meal period; and (l) all claims for civil penalties for the alleged failure to
6 pay employees for reporting time pay. The Released PAGA Claims do not include other PAGA
7 claims, underlying wage and hour claims, claims for wrongful termination, discrimination, claims
8 covered by Plaintiff Spears' Separation Agreement addressed herein, claims for vested benefits,
9 wrongful termination, violations of the Fair Employment and Housing Act, unemployment
10 insurance, disability, social security, and worker's compensation, and PAGA claims outside of the
11 PAGA Period.

12 (c) Plaintiffs and their respective former and present spouses/domestic partners,
13 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
14 and discharge Released Parties from all claims, transactions, or occurrences that occurred through
15 the Effective Date, including, but not limited to: all known and unknown claims against the
16 Released Parties, including any Released Class Claims and Released PAGA Claims as well as all
17 other wage and hour claims, claims under California Business & Professions Code section 17200,
18 claims under the Labor Code, including, but not limited to, claims under the Private Attorneys
19 General Act ("PAGA"), claims under the Fair Labor Standards Act ("FLSA"), and all claims for
20 indemnity or reimbursement of business expenses, overtime compensation, minimum wages,
21 penalties, liquidated damages, and interest, and all other claims under state, federal, and local
22 laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and
23 Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the
24 Employee Retirement Income Security Act of 1974, and all of their implementing regulations and
25 interpretive guidelines, as well as the common law, including laws related to discrimination,
26 harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated,
27 arising from or relating to each Plaintiff's relationship, or termination of relationship, with any
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1 Released Party through the date of Final Approval for any type of relief, as fully set forth in the
2 Agreement.

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

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

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

14
15 Dated: _____

16
17 HON. SUSAN L. GREENBERG
JUDGE OF THE SUPERIOR COURT OF CALIFORNIA

Blumenthal Nordrehaug Bhowmik De Blouw LLP

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FIRM RESUME

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

Admitted: 1973, Illinois; 1976, California

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

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

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Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

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

REPORTED CASES

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

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

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

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

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

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

CLASS ACTION & REPRESENTATIVE CASES

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

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

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

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

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

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

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

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

Division, Case No. 16-CV-00906-DB; Mrazik v. C.H. Robinson Company – U.S. District Court, Central District of California, Case No. 12-CV-02067-CAS-PLA; Horn v. Rise Medical Staffing, LLC – U.S. District Court, Eastern District of California, Case No. 2:17-cv-01967-MCE-KJN; Pasallo v. GSG Protective Services CA Inc. – San Diego Superior Court, Case No. 37-2018-00037611-CU-OE-CTL; Smith v. Pacific Personnel Services, Inc. – U.S. District Court, Northern District of California, Case No. 17-cv-03594-SK; Terrado v. Accredited Debt Relief, LLC – San Diego Superior Court, Case No. 37-2018-00014181-CU-OE-CTL; Escobedo v. Pacific Western Bank – Los Angeles Superior Court, Case No. BC682686; Wade v. Automobile Club of Southern California – Orange County Superior Court, Case No. 30-2017-00960268-CU-OE-CXC; Montano v. American Automobile Association of Northern California – Contra Costa County Superior Court, Case No. CIVMSC18-01539; Perez v. Summit Interconnect, Inc. – Orange County Superior Court, Case No. 30-2018-00995403-CU-OE-CXC; Wolleson v. Gosch Imports, Inc. – Riverside County Superior Court, Case No. RIC170356; Banuelos v. Ortho Mattress, Inc. – Orange County Superior Court, Case No. 30-2020-01161304-CU-OE-CXC; Castellanos v. Miller Automotive Group, Inc. – Los Angeles County Superior Court, Case No. BC699211; Tressler v. Spoonful Management, LLC – Los Angeles County Superior Court, Case No. BC71940; Delph v. Employee Retention Services, LLC – San Diego County Superior Court, Case No. 37-2018-00007885; Romero v. May Trucking Company – U.S. District Court, Central District of California, Case No. 5:17-cv-02166-JGB-SHK; Miranda v. Genex Services, LLC – San Bernardino County Superior Court, Case No. CIVDS1700779; Moore v. Zirx Transportation Services, Inc. – Los Angeles County Superior Court, Case No. CGC-18-566655; Sottile v. Motion Recruitment Partners – Santa Clara County Superior Court, Case No. 18CV321677; Shahbazian v. Fast Auto Loans, Inc. – U.S. District Court, Central District of California, Case No. 2:18-cv-03076-ODW-KS; Salazar v. Johnson & Johnson Consumer Inc. – Los Angeles County Superior Court, Case No. BC702468; Conti v. L’Oreal USA S/D, Inc. – U.S. District Court, Eastern District of California, Fresno, Case No. 1:19-CV-00769-LJO-SKO; Mercado v. Security Industry Specialists, Inc. – Santa Clara County Superior Court, Case No. 17CV320059; Vikili v. Dignity Health – San Francisco County Superior Court, Case No. CGC-18-569456; Bagby v. Swissport SA, LLC – Los Angeles County Superior Court, Case No. BC691058; Henry v. Motion Entertainment Group, LLC – San Francisco County Superior Court, Case No. CGC18565643; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Lanuza v. AccentCare, Inc. – San Francisco County Superior Court, Case No. CGC-18-565521; Thomas v. Easy Driving School, LLC – San Diego County Superior Court, Case No. 37-2018-00047639-CU-OE-CTL; Erickson v. Erickson – Contra Costa County Superior Court, Case No. MSC18-00307; Martin v. Menzies Aviation (USA) Inc. – San Francisco County Superior Court, Case No. CGC-18-566072; Mortimer v. Healthsouth Bakersfield Rehabilitation Hospital, LLC – Kern County Superior Court, Case No. BCV-18-102761; Alcaraz v. Red Lion Hotels Corporation – San Francisco County Superior Court, Case No. CGC-18-570310; Calhoun v. Total Transportation and Distribution, Inc. – San Diego County Superior Court, Case No. 37-2018-00058681-CU-OE-CTL; Rataul v. Overton Security Services, Inc. – Alameda County Superior Court, Case No. RG18891882; Beltran v. Compass Bank – San Diego County Superior Court, Case No. 37-2019-00024475-CU-OE-CTL; Kirshner v. Touchstone Golf, LLC – San Diego County Superior Court, Case No. 37-2018-00028865-CU-OE-CTL; Pizarro v. The Home Depot, Inc. – U.S. District Court for the Northern District of Georgia-Atlanta Division; Hatanaka v. Restore Rehabilitation, LLC – San Diego County Superior Court, Case No. 37-2018-00034780-CU-OE-CTL; Faria v. Carriage Funeral Holdings, Inc. – Contra Costa County Superior Court, Case No. MSC18-00606; Ontiveros v. Baker Concrete Construction, Inc. – Santa Clara County Superior Court, Case No. 18CV328679; Morales v. Redlands Automotive Services, Inc. – San Bernardino County Superior Court, Case No. CIVDS1807525; Ramirez v. Carefusion Resources, LLC – U.S. District Court, Southern District of California; Amster v. Starbucks Corporation – San Bernardino Superior Court, Case No. CIVDS1922016; Kutzman v. Derrel’s Mini Storage, Inc. – U.S. District, Eastern District of California, Case No. 1:18-cv-00755-AWI-JLT; Marks v. Universal Propulsion Company, Inc. – Solano County Superior Court, Case No. FCS051608; Martinez v. Geil Enterprises,

Inc. – Fresno County Superior Court, Case No. 17CECG01480; Teniente v. Cirrus Asset Management, Inc. – Los Angeles County Superior Court, Case No. 20STCV16302; Blackshear v. California Fine Wine & Spirits LLC – Sacramento County Superior Court, Case No. 34-2018-00245842; Warnick v. Golden Gate America West LLC – Los Angeles County Superior Court, Case No. BC714176; Bennett v. Dnata Aviation USA, Inc. – San Francisco County Superior Court, Case No. CGC-18-566911; George v. PF Stockton Fitness LLC – Sacramento County Superior Court, Case No. 34-2019-00261113-CU-OE-GDS; Oshana v. Farmers and Merchants Bank of Central California – Stanislaus County Superior Court, Case No. CV-19-003427; Vasquez v. Packaging Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-01935-PSG-PLA; Palomino v. Zara USA Inc. – Orange County Superior Court, Case No. 30-2018-00992682-CU-OE-CXC; Simmons v. Joe & The Juice LA, LLC – San Francisco County Superior Court; Pacia v. CIM Group, L.P. – Los Angeles County Superior Court, Case No. BC709666; Flores v. Plastic Express – Los Angeles County Superior Court, Case No. BC71971; Madera v. William Warren Properties, Inc. – Orange County Superior Court, Case No. 30-2019-01055704-CU-OE-CXC; Hernandez v. Quality Custom Distribution – Orange County Superior Court, Case No. 30-2018-01010611-CU-OE-CXC; Arango v. Schlumberger Technology Corporation – Orange County Superior Court, Case No. 30-2019-01056839-CU-OE-CXC; Dandoy v. West Coast Convenience, LLC – Alameda County Superior Court, Case No. HG20051121; Ramirez v. J E H Enterprises, Inc. – San Francisco County Superior Court, Case No. CGC-19-574691; Sullen v. First Service Residential California, LLC – San Francisco County Superior Court, Case No. CGC-19-575131; Valentino v. East Bay Tire Co. – Solano County Superior Court, Case No. FCS053067; Murphy v. Rockler Retail Group, Inc. – Sacramento Superior Court, Case No. 34-2019-00251220; Shahbazian v. Onewest Bank – Los Angeles County Superior Court, Case No. 19STCV23722; Bruemmer v. Tempur Retail Stores LLC – Marin County Superior Court, Case No. CIV1803646; Antonios v. Interface Rehab, Inc. – Orange County Superior, Case No. 30-2019-01067547-CU-OE-CXC; Tavallodi v. DC Auto, Inc. – San Bernardino, Case No. CIVDS1833598; Miranda v. The Lloyd Pest Control Co. – San Diego County Superior Court, Case No. 37-2018-00052510-CU-OE-CTL; Soenardi v. Magnussen Imports, Inc. – Santa Clara County Superior Court, Case No. 18CV340003; Thai v. Team Industrial Services, Inc. – Los Angeles County Superior Court, Case No. 19STCV21953; Castillo v. A.J. Kirkwood & Associates, Inc. – Los Angeles County Superior Court, Case No. 19STCV04435; Moss v. Jabil Inc. – Alameda County Superior Court, Case No. HG20050536; Billosillo, Jr. v. Crown Energy Services, Inc. – San Diego County Superior Court, Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lesevic v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL; Azima v. CSI Medical Group – Santa Clara County Superior Court, Case No. 19CV345450; Porras v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-

CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v. Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter's Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California

Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cytotec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

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1004

June 29, 2022

CA2619

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency Vitalant

Online Filing

Certified Mail #70220410000153344048

National Registered Agents, Inc.

330 N. Brand Blvd. Suite 700

Glendale, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Vitalant in California, including any employees staffed with Vitalant by a third party, and classified as non-exempt employees during the time period of June 29, 2021 until a date as determined by the Court. Our offices represent Plaintiff ChaMarie Spears (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Vitalant (“Defendant”). Plaintiff has been employed by Defendant in California as a non-exempt employee since July of 2021 and entitled to the legally required meal and rest breaks and payment for all time worked under Defendant’s control. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages, for all of their missed meal and rest breaks, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday, and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. See *Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other

Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

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

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

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

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, on behalf of herself
and on behalf of all persons similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT FOR:

1. UNFAIR COMPETITION IN VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;
2. FAILURE TO PAY MINIMUM WAGES IN VIOLATION OF CAL. LAB. CODE §§ 1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES IN VIOLATION OF CAL. LAB. CODE §§ 510, *et seq.*;
4. FAILURE TO PROVIDE REQUIRED MEAL PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED REST PERIODS IN VIOLATION OF CAL. LAB. CODE §§ 226.7 & 512 AND THE APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN VIOLATION OF CAL. LAB. CODE § 226; and,
7. FAILURE TO REIMBURSE EMPLOYEES FOR REQUIRED EXPENSES IN VIOLATION OF CAL. LAB. CODE § 2802; and,
8. FAILURE TO PAY SICK WAGES IN VIOLATION OF CAL. LAB CODE §§201-204, 233, 246.
9. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO MAKE PROPER DISCLOSURES [15 U.S.C. § 1681, *et seq.*]; and,
10. VIOLATION OF THE FAIR CREDIT REPORTING ACT FOR FAILURE TO OBTAIN PROPER AUTHORIZATION [15 U.S.C. § 1681, *et seq.*].

DEMAND FOR A JURY TRIAL

1 **BLUMENTHAL NORDREHAUG BHOWMIK**
2 **DE BLOUW LLP**

3 Norman B. Blumenthal (State Bar #068687)

4 Kyle R. Nordrehaug (State Bar #205975)

5 Aparajit Bhowmik (State Bar #248066)

6 2255 Calle Clara

7 La Jolla, CA 92037

8 Telephone: (858)551-1223

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10 Email: Kyle@bamlawca.com

11 Website: www.bamlawca.com

12 Attorneys for Plaintiffs

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

CHAMARIE SPEARS, an individual, and
KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

VITALANT, a Corporation; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 22-CIV-03291

DECLARATION OF LISA MULLINS

Hearing Date: March 21, 2024_
Hearing Time: 9:00 a.m.

Judge: Susan L. Greenberg
Dept: 3

Date Filed: August 22, 2022
Trial Date: Not yet set

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2. ILYM Group has extensive experience in disseminating class action notices and administering class action settlements, including direct mail services, telephone, and web-based support, database management, opt-out processing, and settlement fund distribution services for class actions ranging in size from 26 to 4.5 million Class Members. Attached hereto, as **Exhibit A**, is a true and correct copy of ILYM Group's current CV, reflecting our primary competencies as they relate to class action administration. ILYM Group maintains the highest level of confidentiality. The class data and all forms of communication received by ILYM Group, Inc. will be held in strict confidentiality and will not be disclosed. ILYM Group, will set up a login for Defense Counsel to transmit the class data through our encrypted secure portal. Attached hereto, as **Exhibit B** is ILYM Group's Security Summary and Protocol. ILYM Group is insured with E&O and Cyber Insurance policies. ILYM Group is insured with E&O Insurance policies up to \$2,000,000 per incident and Cyber Insurance policies up to \$5,000,000 per incident.

4. If appointed by the Court to disseminate the class notice in this case, ILYM Group's duties will include but not limited to: (a) conducting address traces to locate class member addresses as necessary; (b) mailing the class notice to the class members; (c) handling inquiries from class members concerning the class notice; and (d) performing other such duties as the parties and/or the Court may direct.

5. Upon appointment, ILYM Group will provide a mailing address and toll-free telephone

1 number to receive correspondence and inquiries from class members. After receiving the class data file
2 from Defendant, which should contain the class members' names, last known addresses, and social
3 security numbers, ILYM Group will upload the data into our database and check for duplicates and
4 other possible discrepancies.

5 6. As part of the preparation for mailing the class notice, ILYM Group will process class
6 members' names and addresses against the National Change of Address ("NCOA") database,
7 maintained by the United States Postal Service ("USPS"), for the purpose of updating and confirming
8 the mailing addresses of the class members before mailing of the class notice and opt-in form. To the
9 extent an updated address is found in the NCOA database, ILYM Group will use the updated address
10 for mailing the class notice. If ILYM Group does not locate an updated address in the NCOA database,
11 it will use the original address provided by Defendant for mailing the class notice.

12 7. Should any class notices be returned to ILYM Group's office as undeliverable, ILYM
13 Group will attempt to locate an updated address using the NCOA database and/or other skip trace efforts
14 and will promptly re-mail the class notice.

15 8. Prior to sending out the notice, ILYM Group will fill in the specific date for the deadline
16 so that all class members will be apprised of exactly when all applicable forms will be due, depending
17 on the deadlines set by the Court, i.e., 60-day Notice period to opt-out, dispute or file an objection. At
18 the expiration of the deadline, ILYM Group will inform all parties as to the number and name of those
19 individuals who filed a timely opt-out, dispute or objection.

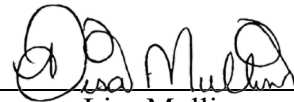
20 9. ILYM Group's Disbursement Process will include but not limited to; (a) applying for the
21 case EIN; (b) establishing Qualified Settlement Fund ("QSF") Escrow Account), with administering
22 tasks including but not limited to overview and reconciliation of account; (c) calculating the individual
23 settlement amounts; (d) preparing, administering and distributing settlement award checks to the
24 Participating Class Members, including necessary tax forms (W2 and/or 1099); (e) calculating and
25 withholding all applicable state and federal taxes; and (f) performing other such duties as the Parties
26 and/or the Courts direct. The above services are included in ILYM Group's initial quote. Attached
27 hereto, as **Exhibit C**, is a true and correct copy of ILYM Group's not to exceed quote for this matter.

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DECLARATION OF LISA MULLINS

1 10. ILYM Group's fees are charged: hourly, fixed & per person. No additional charges will
2 be incurred unless the class size increases, or additional services are requested. ILYM Group's fees
3 associated with the administration of this settlement is: **\$33,495.00**.

4 I declare, under penalty of perjury under the laws of the United States of America and the State
5 of California that the foregoing is true and correct. Executed this 13th day of February 2024, at Tustin,
6 California.

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10 Lisa Mullins
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DECLARATION OF LISA MULLINS

EXHIBIT “A”

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is a one of the fastest growing, Woman Owned Business (NAPW), in the industry and is becoming the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- Employment and Labor
- Securities
- Antitrust
- TCPA

Malta vs. Wells Fargo Home Mortgage Inc.

- TCPA Case with a class size of 5,200,000.

Gerardo Mojica vs. Compass Group USA, Inc.

- Wage & Hour Case with a class size of 22,573

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Grinder, et al. v. Clark County Collection Service, LLC.

- TCPA Case with a class size of 15,659. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 97% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Blaise Picchi et al., vs. World Financial Network Bank, et al.

- TCPA Case with a class size of 856,507. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.21% that did not have a valid address associated with the contact record.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID's. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages.
All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ’s) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels’ no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID’s to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- ***Distribution and Management:*** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- ***Check Printing and Mailing:*** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- ***Preparation, Filing and Reporting of Taxes:*** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- ***Data Manager Final Report:*** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- ***Project Manager Final Report:*** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- ***Affidavits:*** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- ***Document Retention:*** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.

EXHIBIT “B”

ILYM Group, Inc. (ILYM) in conjunction with our security and Information Technology (IT) vendor(s), maintains the highest level of confidentiality of class member data. The class data and all forms of communication received by ILYM, will be held in strict confidentiality and will not be disclosed. Data provided to the administrator for purposes of notice, settlement, or award administration will be used solely for settlement implementation and for no other purpose. ILYM will set up a login for Defense Counsel to transmit the class data through our encrypted secure portal. ILYM processes adhere to the Settlement Administration Data Protection Checklist in the Northern District of California and are summarized in the tables below.

Technical Controls

Firewalls and intrusion detection/prevention systems	Yes
Endpoint Detection and Response (EDR) Systems	Yes
Complex Password Requirements	Yes
MultiFactor Authentication for Access to Systems and Data	Yes
Malware Protection and AntiVirus	Yes
Vulnerability Scanning/Pen Testing	Yes
Data Encryption	Yes
Key Management for access to encrypted Data	Yes
Access only provided on need-to-know basis	Yes
Security Operations Center (SOC)	Yes
Managed Detection and Response (MDR)	Yes
Security Information and Event Management (SIEM)	Yes
Software Defined Global Network (SGN) with next gen firewall	Yes

Administrative Policies

Personnel and support staff risk assessment and management, including pre-hire background checks and screening processes	Yes
Personnel and support staff required to enter into non-disclosure and confidentiality agreements	Yes
Access controls to systems and data, including guidance for granting, modifying, and reviewing access rights	
Information security and privacy policy training, including policy review, best practices, and data security	Yes
No remote access to systems for Employees	No
Exit interviews/confirmation that terminated/departed employees are immediately cut off from access	Yes
Robust audits of data privacy policies by third-party vendors	Yes
Accreditation in accordance with ISO 27001 and SOC2 (among the industry standards listed below)	Compliant
Disclosure of external certifications and any notice of expiration	Yes

Crisis and Risk Management

Incident response/disaster plan for immediate response to security incidents such as data breach.	Yes
Process and timing for notification to attorneys, claimants, and other stakeholders of a data breach and consideration of resources and/or remedies to provide thereto	Yes
Vendor management program that determines and defines requirements to manage risk associated with outsourcing	Core Vendors are limited and have been vetted. New program being implemented as part of SOC 2

Physical Access Controls

Physical Access Security Security Guards Access Cards to facilities with assignment of identification card subject to approval and review Logs of Access	Logs and “codes” No cards – just codes No security guards Logs are kept
Alarm Systems	Yes
CCTV recording Systems	Yes

Data Collection and Retention

Minimization of collection of personally identifiable information, e.g., social security numbers and banking information	Yes
Data collection only required to extent necessary for settlement administration	Yes
Various methods for ensuring data protection and security of Data classification (including implementation of appropriate safeguards to protect from theft, loss, and/or unauthorized disclosure, use, access, destruction) Compliance with applicable laws and regulations (see below) Secure data transfer	Yes

Data Destruction

Preservation of data only for so long as required for administration of the settlement and any relevant reporting required following the payments or distributions	Yes
Secure data destruction (e.g., 6 months – 1 year or when no longer required)	Yes
Physical media (e.g., paper, CDs) shredded or destroyed to point where they cannot be reconstructed	Yes
Destruction of all derivative copies and/or back-ups	Yes

Applicable Laws, Standards, and Other Regulation

Industry standards: National Institute of Standards and Technology (NIST), HIPAA, FISMA, System and Organization Controls (SOC1 and SOC2) or more advanced assessment, ISO 27001	Yes
Local, national, international privacy regulations (including CCPA)	Yes

Ethical Rules

Administrative policies and/or employee handbook incorporating commitment to ethical rules (e.g., company, court ethical rules) setting forth standards of ethical and legal behavior	Yes
Enforcement clauses, violation resulting in disciplinary action including and up to termination of employment	Yes

Customer Service Measures

Description of settlement website and posting thereto of relevant privacy policies or statements (including portal for reporting suspected loss of confidential data submitted with claim)	Yes
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Explanation of role of claims administrator and how to prevent phishing (e.g., clear indication that administrator will not request confidential information by e-mail and how to identify a valid e-mail sent from the administrator)	Yes
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EXHIBIT “C”

Case Name: Vitalant Settlement

Date: 5/24/2023

Requesting Attorneys Name:

Jeffrey Herman

FIRM:

Blumenthal Nordrehaug Bhowmik De Blouw LLP

ILYM Contact:

Lisa Mullins

E-Mail:

Lisa@ilymgroup.com

Contact Number:

714.878.8836

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Total Number of Class Members	4,694
Estimated Mail Returned as Undeliverable	20%
Static Website/Online Posting	Yes
Certified Spanish Translation	No
Case Duration (Year(s))	1

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	8	\$1,200.00
Programming of Class Database	Hourly	\$175.00	8	\$1,400.00

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

Subtotal \$2,600.00

PROJECT MANAGEMENT & NOTICING				
LA Model Member Responses via facsimile, email				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	9	\$1,080.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	3	\$210.00
Staff Hours for Processing Opt-Outs, Dispute(s) & Objection(s)	Hourly	\$70.00	5	\$350.00
Report Processing	Hourly	\$70.00	10	\$700.00
NCOA	Flat Rate	\$475.00	1	\$475.00
Toll Free Customer Service Representative	Flat Rate	\$395.00	1	\$395.00
ILYM Group Static Website, Includes Hosting	Flat Rate	\$500.00	1	\$500.00
Weekly Reports	Flat Rate	\$750.00	1	Waived

Subtotal \$3,710.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice	Per Piece	\$1.00	4,694	\$4,694.00
USPS First Class Postage	Per Piece	\$0.57	4,694	\$2,675.58
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$1.50	469	\$704.10
Storage, Photocopies, Deliveries	Flat Fee	\$250.00	1	\$250.00

Subtotal \$8,323.68

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Use of available social security numbers, emails and social media (as may be available) to reach unlocated class members and those who haven't cashed checks at 180 days.				
Distribution Setup & Management	Hourly	\$150.00	12	\$1,800.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	12	\$1,500.00
Check, Stub & Release - Print & Mail (W-2/1099)	Per Check	\$1.00	4,694	\$4,694.00
USPS First Class Postage	Per Piece	\$0.58	4,694	\$2,722.52
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.75	469	\$821.45
Reminder Notice for Check Cashing Deadline	1	\$1.00	1,174	\$1,173.50
Preparation of Taxes	Hourly	\$120.00	20	\$2,400.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$16,611.47

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	8	\$800.00
Project Manager Final Reporting	Hourly	\$120.00	8	\$960.00
Process Unclaimed Funds to State Controller's Office	Flat Fee	\$750.00	1	\$750.00
Declaration	Hourly	\$125.00	4	\$500.00

Subtotal \$3,010.00

Total Case Estimate: \$34,255.15

Discounted Will Not Exceed: \$33,495.00

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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6 Telephone: 415-442-4810
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7

8 Attorneys for Defendant
VITALANT

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN MATEO**

12 CHAMARIE SPEARS, an individual, and
13 KATHLEEN LEONARD, an individual on
behalf of herself and on behalf of all persons
14 similarly situated,

15 Plaintiffs,

16 vs.

17 VITALANT, a corporation; and DOES 1 through
50, inclusive,

18 Defendant.
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Case No. 22-CIV-03291

**DECLARATION OF ELIZABETH
SWEELEY CONFIRMING CLASS DATA**

[Assigned for all purposes to The Honorable
Susan L. Greenberg, Dept. 3]

Action Filed: August 11, 2022
Trial Date: None Set

1 I Elizabeth Sweeley, declare and state as follows:

2 1. I am currently the Vice President, Total Rewards & HR Systems at Vitalant. As part
3 of my job responsibilities and duties, I am familiar with and have access to the databases, software
4 and computer systems Vitalant uses to maintain its human resource records, along with data
5 contained in those records (the "Records"). These Records contain information pertaining to both
6 current and former Vitalant employees and include information such as payroll and timekeeping
7 records, and records pertaining to applicant background checks. These Records, and the
8 information contained within the records, are kept in the ordinary course of business. I have
9 personal knowledge of all the facts set forth below and, if called upon to testify to the same, I could
10 and would do so competently and truthfully.

11 2. Based upon my review of the Records, Vitalant employed 1,212 non-exempt
12 employees in California from August 11, 2018 through July 28, 2023 (the "California Class
13 Members").

14 3. Based upon my review of the Records, the California Class Members worked an
15 aggregate 125,657 workweeks from August 11, 2018 through July 28, 2023.

16 4. Based upon my review of the Records, between August 11, 2020 and December 9,
17 2022, approximately 3,567 individuals applied to work for Vitalant in the United States for whom
18 background checks were run.

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

21 Executed September 12, 2023

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24 Elizabeth Sweeley
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PROOF OF SERVICE
ChaMarie Spears v. Vitalant
California Superior Court, County of San Mateo
Case No. 22-CIV-03291

I am and was at all times herein mentioned over the age of 18 years and not a party to the action in which this service is made. At all times herein mentioned I have been employed in the County of San Francisco in the office of a member of the bar of this court at whose direction the service was made. My business address is One Embarcadero Center, Suite 900, San Francisco, CA 94111.

On September ____, 2023, I served the following document(s):

DECLARATION OF ELIZABETH SWEELEY CONFIRMING CLASS DATA

by placing ☐ (the original) ☒ (a true copy thereof) in a sealed envelope addressed to:

Norman B. Blumenthal Kyle R. Nordrehaug Aparajit Bhowmik Jeffrey S. Herman Sergio Julian Puche Nicholas De Blouw BLUMENTHAL NORDREHAUG BHOWMIK 2255 Calle Clara La Jolla, CA 92037 Tel: 858-551-1223 Fax: 858-551-1232 E-Mail: norm@bamlawca.com kyle@bamlawca.com aj@bamlawca.com jeffrey@bamlawca.com sergiojulian@bamlawca.com nick@bamlawca.com heather@bamlawca.com	Attorneys for Plaintiffs
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☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person[s] at the e-mail addresses listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☒ **(State)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September ____, 2023 at San Francisco, CA.

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