

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Attorney for Plaintiff

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 NICOLE BENCH
OF ILYM GROUP, INC. REGARDING
NOTICE AND SETTLEMENT
ADMINISTRATION**

HEARING INFO

Date: July 25, 2024

Time: 9:00 a.m.

Judge: Hon. Susan L. Greenberg

Dept.: 3

1 I, Nicole Bench, declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am a
3 Case Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the professional
4 settlement services provider who has been retained by the Parties’ Counsel and subsequently
5 appointed by the Court to serve as the Settlement Administrator for the above captioned, *Spears v.*
6 *Vitalant* matter. I am authorized to make this declaration on behalf of ILYM Group and myself. I
7 have personal knowledge of the facts herein, and, if called upon to testify, I could and would testify
8 competently to such facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund
11 distribution services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
12 Members.

13 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
14 appointed by the Court to provide notification services and settlement administration, pursuant to
15 the terms of the Settlement, in the above referenced Action. Duties performed to-date and to be
16 performed after Final Approval of the Settlement is granted, include: (a) printing and mailing the
17 *Court Approved Notice of Class Action Settlement and Hearing Date for Final Court Approval* and
18 the *Objection Form*, (referred to as “Class Notice Packet”); (b) receiving and processing requests
19 for exclusion and objections to the Settlement, if applicable; (c) resolving Class Members’ disputes
20 over the number of work weeks Defendant has record of them working during the Class Period,
21 which was pre-printed on their individualized Class Notice; (d) establishing a QSF account and
22 calculating individual settlement award amounts; (e) processing and mailing settlement award
23 checks; (f) handling tax withholdings as required by the Settlement and the law; (g) preparing,
24 issuing and filing tax returns and other applicable tax forms; (h) handling the distribution of any
25 unclaimed funds pursuant to the terms of the Settlement; and (i) performing other tasks as the
26 Parties mutually agree to and/or the Court orders ILYM Group to perform.

1 4. On March 22, 2024, ILYM Group received the Court approved text for the Class
2 Notice Packet from Class Counsel. ILYM Group prepared a draft of the formatted Class Notice
3 Packet, which was approved by the Parties' Counsel prior to mailing.

4 5. On April 11, 2024, ILYM Group received the class data file from Counsel for
5 Defendant, which contained the name, social security number, personal email address, last known
6 mailing address, last known telephone number, last known e-mail address, the dates of employment
7 worked for each individual, the number of Workweeks worked for each individual during the Class
8 Period, and the number of PAGA Pay Periods worked for each PAGA Members during the PAGA
9 Period. The data file was uploaded to our database and checked for duplicates and other possible
10 discrepancies. The Class List contained 4,396 individuals. Specifically, 383 individuals were part
11 of both the California and FLSA Class, and 829 individuals were part of the California Class only.

12 6. As part of the preparation for mailing, all 4,396 names and addresses contained in
13 the Class List were then processed against the National Change of Address ("NCOA") database,
14 maintained by the United States Postal Service ("USPS"), for purposes of updating and confirming
15 the mailing addresses of the Settlement Class Members before mailing of the Class Notice Packet.
16 The NCOA contains requested change of addresses filed with the USPS. To the extent that an
17 updated address was found in the NCOA database, the updated address was used for the mailing of
18 the Class Notice Packet. To the extent that no updated address was found in the NCOA database,
19 the original address provided by Counsel for Defendants was used for the mailing of the Class
20 Notice Packet.

21 7. On April 25, 2024, the Class Notice Packet was mailed, via U.S First Class Mail, to
22 all 4,396 individuals contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct
23 copy of the mailed Class Notice Packet.

24 8. As of the date of this declaration, 359 Class Notice Packets have been returned to
25 our office as undeliverable. Of the 359 returned Class Notice Packets, 12 were returned with a
26 forwarding address and the Class Notice Packets were promptly re-mailed to the forwarding
27 addresses provided by the USPS.

1 ILYM Group performed a computerized skip trace on the 347 returned Class Notice Packets that
2 did not have a forwarding address, in an effort to obtain an updated address for the purpose of re-
3 mailing the Class Notice Packet. As a result of this skip trace, 238 updated addresses were obtained
4 and the Class Notice Packets were promptly re-mailed to those Class Members, via U.S. First Class
5 Mail. In addition, 2 Class Members contacted ILYM Group during the response period requesting
6 that a new Class Notice Packet be re-mailed to them.

7 9. As of the date of this declaration, a total of 252 Class Notice Packets have been re-
8 mailed. Specifically, 12 Class Notice Packets were re-mailed as a result of a forwarding address
9 provided by the USPS, 238 Class Notice Packets have been re-mailed as a result of ILYM Group's
10 skip tracing efforts, and 2 Class Notice Packets have been re-mailed due to Settlement Class
11 Members requests.

12 10. As of the date of this declaration, a total of 109 Class Notice Packets have been
13 deemed undeliverable as no updated addresses were found notwithstanding the skip tracing.

14 11. As of the date of this declaration, ILYM Group has received 13 requests for
15 exclusion from the following individuals: Cristiane C. Barbosa, Brandon Markham, Jasity Murphy,
16 Susanne Marschner, Bailey Burton, Kaitlyn Bilak, Cheryl Jackson, Jessie Daigle, Madilyn
17 Dennison, Rim Abdallah, Sharon Hartmann and Terry Fender were part of the FRCA Class and
18 Emily Terzic was part of the CA Class. The deadline to request exclusion from the Settlement was
19 June 24, 2024.

20 12. As of the date of this declaration, ILYM Group has not received any written
21 objections to the Settlement. The deadline in the Class Notice to submit a written objection to the
22 Settlement was June 24, 2024.

23 13. As of the date of this declaration, ILYM Group has received 2 disputes from Class
24 Members during the response period, which were forward to Defense Counsel for review and were
25 approved.

26 14. The Response Deadline was extended by 14 days for Class Members whose Class
27 Notice Packet was re-mailed. ILYM Group has not received any response from those Class
28 Members.

1 15. As of the date of this declaration, ILYM Group will report a total of 4,383
2 Participating Class Members, representing 99.70% of the 4,396 Class Members. There are 1,211
3 Participating Class Members and 3,555 Participating FRCA Class Members.

4 16. Participating California Class Members will receive a proportional share of the Net
5 Settlement Amount through Individual Class Payments, based on the number of Workweeks
6 worked by the Participating Class Members during the Class Period. For the FRCA Class,
7 Participating Class Members will receive individual settlement payments based on an equal share
8 payment of \$17.50 each. The Net Settlement Amount is the amount remaining after deduction of
9 the Court-approved payments from the Total Settlement Amount for Class Counsel Fees and
10 Litigation Costs/Expenses, the Class Representative Service Award Payments, Administration Fees
11 to ILYM Group, and the PAGA Penalties allocation, e.g.,

Total Settlement Amount	\$2,000,000.00
Class Counsel Attorney Fees	\$666,666.67
Class Counsel Litigation Expenses	\$20,000.00
Class Representative Service Payment	\$12,500.00
Class Representative Service Payment	\$12,500.00
Administration Fees	\$33,495.00
PAGA Penalties Allocation to LWDA	\$37,500.00
PAGA Penalties Allocation to PAGA Members	\$12,500.00
Net Settlement Amount	\$1,204,838.33
Amount Allocated to FRCA Class	\$62,212.50
Revised Net Settlement Fund	\$1,142,625.83

23 To determine a Participating Class Member's Individual CA Class Payment, the distribution shall
24 be divided among all Class Members on a pro rata basis, based on the ratio of the Workweeks
25 worked by each CA Class Member during the Class Period, to the total number of Workweeks
26 worked by all CA Class Members during the Class Period. ILYM Group reports a total of 1,211
27 CA Class Members who worked a total pf 125,637 Workweeks. Based on these calculations, the
28 total Participating CA Class Members, will receive an estimated average gross payment of \$943.54,

1 with the estimated highest gross payment being \$2,364.61. ILYM Group reports a total of 3,555
2 qualifying FRCA Class Members. To determine a Participating FRCA Class Member's individual
3 settlement award payment, payments are distributed on an equal basis of \$17.50 each, totaling
4 \$62,212.50.

5 17. In addition, ILYM Group reports a total of 931 PAGA Members during the PAGA
6 Period. The PAGA payments to the PAGA Members will be calculated based on the PAGA
7 Members number of Pay Periods worked during the PAGA Period. The distribution will be divided
8 among all PAGA Members on a pro rata basis, based on the ratio of the PAGA Pay Periods worked
9 by each PAGA Members during the PAGA Period, to the total number of Pay Periods worked by
10 all PAGA Members during the PAGA Period. Based on these calculations, the PAGA Members
11 will receive an estimated average payment of \$13.43, with the estimated highest payment being
12 \$23.00.

13 18. ILYM Group's total fees and costs for services in connection with the administration
14 of this Settlement, which includes fees and costs incurred to-date, as well as anticipated fees and
15 costs for completion of the settlement administration, are \$33,495.00. ILYM Group's work in
16 connection with this matter will continue with the calculation of the settlement award payments,
17 issuance and mailing of the settlement award checks, the necessary tax filing and reporting on such
18 payments, and any other tasks that the Parties mutually agree to and/or the Court orders ILYM
19 Group to perform.

20 I declare under penalty of perjury under the laws of the State of California and the United
21 States that the foregoing is true and correct to the best of my knowledge and that this Declaration
22 was executed this 1st day of July 2024, at Tustin, California.

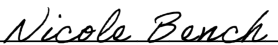
23
24 
25 _____
26 NICOLE BENCH
27
28

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 \$«Ca Class Estimated Settlement Payment» (less withholding), your Individual FCRA Class Payment is estimated to be \$«FCRA Settlement Payment», and your share of the PAGA Payment is estimated to be \$«PAGA Estimated Settlement Payment».** 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 «Class Workweeks » workweeks** during the Class Period and **you worked «PAGA Pay Periods » 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 <u>June 24, 2024</u>.	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 <u>June 24, 2024</u>	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 <u>July 25, 2024</u>, Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on July 25, 2024, at 9:00 a.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 <u>June 24, 2024</u>	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 June 24, 2024 . 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 \$ 1,204,838.33. 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 **June 24, 2024**, 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 **June 24, 2024**, 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, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks and/or 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 «Class Workweeks » 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 \$«Ca_Class_Estimated_Settlement_Payment»

Your estimated FCRA Class Payment is \$«FCRA_Settlement_Payment».

Defendant's records reflect that you worked «PAGA Pay Periods » 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 \$«PAGA_Estimated_Settlement_Payment».

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 postmarked or received no later than the Response Deadline, which is **June 24, 2024**. You may also fax the dispute to (888) 845-6185 or email the dispute to claims@ilymgroup.com 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 in 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 **June 24, 2024**. You may also fax your request to opt out to (888) 845-6185 or email the dispute to claims@ilymgroup.com by no later than the Response Deadline. A Request for Exclusion form is included with this Notice. 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 ILYM Group, Inc. Written requests for exclusion that are postmarked after **June 24, 2024**, 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. No later than 14 days after the Response Deadline for Class Members to object to the settlement or request exclusion, 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. An Objection form is included with this Class Notice.

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 June 24, 2024.** You may also fax the dispute to (888) 845-6185 or email the dispute to claims@ilymgroup.com 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: ILYM Group, Inc.

Email Address: claims@ilymgroup.com

Mailing Address: P.O. Box 2031, Tustin, CA 92781

Telephone Number: (888) 250-6810

Fax Number: (888) 845-6185

Website: www.ILYMgroup.com

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 9:00 a.m., (Pacific Standard Time) on July 25, 2024, 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 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 (888) 250-6810 or write to *Spears v. Vitalant* Administrator, c/o ILYM Group, Inc., P.O. Box 2031, Tustin, CA 92781.

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 (<https://odyportal-ext.sanmateocourt.org/portal-external>) and entering the Case No. 22-CIV-03291. If you wish to view the Court files in person, you may do so at the Clerk's Office located at 400 County Center, Redwood City, CA 94063.

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.

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,

Plaintiffs,

v.

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

Defendants.

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

OBJECTION FORM

Hearing Date: July 25, 2024
Hearing Time: 9:00 a.m.

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

OBJECTION FORM

USE THIS FORM ONLY IF YOU WANT TO OBJECT TO THE SETTLEMENT. TO OBJECT TO THE TERMS OF THE SETTLEMENT, YOU MUST SIGN AND COMPLETE THIS FORM ACCURATELY AND, IN ITS ENTIRETY, AND YOU MUST MAIL IT BY FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR (ILYM GROUP, INC.) AT THE ADDRESS BELOW SO THAT IT IS POSTMARKED ON OR BEFORE JUNE 24, 2024.

The Court will consider your objection at the Final Approval Hearing if you submit a timely and valid written statement of objection.

[] I OBJECT to the *Spears v. Vitalant* Settlement for the following reasons:

[Form continues reverse side]

(Your Signature)

(Date)

(Print Your Name)

(Your Address)

(Print Last Four Digits of Social Security Number)

(City/State/Zip Code)

Submit your fully completed and signed Objection Form as follows:

**MAIL TO THE ADMINISTRATOR, BY U.S. MAIL, POSTMARKED NOT LATER THAN
JUNE 24, 2024:**

Spears v. Vitalant Administrator
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781
Fax: (888) 845-6185
e-Mail: claims@ilymgroup.com

REQUEST FOR EXCLUSION FORM

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

To exclude yourself or “opt out” from the Class, complete, sign, and date this form, and then mail it on or before June 24, 2024, to the Administrator at the following address:

Spears v. Vitalant
c/o ILYM GROUP, Inc.
P.O. Box 2031
Tustin, CA 92781
Fax: (888) 845-6185
E-Mail: claims@ilymgroup.com

INSTRUCTIONS

- A. Only complete and return this form if you do **NOT** want to be included in the class action portion of the Settlement. You will **NOT** receive an Individual Class Payment if you return this form and you will not be bound by the release of Released Class Claims, as described in the settlement notice. However, PAGA Members who opt-out of the Class will still be paid their Individual PAGA Payment and will remain subject to the release of the Released PAGA Claims regardless of their request for exclusion.
- B. To exclude yourself or “opt out,” complete, sign, date and return this form. To be effective, this form should be filled out completely and postmarked on or before **June 24, 2024**.
- C. You are responsible for maintaining a copy of the fully completed form and proof of mailing.

I want to OPT-OUT of the Class in the lawsuit entitled *Spears v. Vitalant*, Superior Court of the State of California, County of San Mateo, Case No. 22-CIV-03291. I understand that by requesting to be excluded from the Class, I will not receive an Individual Class Payment, as described in the accompanying Class Notice.

Name: _____

Address: _____

Telephone Number: _____

(Sign your name here)

Date

«Case_Name»

c/o ILYM Group, Inc.

P.O. Box 2031

Tustin, CA 92781

«ILYM_ID

QR Code»

ILYM ID: «ilym_id» «Postal_Sort» k

«first_name» «last_name»

«Address_»

«City», «state» «Zip»