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Attorneys for Plaintiff, ALEXANDRIA ILENE KABITZKE,
on behalf of herself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO – HALL OF JUSTICE

ALEXANDRIA ILENE KABITZKE on behalf
of herself and all others similarly situated,

Plaintiff,

v.

CENTRO DE SALUD DE LA COMUNIDAD
DE SAN YSIDRO d/b/a SAN YSIDRO
HEALTH, a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 37-2022-00046873-CU-OE-CTL

Judge: Hon. Gregory Pollack
Action Date: November 18, 2022
Trial Date: Not Yet Set

DECLARATION OF JAMES R. HAWKINS

Date: November 17, 2023
Time: 9:30 a.m.
Dept.: 71

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I, James R. Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Alexandria Ilene Kabitzke (hereinafter referred to as “Plaintiff” or “Class Representative”), who commenced this Class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of the Joint Motion for Preliminary Approval of Class Action and PAGA Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. On September 8, 2022, Plaintiff Kabitzke filed a putative wage and hour class action complaint against Defendant, in San Diego Superior Court, alleging the following causes of action: (1) Failure to Pay Lawful Wages; (2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof; (3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof; (4) Failure to Pay Employee Expenses; (5) Failure to Timely Pay Wages During Employment; (6) Failure to Timely Pay Wages at Termination; (7) Failure to Provide Accurate, Itemized Wage Statements; and (8) Violations of the Unfair Competition Law. On November 9, 2022, Defendant removed this case to the United States District Court for the Southern District of California under CAFA, Case No. 3:22-cv-01752-H-BGS (hereafter referred to as the “Class Case”). On November 18, 2022, Plaintiff filed a separate complaint asserting a single cause of action for Labor Code violations and seeking penalties under PAGA in San Diego Superior Court against Defendant.

3. Throughout this litigation, Defendant has denied Plaintiff's allegations and raised defenses to her claims, individually and on a class wide basis. Defendant maintains that its policies and practices meet the requirements of the Labor Code and applicable Wage Orders.

4. To date, no motion for class certification has been filed in this case, no class has been certified, and the Court has not made any findings that Defendant engaged in any wrongdoing or in violation of any state law, rule or regulation, with respect to the issues presented in the litigation.

1 5. Through exchange of informal discovery, Defendant produced to Plaintiff more than
2 100,000 pages of documents, including all of San Ysidro Health's policies, handbooks, the time and
3 wage records for more than 1,100 putative class members dating back as far as 2016, copies of
4 Defendant's arbitration policies, and copies of all of the pleadings, motions, court orders,
5 depositions, discovery requests and responses and everything produced in discovery in two other
6 pending cases involving overlapping putative class and PAGA claims against San Ysidro Health, as
7 well as a list of pay rates and dates of employment for the approximate 3700 putative class members,
8 as well as the alleged aggrieved employees.¹ San Ysidro Health also produced nearly 100 affidavits
9 signed by current and former nonexempt employees and others, which supported Defendant's
10 position that the wage and hour and PAGA claims pled against it were not supported.

11 6. After conducting extensive informal discovery, exchanging relevant documents,
12 having that information reviewed and analyzed by Plaintiff's counsel and by their experts, and
13 engaging in numerous discussions regarding the claims alleged, on March 21, 2023, the Parties
14 participated in a mediation with Hon. Ronald M. Sabraw (Ret.), an experienced wage and hour class
15 action mediator and former Supervising Judge of the Complex Division of the Alameda Superior
16 Court.

17 7. In the mediation process, the Parties exchanged further information and
18 documentation concerning the putative class and PAGA claims and Defendant's defenses, but did
19 not reach a settlement. Thereafter, the dialogue continued, and a mediator's proposal was made and
20 later accepted in principle by the Parties on March 24, 2023.

21 8. After a settlement was reached in principle in this case, the Parties spent months in
22 continued negotiations regarding the specific terms of the settlement and, in the process, exchanged
23 additional detailed information pertinent to the settlement.

24 9. Beginning in early April 2023, the Parties exchanged numerous drafts of the long-
25 form settlement agreement and notice and engaged in multiple telephonic and e-mail
26 communications regarding the terms of the documents and revisions thereto.

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¹ The cases are entitled *Audrey Heredia v. San Ysidro Health*, San Diego Superior Court Case No. 37-2020-00046387;
and *Jacqueline Hernandez v. San Ysidro Health*, San Diego Superior Court Case No. 37-2021-00017369.

1 10. The principal terms and provisions of the settlement were finally approved by the
2 Parties on or about July 25, 2023, and the settlement agreement was fully executed as of August 7,
3 2023.

4 11. It is this Settlement Agreement that is now before this Court for preliminary approval.
5 See the Stipulation of Class Action and PAGA Settlement attached hereto as Exhibit 1 (“Settlement
6 Agreement”).

7 12. Based on their own respective independent investigations and evaluations and after
8 considering the sharply disputed factual and legal issues involved in this matter, the risks attending
9 further prosecution in light of certification issues faced due to the *Brinker Rest. Corp. v. Super. Ct.*,
10 (2012) 53 Cal. 4th 1004 (“*Brinker*”) decision, the discovery, and investigation conducted to date and
11 the benefits received under the settlement, the Plaintiff and her counsel are of the opinion that
12 settlement for the consideration and on the terms set forth in the Settlement Agreement is fair,
13 reasonable, and adequate and is in the best interests of the Plaintiff and the Class Members and the
14 aggrieved employees.

15 13. Moreover, over the past twenty plus years, attorneys at my firm and I have
16 represented, mediated, and settled many other class actions filed by employees alleging wage and
17 hour violations and have knowledge of the strengths and weaknesses of the claims pled and defenses
18 available in this case and the benefits of the proposed Settlement under the circumstances of the
19 case.

20 14. The damage model used in calculating potential liability was largely based on the
21 number of class members (broken down into current and former employees), the number of pay
22 periods, the average rate of pay and a random sample of time records, wage statements and
23 documents produced by Defendant in preparation for mediation. Based on the information provided
24 by Defendant, the estimated number of work weeks is 187,000 during the Class Period and 40,926
25 pay periods during the PAGA Period. The average hourly rate of pay is approximately \$21.73.

26 15. In analyzing the settlement, we took into consideration the significant risks that class
27 certification could be denied on the central claim, that the claims would be referred to individual
28 binding arbitration for the majority of the putative class members and/or that a merits decision on the

1 central claim would not favor the Class. We also considered the expense and length of continued
2 proceedings necessary to continue the Action against Defendant through trial and any possible
3 appeals. We are aware of the burdens of proof necessary to establish liability for the claims asserted
4 in the Action, Defendant's defenses thereto, and the difficulties in establishing the alleged damages.

5 16. Under the terms of the proposed Settlement, Defendant is required to pay each Class
6 Member who does not opt out a portion of the Net Settlement Amount as specifically set forth in the
7 Settlement Agreement. The amount to be paid to the Class is undoubtedly fair, adequate and
8 reasonable especially in light of the significant risk to Plaintiff and Class Members in continuing
9 with the litigation and not prevailing on class certification or at trial, and thus leaving employees
10 with no recovery.

11 17. The Settlement Agreement provides for an award to be paid to the Plaintiff as the
12 Class Representative, the primary purpose of which is to provide Plaintiff an enhancement award,
13 taking into consideration the risks, time, effort and expenses incurred by her in coming forward to
14 provide invaluable information and litigate this matter on behalf of all Class Members and
15 Aggrieved Employees. Plaintiff has actively participated in this case by providing information and
16 documentation and assisting my office in developing information necessary to litigate and settle this
17 case which has resulted in a favorable settlement for the putative Class Members and Aggrieved
18 Employees.

19 18. To effectuate the settlement reached, the Parties have stipulated that, for purposes of
20 the settlement, Plaintiff will file an amended complaint in this case to add the putative class claims
21 being resolved and to ensure all claims being resolved match the claims pled.

22 19. I have a great deal of experience in wage and hour class action litigation. I have
23 obtained certification in several classes I have handled. I have been approved as class counsel in
24 many other wage/hour class actions, and am currently litigating numerous others. Although not an
25 all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or
26 co-lead counsel, all of which implicated similar law and facts to those associated with this action:

- 27 a. *Aguilar v. 7-Eleven, Inc., et. al.*, Orange County Superior Court- Case No.: 30-
28 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking

premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

- b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiffs' counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- c. *Dao v. 3M Company, et al.* USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's

- counsel, lead trial counsel and class counsel.
- g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.
- j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.
- k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by defendant in the State of California. Plaintiff's counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.
- l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for

- 1 overtime, meal and rest break violations for housekeepers employed by defendant
2 in the State of California. Plaintiff's counsel appointed as lead counsel. Case
3 settled, Final Approval granted, no objections and funds fully distributed.
- 4 m. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
5 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for
6 meal and rest period violations for non-exempt employees employed by defendant
7 in the state of California. Case settled. Awaiting Preliminary Approval hearing.
8 Plaintiff has petitioned the Court for Lead Counsel.
- 9 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
10 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past
11 wages for field and branch employees of defendant in the State of California.
12 Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final
13 Approval.
- 14 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
15 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
16 employees of defendant in the State of California. Plaintiff's counsel appointed
17 as lead counsel. Case settled, Final Approval granted, no objections and funds
18 fully distributed.
- 19 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.
20 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and
21 rest break violations for security guards employed by defendant in the State of
22 California. Plaintiff's counsel appointed as lead counsel. Case settled, Final
23 Approval granted, no objections and funds fully distributed.
- 24 q. *Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.*, Los Angeles Superior
25 Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal
26 and rest break violations for production employees employed by defendant in the
27 State of California. Plaintiff counsel appointed as lead counsel. Case settled,
28 Final Approval granted, no objections and funds fully distributed.

- 1 r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case
2 No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and
3 rest break violations for restaurant employees employed by defendant in the State
4 of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
5 Final Approval granted, no objections and funds fully distributed.
- 6 s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC
7 330145. Wage and Hour Class Action seeking past wages of overtime for mis-
8 classification of managers employed by Defendant, DBA Carl's Jrs. in the State
9 of California. Plaintiff's counsel appointed as co-lead counsel. Case settled,
10 Final Approval granted, no objections and funds fully distributed.
- 11 t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case
12 No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal
13 and rest break violations for retail employees employed by defendant in the State
14 of California. Plaintiff's counsel appointed lead counsel. Case settled, Final
15 Approval granted, no objections and funds fully distributed.
- 16 u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No.
17 07CC00015. Wage and Hour Class Action seeking past wages of overtime for
18 mis-classification of managers employed by Defendant in the State of California.
19 Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted,
20 no objections and funds fully distributed.
- 21 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court,
22 Case No. 07CC01347. Wage and Hour Class Action seeking past wages for
23 overtime, meal and rest break violations for production workers employed by
24 defendant in the State of California. Plaintiff's counsel appointed lead counsel.
25 Cased settled; final approval granted; no objections and funds fully distributed.
- 26 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
27 Case No. BC387088. Wage and Hour Class Action seeking past wages for
28 overtime, meal and rest period violations for production employees employed by

1 defendant in the State of California. Plaintiff counsel appointed as lead counsel.

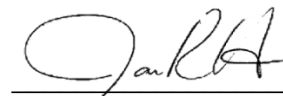
2 Case settled, Final Approval granted, no objections and funds fully distributed.

3 20. James Hawkins APLC is a boutique law firm that specializes in wage and hour class
4 actions and is comprised of seasoned attorneys and staff.

5 21. Ms. Fernandez, my co- counsel on this matter, has been a member of the Florida Bar
6 since January 1996 and member of the California Bar since August 2002. Ms. Fernandez has
7 specialized in employment related litigation including complex wage and hour civil litigation since
8 2003. Ms. Fernandez has been, and currently is, co-counsel in over 40 wage and hour class action
9 litigations for our firm and has produced excellent results for this firm's clients in the wage and hour
10 class actions.

11 22. Lance Dacre, who has also worked on this matter, has been practicing law for 25
12 years and now specializes in the handling of wage and hour class action and PAGA cases.

13 I declare under penalty of perjury that the foregoing is true and correct. Executed on August
14 21, 2023 at Irvine, California.

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17 James R. Hawkins
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EXHIBIT 1

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15 Attorneys for Defendant Centro de Salud de la
Comunidad de San Ysidro, Inc., dba San Ysidro Health
16

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 COUNTY OF SAN DIEGO – HALL OF JUSTICE

19 ALEXANDRIA ILENE KABITZKE on behalf
of herself and all others similarly situated,

20 Plaintiff,

21 v.

22 CENTRO DE SALUD DE LA COMUNIDAD
23 DE SAN YSIDRO d/b/a SAN YSIDRO
HEALTH, a California corporation; and DOES 1
24 through 50, inclusive,

25 Defendants.
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Case No. 37-2022-00046873-CU-OE-CTL

Judge: Hon. Eddie C. Sturgeon

Action Date: November 18, 2022

Trial Date: Not Yet Set

**STIPULATION OF CLASS ACTION AND
PAGA SETTLEMENT**

1 IT IS HEREBY STIPULATED, by and between Plaintiff, Alexandra Kabitzke, individually
2 and on behalf of, the Class(defined below) and the State of California pursuant to the Private
3 Attorneys General Act, on the one hand; and, Defendant Centro de Salud de la Comunidad de San
4 Ysidro on the other hand, (collectively the “Parties”) and subject to the approval of the Court, that
5 the Action is hereby compromised and settled pursuant to the terms and conditions set forth in this
6 Stipulation of Class Action and PAGA Settlement(“Stipulation”) and that the Court shall make and
7 enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and subject to
8 the definitions, recitals, and terms set forth herein which by this reference become an integral part of
9 this Stipulation.

10 DEFINITIONS

11 1. “Action” collectively means the class action entitled *Alexandria Kabitzke v. Centro*
12 *de Salud de la Comunidad de San Ysidro d/b/a San Ysidro Health*, a California corporation, United
13 States District Court, Southern District of California, Case No. Case No. 3:22-cv-01752-H-B
14 (“Kabitzke Class Action”) and *Alexandria Kabitzke v. Centro de Salud de la Comunidad de San*
15 *Ysidro d/b/a San Ysidro Health*, a California corporation, San Diego Superior Court Case No. 37-
16 2002-00046873.

17 2. “Aggrieved Employees” means those persons employed by Defendant as non-exempt
18 employees in the State of California at any time during the PAGA Period of April 20, 2020.

19 3. “Attorneys’ Fees and Costs” means reasonable attorneys’ fees for Class Counsel’s
20 litigation and resolution of the Action and Class Counsel’s expenses and costs reasonably incurred in
21 connection with the Action.

22 4. “Class Counsel” means James Hawkins, Isandra Fernandez and Lance Dacre of
23 “James Hawkins, APLC.

24 5. “Class Information” means information regarding Class Members that Defendant
25 shall in good faith compile from its records and shall transmit in electronic form to the Settlement
26 Administrator and shall include each Class Member’s and Aggrieved Employee’s full name; last
27 known address; Social Security number; and Compensable Workweeks.

1 6. “Class Members” and/or “Class means all persons employed by Defendant as non-
2 exempt employees in the State of California at any time during the Class Period, which is estimated
3 to be approximately 3,700 individuals.

4 7. “Class Notice” means the Notice of Class Action Settlement, substantially in the form
5 attached as **Exhibit 1**, which shall be subject to Court approval and which the Settlement
6 Administrator shall mail to each Class Member and Aggrieved Employee explaining the terms of
7 this Stipulation and the Settlement.

8 8. “Class Period” means the period from December 15, 2016 through March 24, 2023,
9 the date the settlement was reached.

10 9. “Class Representative Service Award” means the amount that the Court authorizes to
11 be paid to Plaintiff, Alexandra Kabitzke, in addition to Plaintiff’s Individual Settlement Payment, in
12 recognition of Plaintiff’s efforts and risks in assisting with the prosecution of the Action.

13 10. “Compensable Workweeks” means the total number of weeks during which a Class
14 Member or Aggrieved Employee worked for Defendant as a non-exempt employee in California
15 during the Class Period, based on Defendant’s records and which shall be used to calculate
16 Individual Settlement Payments.

17 11. “Defendant” means Centro de Salud de la Comunidad de San Ysidro, doing business
18 as San Ysidro Health, a California corporation.

19 12. “Defense Counsel” means Maria C. Roberts, Dessi N. Day and Noel Meza of Greene
20 & Roberts.

21 13. “Effective Date” means (a) if there are no objections to the Settlement, the date of
22 entry of the Judgment; (b) if there are objections to the Settlement, and if an appeal, review or writ is
23 not sought from the Judgment, the date which is thirty (30) days after entry of the Judgment; or (c) if
24 an appeal, review or writ is sought from the Judgment, the date upon which all appellate and/or other
25 proceedings resulting from the appeal, review or writ have been finally terminated in such a manner
26 as to permit the Judgment to take effect in substantially the form described herein.

27 14. “Employer’s Share of Payroll Taxes” means Defendant’s portion of employer payroll
28 taxes, including, but not limited to FICA and FUTA, on the portion of the Individual Settlement

1 Payments that constitutes wages and which excludes all attorneys' fees and litigation costs, Class
2 Representative Service Award, all penalties, including the PAGA payment to the LWDA and to the
3 Aggrieved Employees, interest and any expenses charged by/associated with the Class
4 Administrator. The Employer's Share of Payroll Taxes shall be transmitted by Defendant to the
5 Settlement Administrator in addition to the Maximum Settlement Amount.

6 15. "Final Approval Hearing" means the hearing to be conducted by the Court after the
7 filing by Plaintiff of an appropriate motion and following appropriate notice to Class Members
8 giving Class Members an opportunity to object to or opt out of the Settlement, at which time
9 Plaintiff shall request that the Court finally approve the Settlement, enter the Judgment, and take
10 other appropriate action.

11 16. "Individual Class Payment" means the amount payable from the Net Settlement
12 Amount to each Participating Class Member.

13 17. "Individual PAGA Payment" means the amount payable from the 25% portion of
14 PAGA Payment to Aggrieved Employees.

15 18. "Judgment" means the judgment to be entered by the Court upon granting final
16 approval of the Settlement and this Stipulation as binding upon the Parties and all of the Class
17 Members.

18 19. "LWDA" means the California Labor and Workforce Development Agency.

19 20. "LWDA Payment" means the 75% portion of the PAGA Payment payable to the
20 LWDA.

21 21. "Maximum Settlement Amount" means the maximum amount Defendant shall have
22 to pay in connection with this Settlement, by way of a common fund, which shall be inclusive of all
23 Individual Settlement Payments, Attorneys' Fees and Costs, the Class Representative Service
24 Award, Settlement Administration Costs, and the PAGA Payment, including the LWDA Payment.
25 Subject to Court approval and the terms of this Stipulation, the Maximum Settlement Amount
26 Defendant shall be required to pay is Two Million Nine Hundred Thousand Dollars (\$2,900,000.00).
27 As set forth herein, Defendant shall pay the Employer's Share of Payroll Taxes separate from and in
28 addition to the Maximum Settlement Amount.

- 1 22. “Net Settlement Amount” means the Maximum Settlement Amount, less Attorneys’
2 Fees and Costs, the Class Representative Service Award, Settlement Administration Costs, and the
3 LWDA Payment.
- 4 23. “Notice of Objection” means a Class Member’s written objection to the Settlement.
- 5 24. “PAGA” means the Labor Code Private Attorneys General Act of 2004, California
6 Labor Code sections 2698, et seq.
- 7 25. “PAGA Payment” means the amount of One Hundred Thousand Dollars (\$100,000)
8 payable from the Maximum Settlement Amount to resolve the PAGA claim alleged in the Action, of
9 which seventy-five percent (75%) shall be paid to the LWDA and twenty-five percent (25%) shall be
10 paid to Aggrieved Employees.
- 11 26. “PAGA Period” means the period from April 20, 2020 through March 24, 2023.
- 12 27. “Participating Class Members” means Plaintiff and all other Class Members who do
13 not submit a valid and timely Request for Exclusion from this Settlement.
- 14 28. “Parties” means Plaintiff and Defendant.
- 15 29. “Plaintiff” means Alexandra Kabitzke.
- 16 30. “Preliminary Approval Order” means the order to be issued by the Court approving
17 and authorizing the mailing of the Class Notice by the Settlement Administrator, setting the date of
18 the Final Approval Hearing and granting preliminary approval of the Settlement, among other
19 things.
- 20 31. “Released Claims” means the release of claims as described in Paragraphs 51 and 52
21 of this Stipulation.
- 22 32. “Released Parties” means (i) Defendant; (ii) its past, present and future subsidiaries,
23 parents, affiliated and related companies, divisions, successors, predecessors or assigns; and (iii) its
24 past, present, and future officers, directors, shareholders, partners, agents, insurers, employee,
25 advisors, accountants, representatives, trustees, heirs, executors, administrators, predecessors,
26 successors or assigns of any of the foregoing.
- 27 33. “Request for Exclusion” means a written request by a Class Member to opt out of, or
28 exclude oneself, from the Settlement.

1 34. “Response Deadline” means the date forty-five (45) days after the Settlement
2 Administrator mails the Class Notices to Class Members and the last date on which Class Members
3 may submit a Notice of Objection or Request for Exclusion. Class Members to whom Class Notices
4 are resent after having been returned undeliverable to the Settlement Administrator shall have an
5 additional fifteen (15) calendar days beyond the expiration of the initial Response Deadline.

6 35. “Settlement” means the final and complete disposition of the Action pursuant to this
7 Stipulation.

8 36. “Settlement Administration Costs” means the reasonable costs and fees of
9 administration of this Settlement, including, but not limited to: (i) printing, mailing and re-mailing
10 (if necessary) Class Notices to Class Members; (ii) preparing and submitting to Class Members and
11 government entities all appropriate tax filings and forms; (iii) preparing, with the assistance of
12 Defense Counsel, and serving the CAFA Notice; (iv) computing the amount of and distributing
13 Individual Settlement Payments, the Class Representative Service Award, Attorneys’ Fees and
14 Costs, and the LWDA Payment; (v) processing and validating Requests for Exclusion and Notices
15 of Objection; (vi) establishing a Qualified Settlement Fund (“QSF”), as defined by the Internal
16 Revenue Code; and (viii) calculating and remitting to the appropriate government agencies all
17 employer and employee payroll tax obligations arising from the Settlement and preparing and
18 submitting filings required by law in connection with the payments required by the Settlement.

19 37. “Settlement Administrator” means ILYM Group, Inc. (“ILYM”).

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1 **RECITALS**

2 **Procedural History**

3 38. On September 8, 2022, Plaintiff Alexandra Kabitzke filed a putative wage and hour
4 class action complaint against Defendant in San Diego Superior Court, alleging the following causes
5 of action: (1) Failure to Pay Lawful Wages; (2) Failure to Provide Lawful Meal Periods or
6 Compensation in Lieu Thereof; (3) Failure to Provide Lawful Rest Periods or Compensation in Lieu
7 Thereof; (4) Failure to Pay Employee Expenses; (5) Failure to Timely Pay Wages During
8 Employment; (6) Failure to Timely Pay Wages at Termination; (7) Failure to Provide Accurate,
9 Itemized Wage Statements; and (8) Violations of the Unfair Competition Law.

10 39. On November 9, 2022, Defendant removed this case to the United States District
11 Court for the Southern District of California under CAFA, Case No. 3:22-cv-01752-H-BGS,
12 (hereafter referred to as the "Class Case"). Defendant also moved to compel binding arbitration of
13 Plaintiff's individual claims, to which the parties later stipulated and the district court ordered on
14 December 12, 2022.

15 40. On November 18, 2022, Plaintiff filed a separate complaint in San Diego Superior
16 Court against Defendant, in which she alleged a representative action for penalties under the Private
17 Attorneys General Act ("PAGA"), Case No. 37-2022-00046873, hereafter referred to as the "PAGA
18 Case.") This case has been stayed since the complaint was served, pending efforts by the parties at
19 resolution of the cases.

20 **Settlement Negotiations**

21 41. In late 2022, the possibility of resolving the claims pled in both the Class Case and
22 the PAGA Case began being discussed. Thereafter, at Plaintiff's request and subject to the mediation
23 privilege, Defendant produced to Plaintiff's counsel more than 100,000 pages of documents which
24 includes: all of Defendant's pertinent employee policies and handbooks dating back to 2016, a
25 sampling of wage and time records for more than 1,000 nonexempt employees, copies of every
26 deposition taken, all discovery exchanged, all pleadings, substantive motions, oppositions and reply
27 briefs and related court orders entered in two other pending cases filed against Defendant, one of
28 which alleges wage and hour claims on a putative class basis and the second case only has remaining

1 in it a single PAGA claim, (the two cases are referred to as “Heredia and Hernandez Cases”).
2 Defendant also provided Plaintiff copies of about 100 declarations signed by current and former
3 employees which address various issues raised in one or all of the Kabitzke, Heredia and Hernandez
4 cases.

5 42. In early 2023, the parties agreed to attend mediation with Hon. Ronald Sabraw and
6 were able to schedule mediation on March 21, 2023. Prior to the mediation, counsel for the Parties
7 engaged in numerous, lengthy conferences with the mediator regarding the facts, procedural history,
8 claims pled, defenses to those claims and information about past mediation efforts engaged in by
9 Defendant in the Heredia and Hernandez cases over a six month period in 2022.

10 43. After a full day of mediation on March 21, 2023, the Parties did not reach a
11 settlement. Thereafter, the mediator (Judge Sabraw) issued a mediator’s proposal for the resolution
12 of all claims pled in the two Kabitzke cases and in the Heredia and Hernandez. The mediator’s
13 proposal set forth the material terms of a proposed class action and PAGA settlement. On March 24,
14 2023, Judge Sabraw advised counsel for the Parties that the Mediator’s proposal had been accepted,
15 subject to a more comprehensive written settlement agreement and Court approval.

16 **Benefits of Settlement to Plaintiff and Class Members**

17 44. Plaintiff and Class Counsel recognize the expense and length of continued
18 proceedings necessary to litigate Plaintiff’s disputes in the Action through trial and through any
19 possible appeals. Plaintiff also has taken into account the uncertainty and risks of the outcome of
20 further litigation, and the difficulties and delays inherent in such litigation. Plaintiff and Class
21 Counsel also are aware of the burdens of proof necessary to establish liability for the claims asserted
22 in the Action, both generally and in response to Defendant’s defenses thereto, and the difficulties in
23 establishing damages, penalties, restitution and other relief sought in the Action. Plaintiff and Class
24 Counsel also have taken into account Defendant’s agreement to enter into a settlement that confers
25 substantial benefits upon the Class Members. Based on the foregoing, Plaintiff and Class Counsel
26 have determined that the Settlement as set forth in this Stipulation is fair, adequate, and reasonable
27 and is in the best interests of all Class Members. Plaintiff and Class Counsel agree and stipulate that
28 no aspect of the Settlement shall or can entitle any Class Member with the right to recover any

1 additional benefits from Defendant, other than as set forth in the Stipulation. It is the intention of the
2 Parties that compensation or benefits payable under this Stipulation are not subject to the additional
3 tax imposed pursuant to Section 409A of the IRS Code.

4 **Defendant's Reasons for Settlement**

5 45. Defendant disputes the individual and putative class claims pled by Plaintiff as well
6 as in the Heredia and Hernandez cases. Defendant has always strived to have employment policies
7 and practices that are compliant with applicable law and its policies and practices adhere to the law.
8 However, Defendant wishes to avoid the necessity of incurring continued attorneys' fees and costs
9 and the burdens associated with defending the Kabitzke, Heredia and Hernandez cases. Defendant
10 would prefer, instead, to resolve all claims pled and, in doing so, provide a direct benefit to its
11 employees. Substantial time, energy, and resources have been, and unless this Settlement is
12 completed, shall continue to be, devoted by Defendant and its employees in the defense of the claims
13 asserted by Plaintiff and in the Heredia and Hernandez cases. Even though Defendant contends it is
14 not liable for any of the claims alleged in these cases, that it has fully compliant policies and
15 practices and binding arbitration policies containing class waivers that apply to all employees as of
16 February 2021, it has agreed, nonetheless, to settle in the manner and upon the terms set forth in this
17 Stipulation and to put to rest the claims alleged in the cases. Defendant has asserted and continues to
18 assert that the claims alleged have no merit and do not give rise to any liability, damages, restitution,
19 penalties or other payments. This Stipulation is a compromise of disputed claims. Nothing
20 contained in this Stipulation, no documents referred to herein, and no action taken to carry out this
21 Stipulation, shall be construed or used as an admission by or against Defendant, which believes it
22 has complied with all applicable state, federal and local laws.

23 **TERMS OF SETTLEMENT**

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

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1 **Binding Settlement**

2 46. Upon the Effective Date, the Settlement, including the release of Released Claims,
3 shall bind the Parties and all Class Members, subject to the terms and conditions hereof and the
4 Court's approval.

5 **Tax Liability**

6 47. The Parties make no representations as to the tax treatment or legal effect of any
7 settlement payment specified herein, and Class Members are not relying on any statement or
8 representation by the Parties, Class Counsel or Defense Counsel in this regard. Class Members and
9 Class Counsel understand and agree that they shall be responsible for the payment of their portion of
10 taxes and penalties assessed on the payments specified herein (with the exception of the Employer's
11 Share of Payroll Taxes as set forth in Paragraph 56(f) of this Stipulation), and shall hold the Plaintiff,
12 Defendant, Class Counsel and Defense Counsel free and harmless from and against any claims
13 resulting from treatment of such payments as non-taxable, including the treatment of such payments
14 as not subject to withholding or deduction for payroll and employment taxes.

15 **Circular 230 Disclaimer**

16 48. The Parties acknowledge and agree that (1) no provision of this Stipulation, and no
17 written communication or disclosure between or among the Parties, Class Counsel or Defense
18 Counsel and other advisers, is or was intended to be, nor shall any such communication or disclosure
19 constitute or be construed or be relied upon as, tax advice within the meaning of United States
20 Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the acknowledging party
21 (a) has relied exclusively upon his, her, or its own, independent legal and tax counsel for advice
22 (including tax advice) in connection with this Stipulation, (b) has not entered into this Stipulation
23 based upon the recommendation of any other party or any attorney or advisor to any other party, and
24 (c) is not entitled to rely upon any communication or disclosure by any attorney or adviser to any
25 other party to avoid any tax penalty that may be imposed on the acknowledging party; and (3) no
26 attorney or adviser to any other party has imposed any limitation that protects the confidentiality of
27 any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally
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1 binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any
2 transaction, including any transaction contemplated by this Stipulation.

3 **Estimated Class Size**

4 49. Defendant represents that the estimated number of Class Members is approximately
5 3700 individuals, who worked approximately 332,000 workweeks.

6 **Preliminary Approval of Settlement**

7 50. Within fourteen (14) days of full execution of this Stipulation, Plaintiff shall move the
8 Court to enter a Preliminary Approval Order which, among other things, (1) approves, as to form
9 and content, the Class Notice; (2) approves the manner and method for Class Members to object to
10 and request exclusion from the Settlement as specified herein and in the Class Notice; (3) directs the
11 mailing of the Class Notices to the Class Members as specified herein; (4) preliminarily approves the
12 Settlement; and (5) schedules a Final Approval Hearing. The Parties agree to work diligently and
13 cooperatively to have this Settlement presented to the Court for preliminary approval.

14 **Released Claims**

15 51. Release by Participating Class Members: Upon the Effective Date, Plaintiff and all
16 Participating Class Members shall be deemed to have fully released the Released Parties from any
17 and all claims, wages, penalties, interest, debts, demands, rights, liabilities, costs, compensation,
18 damages, attorneys' fees, actions, and/or causes of action that were pleaded or could have been
19 pleaded based upon the factual allegations set forth by Plaintiff in her original and/or FAC filed in
20 this Action and arising at any time during the Class Period, including any and all claims for and/or
21 related to the causes of action pled for alleged: (1) Failure to Pay Lawful Wages; (2) Failure to
22 Provide Lawful Meal Periods or Compensation in Lieu Thereof; (3) Failure to Provide Lawful Rest
23 Periods or Compensation in Lieu Thereof; (4) Failure to Pay Employee Expenses; (5) Failure to
24 Timely Pay Wages During Employment; (6) Failure to Timely Pay Wages at Termination; (7)
25 Failure to Provide Accurate, Itemized Wage Statements; and (8) Violations of the Unfair
26 Competition Law.

27 52. Release by Aggrieved Employees: Upon entry of Final Judgment and funding of the
28 Gross Settlement Amount, all Aggrieved Employees (regardless of whether they are Participating

1 Class Members or Non-Participating Class Members) will be deemed to release, on behalf of
2 themselves and their respective former and present representatives, agents, attorneys, heirs,
3 administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that
4 were alleged in the complaints in the Actions and those based solely upon the facts alleged in the
5 complaints in the Actions, including, e.g., PAGA penalties for meal break violations, rest break
6 violations, unpaid wages, off the clock work, wage statement violations, failure to reimburse
7 necessary expenses, failure to keep required records, waiting time penalties and failure to pay or to
8 timely pay all wages due during employment and/or upon termination, and California Labor Code
9 sections 201-204, 210, 221, 223, 224, 225.5, 226, 226(a), 226.3, 226.7, 510, 512, 558, 558.1, 1174,
10 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, *et seq.* The release by Aggrieved
11 Employees who are also Non-Participating Class Members is limited to claims under the PAGA
12 arising during the PAGA Period.

13 **Settlement Administration**

14 53. Within fourteen (14) days of entry of the Preliminary Approval Order, Defendant
15 shall provide the Settlement Administrator with the Class Information for purposes of mailing the
16 Class Notices to Class Members. The Class Information will only be disclosed to the Settlement
17 Administrator and will be held securely and in the strictest of confidence by the Settlement
18 Administrator and used only for and in relation to effectuating the Class Settlement described herein
19 and shall be destroyed upon the completion of the Class Settlement. All information provided to the
20 Settlement Administrator will be marked by Defendant as CONFIDENTIAL. This information shall
21 be kept confidential and shall not be disclosed, either in writing or orally, by the Settlement
22 Administrator at any time. The Settlement Administrator shall use due care with respect to the
23 storage, custody, use, and/or dissemination of all confidential information. Such information must
24 be stored in a secure fashion and all persons who access the data must agree to keep it confidential.

25 a. Notice by First Class U.S. Mail. Upon receipt of the Class Information, the
26 Settlement Administrator shall perform a search based on the National Change of Address Database
27 maintained by the United States Postal Service to update and correct any known or identifiable
28 address changes. Within fourteen (14) days after receiving the Class Information from Defendant,

1 the Settlement Administrator shall mail copies of the Class Notice to all Class Members via regular
2 First Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine
3 the current mailing address for each Class Member. The address identified by the Settlement
4 Administrator as the current mailing address shall be presumed to be the most current mailing
5 address for each Class Member. The Parties agree that this procedure for notice provides the best
6 notice practicable to Class Members and fully complies with due process.

7 b. Undeliverable Class Notices. Any Class Notice returned to the Settlement
8 Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the
9 forwarding address affixed thereto. If no forwarding address is provided, the Settlement
10 Administrator shall promptly attempt to determine a correct address by the use of skip-tracing, or
11 other type of automated search, using the name, address and/or Social Security number of the Class
12 Member involved, and shall then perform a re-mailing to the Class Member whose Class Notice was
13 returned as non-delivered, assuming another mailing address is identified by the Settlement
14 Administrator. Class Members who are sent a re-mailed Class Notice shall have their Response
15 Deadline extended by fifteen (15) days from the date the Settlement Administrator re-mails the Class
16 Notice. If these procedures are followed, notice to Class Members shall be deemed to have been
17 fully satisfied, and if the intended recipient of the Class Notice does not receive the Class Notice, the
18 intended recipient shall nevertheless remain a Class Member and shall be bound by all terms of the
19 Settlement, Release and the Judgment.

20 c. Determination of Individual Settlement Payments. The Settlement
21 Administrator shall determine the eligibility for, and the amounts of, each Individual Settlement
22 Payment as set forth in Paragraph 54(a)(i). If a Participating Class Member and/or Aggrieved
23 Employee disagrees with the number of Workweeks and/or PAGA Pay Periods credited to them as
24 stated in their Class Notice, they may dispute that figure by informing the Settlement Administrator
25 of the number of Workweeks and/or PAGA Pay Periods in dispute and submitting supporting
26 documentation (such as, without limitation, payroll or time keeping records, and paycheck stubs)
27 prior to the deadline for objecting to the Settlement. Participating Class Members and/or Aggrieved
28 Employees must notify the Settlement Administrator of any such dispute on or before the Response

1 Deadline (or extended Response deadline if applicable, whichever is later). If there is such a dispute,
2 the Settlement Administrator will consult with Defendant's Counsel and Class Counsel to determine
3 whether an adjustment is warranted. The Settlement Administrator shall notify Class Counsel and
4 Defense Counsel of any such disputes no later than five (5) calendar days after receiving notice of
5 the dispute to determine whether an adjustment is warranted. The Settlement Administrator shall
6 confer with Defense Counsel in an attempt to resolve any dispute about the number of Compensable
7 Workweeks and/or Compensable Pay Periods and the estimated Individual Settlement Payment(s).
8 Defendant's records shall be given the presumption of accuracy Defendant's records shall be given
9 the presumption of accuracy.

10 d. Disputes Regarding Administration of Settlement. Any dispute not resolved
11 by the Settlement Administrator concerning the administration of the Settlement shall be resolved by
12 the Court. Prior to any such involvement of the Court, counsel for the Parties shall confer in good
13 faith and make use of the services of Judge Sabraw, if necessary, to resolve the dispute without the
14 necessity of involving the Court.

15 e. Requests for Exclusion. The Class Notice shall explain that Class Members
16 who wish to exclude themselves from the class and Settlement must submit a Request for Exclusion.
17 The Request for Exclusion must: (1) state the name, address, telephone number, approximate dates
18 of employment, and last four digits of the Class Member requesting exclusion; (2) contain a
19 statement that the Class Member is requesting to opt out of, or be excluded from, the Settlement; (3)
20 be signed by the Class Member; and (4) be postmarked, faxed or emailed by the Response Deadline
21 to the Settlement Administrator at the specified address, fax number or email address. Subject to
22 review by Class Counsel, Defense Counsel and the Court, the date of the postmark on the return
23 mailing envelope on the Request for Exclusion shall be the exclusive means used by the Settlement
24 Administrator to determine whether a Class Member has timely requested exclusion from the class
25 and Settlement. Any Class Member who timely and properly requests to be excluded from the class
26 and Settlement shall not be entitled to any benefits under the Settlement and shall not be bound by
27 the terms of the Settlement nor shall the Class Member have any right to object to the Settlement or
28 appeal from the entry of the Judgment. Class Members who do not submit a valid and timely

1 Request for Exclusion on or before the Response Deadline shall be bound by all terms of the
2 Settlement and the Judgment entered in this Action, including the release of the Released Claims, if
3 the Settlement is finally approved by the Court. No later than seven (7) days after the Response
4 Deadline, the Settlement Administrator shall provide counsel for the Parties, a complete list of all
5 Class Members who submitted a timely and valid Request for Exclusion.

6 f. Objections. The Class Notice shall state that Class Members who wish to
7 object to the Settlement must submit a Notice of Objection. The Notice of Objection must (1) state
8 the full name of the Class Member; (2) state the grounds for the objection; (3) state whether the
9 Class Member intends to appear at the Final Approval Hearing; (4) be signed by the Class Member;
10 and (5) be postmarked, faxed or emailed by the Response Deadline to the Settlement Administrator
11 at the specified address, fax number or email address. Subject to review by Class Counsel, Defense
12 Counsel and the Court, the date of the postmark on the return mailing envelope on the Notice of
13 Objection shall be the exclusive means used by the Settlement Administrator to determine whether a
14 Class Member has timely objected to the Settlement. Class Members who fail to timely make
15 objections in the manner specified herein shall be deemed to have waived any objections and shall
16 be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement, unless
17 otherwise permitted by the Court. A Class Member may not object to the Settlement and also submit
18 a Request for Exclusion. At no time shall any of the Parties, Class Counsel or Defense Counsel seek
19 to solicit or otherwise encourage or discourage Class Members from submitting a Notice of
20 Objection or filing an appeal from the Judgment in this Action.

21 g. Monitoring and Reviewing Settlement Administration. The Parties have the
22 right to monitor and review the administration of the Settlement to verify that the monies allocated
23 under the Settlement are distributed in a correct amount, as provided for in this Stipulation.

24 h. Best Efforts. The Parties agree to use their best efforts to carry out the terms
25 of this Settlement.

26 54. Funding of Maximum Settlement Amount. No later than thirty (30) days after the
27 Effective Date, Defendant shall provide to the Settlement Administrator, in any feasible manner,
28 including, but not limited to, by way of a wire transfer, the Maximum Settlement Amount and any

1 Employer payroll taxes determined to be due and for which Defendant is given at least twenty-one
2 (21) days prior notice from the Settlement Administrator. In no event shall there be any distribution
3 from the Maximum Settlement Amount until after the Effective Date and all conditions precedent
4 specified in this Stipulation have been completely satisfied. If this Settlement is not finally approved
5 by the Court in full, or is terminated, rescinded, canceled or fails to become effective for any reason,
6 or if the Effective Date does not occur, then no Maximum Settlement Amount shall be paid.

7 a. Individual Settlement Payments. Class Members shall not be required to
8 submit a claim in order to receive a share of the Net Settlement Amount, and no portion of the
9 Maximum Settlement Amount shall revert to Defendant or result in any unpaid residue. Individual
10 Settlement Payments shall be paid by the Settlement Administrator to all Class Members from the
11 Net Settlement Amount pursuant to the formula set forth herein. Individual Settlement Payments
12 shall be mailed by the Settlement Administrator by regular First Class U.S. Mail to each Class
13 Member's last known mailing address within fourteen (14) days after Defendant provides the
14 Settlement Administrator with the Maximum Settlement Amount. Prior to mailing the Individual
15 Settlement Payments, the Settlement Administrator shall perform a search based on the National
16 Change of Address Database maintained by the United States Postal Service to update and correct
17 any known or identifiable address changes.

18 i. Individual Class Payment- Each Participating Class Member's
19 Individual Class Payment shall be calculated by the Settlement Administrator according to a formula
20 determined by Class Counsel as follows: Defendant shall provide the Settlement Administrator with
21 the Compensable Workweeks for each Participating Class Member during the Class Period. The
22 Settlement Administrator shall then divide the Net Settlement Amount by the total number of
23 Compensable Workweeks for all Participating Class Members during the Class Period resulting in a
24 value for each week worked by the Participating Class Members during the Class Period
25 ("Workweek Value"). The Settlement Administrator shall then multiply the number of
26 Compensable Workweeks for each Participating Class Member by the Workweek Value.

27 ii. Individual PAGA Payment- In addition, all Aggrieved Employees
28 shall receive a pro rata share of the portion of the PAGA Payment allocated to Aggrieved Employees

1 based on the Aggrieved Employee's Compensable pay periods during the PAGA Period. The
2 Settlement Administrator shall divide 25% portion of the PAGA Payment amount by the total
3 number of Compensable pay periods during the PAGA Period. ("Pay Period Value"). The
4 Settlement Administrator shall then multiply the number of Compensable pay periods for each
5 Aggrieved Employee by the Pay Period Value.

6 iii. Individual Settlement Payments shall be made by check and shall be
7 made payable to each Class Member as set forth in this Stipulation.

8 iv. Individual Settlement Payments shall be allocated as follows: one-
9 fourth (1/4) as wages subject to all applicable tax withholdings, one-half (1/2) as non-wage penalties
10 not subject to payroll tax withholdings, and one-fourth (1/4) non-wage interest not subject to payroll
11 tax withholdings. The Settlement Administrator shall issue an IRS Form W-2 to each Class Member
12 for the portion of each Individual Settlement Payment allocated as wages and subject to all
13 applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each
14 Class Member for the portions of each Individual Settlement Payment allocated as non-wage
15 penalties and interest and not subject to payroll tax withholdings.

16 v. Individual Settlement Payment checks shall remain negotiable for one
17 hundred eighty (180) days from the date of mailing. If an Individual Settlement Payment check
18 remains uncashed after 180 days from issuance, the Settlement Administrator shall pay over the
19 amount represented by the check, without the need to include interest, to the State Controller's
20 Office Unclaimed Property Fund, with the identity of the Class Member to whom the funds belong.
21 In such event, the Class Member shall nevertheless remain bound by the Settlement.

22 vi. All monies received by Class Members under the Settlement which are
23 attributable to wages shall constitute income to such Class Members solely in the year in which such
24 monies actually are received by the Class Members. It is expressly understood and agreed that the
25 receipt of Individual Settlement Payments shall not entitle any Class Member to additional
26 compensation for overtime pay or for any benefits under any collective bargaining agreement or
27 under any bonus, contest or other compensation or benefit plan or agreement in place during the
28 period covered by the Settlement, nor shall it entitle any Class Member to any increased pension

1 and/or retirement, or other deferred compensation benefits. It is the intent of the Parties that
2 Individual Settlement Payments provided for in this Stipulation are the sole payments to be made by
3 Defendant to Class Members in connection with this Settlement, with the exception of Plaintiff, and
4 that Class Members are not entitled to any new or additional compensation or benefits as a result of
5 having received the Individual Settlement Payments. Furthermore, the receipt of Individual
6 Settlement Payments by Class Members shall not, and does not, by itself establish any general,
7 special, or joint employment relationship between and among the Class Member(s) and Defendant.

8 b. Class Representative Service Award. Subject to Court approval, Plaintiff
9 Alexandra Kabitzke shall be paid a Class Representative Service Award not to exceed Ten Thousand
10 Dollars (\$10,000), for her time and effort in bringing and presenting the Action and for releasing her
11 Released Claims. The Class Representative Service Award shall be paid to Plaintiff from the
12 Maximum Settlement Amount no later than ten (10) days after Defendant provides the Settlement
13 Administrator with the Maximum Settlement Amount. The Settlement Administrator shall issue an
14 IRS Form 1099 to Plaintiff for her Class Representative Service Award. Plaintiff shall be solely and
15 legally responsible to pay any and all applicable taxes on his Class Representative Service Award
16 and shall hold harmless Defendant, Class Counsel and Defense Counsel from any claim or liability
17 for taxes, penalties, or interest arising as a result of payment of the Class Representative Service
18 Award. The Class Representative Service Award shall be made in addition to Plaintiff's Individual
19 Settlement Payment. Any amounts not requested by Plaintiff or not awarded by the Court for the
20 Class Representative Service Award shall become part of the Net Settlement Amount and shall be
21 distributed to Class Members as part of their Individual Settlement Payments.

22 c. Attorneys' Fees and Costs. Class Counsel shall seek an award of reasonable
23 attorneys' fees in an amount not to exceed one third (33.33%) of the Maximum Settlement Amount,
24 which amounts to Nine Hundred Sixty-Six Thousand Five Hundred and Seventy Dollars
25 (\$966,570). In addition, subject to Court approval, Class Counsel shall be entitled to an award of
26 reasonable costs associated with Class Counsel's prosecution of the Action, in an amount not to
27 exceed Fifty Thousand Dollars (\$50,000). Class Counsel shall provide the Settlement Administrator
28 with a properly completed and signed IRS Form W-9 in order for the Settlement Administrator to

1 process the Attorneys' Fees and Costs approved by the Court. Defendant takes no position on and
2 will not oppose or object to Plaintiff's request for an award of attorneys' fees and request for an
3 award of reasonable costs in the amounts stated herein. In the event the Court awards Class Counsel
4 less than the requested attorney's fees award and/or less than the requested costs amount, the
5 difference shall become part of the Net Settlement Amount and shall be distributed to Participating
6 Class Members as part of their Individual Settlement Payments. Class Counsel shall be paid any
7 Court-awarded attorneys' fees and costs no later than ten (10) days after Defendant provides the
8 Settlement Administrator with the Maximum Settlement Amount. Class Counsel shall be solely and
9 legally responsible to pay all applicable taxes on the Attorneys' Fees and Costs. The Settlement
10 Administrator shall issue an IRS Form 1099 to Class Counsel for the Attorneys' Fees and Costs.
11 This Settlement is not conditioned upon the Court awarding Class Counsel any particular amount of
12 attorneys' fees or costs.

13 d. PAGA Payment. One Hundred Thousand Dollars (\$100,000) from the
14 Maximum Settlement Amount shall be allocated as penalties under PAGA, of which Seventy-Five
15 Thousand Dollars (\$75,000) shall be paid by the Settlement Administrator directly to the LWDA.
16 The remaining Twenty-Five Thousand Dollars (\$25,000) shall be distributed to Aggrieved
17 Employees on a pro rata basis as part of their Individual Settlement Payments.

18 e. Settlement Administration Costs. The Settlement Administration Costs,
19 which are estimated not to exceed Thirty Thousand Dollars (\$30,000.00), shall be paid from the
20 Maximum Settlement Amount. Prior to Plaintiff filing a motion for final approval of the Settlement,
21 the Settlement Administrator shall provide the Parties with a statement detailing the Settlement
22 Administration Costs to date. The Parties agree to cooperate in the Settlement Administration
23 process and to make all reasonable efforts to control and minimize Settlement Administration Costs.

24 i. The Settlement Administrator shall be authorized to establish a QSF
25 pursuant to IRS rules and regulations in which the Maximum Settlement Amount shall be placed and
26 from which payments required by the Settlement shall be made.

27 ii. The Settlement Administrator shall keep the Parties timely apprised of
28 the performance of all Settlement Administrator responsibilities required by the Settlement.

1 iii. The Parties each represent they do not have any financial interest in
2 the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that
3 could create a conflict of interest.

4 f. Employer's Share of Payroll Taxes. The Settlement Administrator shall
5 calculate the amount of the Employer's Share of Payroll Taxes and shall remit and report the
6 applicable portions of the payroll tax payment to the appropriate taxing authorities in a timely
7 manner. Within thirty (30) days of the Effective Date, the Employer's Share of Payroll Taxes shall
8 be paid by Defendant in addition to the Maximum Settlement Amount upon at least 21 days advance
9 notice of the amount due from the Settlement Administrator.

10 55. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
11 Response Deadline, a Final Approval Hearing shall be conducted to determine whether to grant final
12 approval of the Settlement, including determining the amounts properly payable for: (i) Attorneys'
13 Fees and Costs; (ii) the Class Representative Service Award; (iii) the Settlement Administrator
14 Costs, and (iv) the PAGA Payment. At least 14 days prior to moving for Final Approval, the
15 Settlement Administrator shall provide a written report or declaration to the Parties describing the
16 process and results of the administration of the Settlement to date, which report or declaration shall
17 be filed by Plaintiff with the Court prior to the Final Approval Hearing.

18 56. Nullification of Settlement. In the event: (i) the Court does not enter the Preliminary
19 Approval Order; (ii) the Court does not grant final approval the Settlement; (iii) the Court does not
20 enter the Judgment; or (iv) the Settlement does not become final for any other reason, this
21 Stipulation shall be rendered null and void, any order or judgment entered by the Court in
22 furtherance of this Settlement shall be treated as void from the beginning, this Stipulation and any
23 documents related to it shall not have any force and effect and/or be admissible, offered into
24 evidence or used in any other manner in this Action by any Class Member or Class Counsel to
25 support any claim or request for class certification in the Action and shall not be used in any other
26 civil, criminal or administrative action against Defendant or any of the other Released Parties, and
27 the Stipulation and all negotiations, statements and proceedings relating thereto shall be without
28 prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions

1 in the Action prior to the settlement. In addition, Defendant shall retain all rights it has by law to
2 object to the maintenance of the Action as a class or representative action and to defend the claims
3 pled, and nothing in this Stipulation or other papers or proceedings related to the Settlement shall be
4 used as evidence or argument by any Party concerning whether the Action may properly be
5 maintained as a class or representative action. In the event an appeal is filed from the Judgment, or
6 any other appellate review is sought, administration of the Settlement shall be stayed pending final
7 resolution of the appeal or other appellate review, but in no event with the Maximum Settlement
8 Amount increase simply because of an appeal. If the Settlement does not become final because of an
9 appeal or other appellate review, any fees incurred by the Settlement Administrator prior to it being
10 notified of the filing of an appeal from the Judgment, or any other appellate review, shall be paid by
11 Defendant.

12 57. No Admission by Defendant. Defendant denies all claims alleged in the Action and
13 denies all wrongdoing whatsoever by Defendant. Neither this Stipulation, nor any of its terms and
14 conditions, nor any of the negotiations connected with it, is a concession or admission, and none
15 shall be used against Defendant as an admission or indication with respect to any claim of any fault,
16 concession, or omission by Defendant, that class certification is proper under the standard applied to
17 contested certification motions, or that the pursuit of a representative action is proper under the
18 governing legal standards. *The Parties stipulate and agree to the certification of the proposed class
19 for settlement purposes only. The Parties further agree that this Stipulation will not be admissible
20 in this or any other proceeding as evidence that (i) a class action should be certified, (ii) a
21 representative action is appropriate or manageable, or (iii) Defendant is liable to Plaintiff or any
22 Class Member, other than according to the terms of this Stipulation.*

23 58. Exhibits and Headings. The terms of this Stipulation include the terms set forth in
24 any attached Exhibits, which are incorporated by this reference as though fully set forth herein. The
25 Exhibits to this Stipulation are an integral part of the Settlement. The descriptive headings of any
26 paragraphs or sections of this Stipulation are inserted for convenience of reference only.

27 59. Amendment or Modification. This Stipulation may be amended or modified only by
28 a written instrument signed by counsel for all Parties or their successors-in-interest.

1 60. Entire Agreement. This Stipulation and any attached Exhibits constitute the entire
2 agreement between the Parties, and no oral or written representations, warranties, or inducements
3 have been made to Plaintiff or Defendant concerning this Stipulation or its Exhibits other than the
4 representations, warranties, and covenants contained and memorialized in this Stipulation and its
5 Exhibits. No other prior or contemporaneous written or oral agreements may be deemed binding on
6 the Parties.

7 61. Authorization to Enter Into Settlement Agreement. Class Counsel and Defense
8 Counsel warrant and represent they are expressly authorized by the Parties whom they represent to
9 negotiate this Stipulation and to take all appropriate actions required or permitted to be taken by such
10 Parties pursuant to this Stipulation to effectuate its terms, and to execute any other documents
11 required to effectuate the terms of this Stipulation. The Parties, Class Counsel and Defense Counsel
12 shall cooperate with each other and use their best efforts to affect the implementation of the
13 Settlement. In the event the Parties are unable to reach agreement on the form or content of any
14 document needed to implement the Settlement, or on any supplemental provisions that may become
15 necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court
16 and/or Judge Meisinger to resolve such disagreement. The person signing this Stipulation on behalf
17 of Defendant represents and warrants that he/she is authorized to sign this Stipulation on behalf of
18 Defendant. Plaintiff represents and warrants that he is authorized to sign this Stipulation.

19 62. No Prior Assignments. The Parties and their counsel represent, covenant, and
20 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
21 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
22 action, cause of action or right herein released and discharged.

23 63. Binding on Successors and Assigns. This Stipulation shall be binding upon, and
24 inure to the benefit of, the successors and assigns of the Parties.

25 64. California Law Governs. All terms of this Stipulation and the Exhibits hereto shall be
26 governed by and interpreted according to the laws of the State of California, without giving effect to
27 any law that would cause the laws of any jurisdiction other than the State of California to be applied.

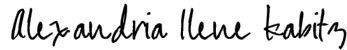
65. Counterparts. The Stipulation may be executed in one or more counterparts by facsimile, email, electronic signature, or scanned copies which for purposes of this Stipulation shall be accepted as an original. All executed counterparts and each of them shall be deemed to be one and the same instrument.

66. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Stipulation and all orders and judgments entered in connection therewith, and the Parties, Class Counsel and Defense Counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in this Stipulation and all orders and judgments entered in connection therewith.

67. Invalidity of Any Provision. Before declaring any term or provision of this Stipulation invalid, the Parties request that the Court first attempt to construe the terms or provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Stipulation as valid and enforceable.

68. Binding Nature of Class Notice. It is agreed that because the Class Members are so numerous, it is impossible or impracticable to have each Class Member execute the Stipulation. The Class Notice shall advise all Class Members of the binding nature of the Settlement, and the release of Released Claims and shall have the same force and effect as if this Stipulation were executed by each Class Member.

Dated: 8/7/2023, 2023

DocuSigned by:

 E9C6D1503355458
 Plaintiff Alexandra Kabitzke

Dated: _____, 2023

Defendant San Ysidro Health
 By: Kevin Mattson, Chief Executive Officer

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2 facsimile, email, electronic signature, or scanned copies which for purposes of this Stipulation shall
3 be accepted as an original. All executed counterparts and each of them shall be deemed to be one
4 and the same instrument.

5 66. Jurisdiction of the Court. Following entry of the Judgment, the Court shall retain
6 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this
7 Stipulation and all orders and judgments entered in connection therewith, and the Parties, Class
8 Counsel and Defense Counsel submit to the jurisdiction of the Court for purposes of interpreting,
9 implementing, and enforcing the Settlement embodied in this Stipulation and all orders and
10 judgments entered in connection therewith.

11 67. Invalidity of Any Provision. Before declaring any term or provision of this
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16 numerous, it is impossible or impracticable to have each Class Member execute the Stipulation. The
17 Class Notice shall advise all Class Members of the binding nature of the Settlement, and the release
18 of Released Claims and shall have the same force and effect as if this Stipulation were executed by
19 each Class Member.

20 Dated: _____, 2023

Plaintiff Alexandra Kabitzke

21
22 Dated: 7/31, 2023

Defendant San Ysidro Health

By: Kevin Mattson, Chief Executive Officer

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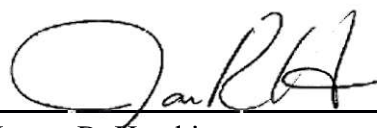
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1 APPROVED AS TO FORM AND CONTENT

2 Dated: July 28, 2023

JAMES HAWKINS APLC

3
4 By: 
5 James R. Hawkins
6 Isandra Fernandez
7 Lance Dacre
8 Attorneys for Plaintiff
9 ALEXANDRIA ILENE KABITZKE

10
11 Dated: July 28, 2023

GREENE & ROBERTS LLP

12 By: _____
13 Maria C. Roberts
14 Noel J. Meza
15 Attorneys for Defendant
16 Centro de Salud de la Comunidad de San Ysidro, Inc., *dba*
17 San Ysidro Health
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APPROVED AS TO FORM AND CONTENT

Dated: July 28, 2023

JAMES HAWKINS APLC

By: _____

James R. Hawkins
Isandra Fernandez
Lance Dacre
Attorneys for Plaintiff
ALEXANDRIA ILENE KABITZKE

July 31
Dated: July 28, 2023

GREENE & ROBERTS LLP

By: Maria C. Roberts

Maria C. Roberts
Noel J. Meza
Attorneys for Defendant
Centro de Salud de la Comunidad de San Ysidro, Inc., dba
San Ysidro Health

EXHIBIT 1

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

(Kabitzke v. Centro de Salud de la Comunidad de San Ysidro, Case No. 37-2022-00046874-CU-OE-CTL)

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

You may be eligible to receive money from an employee class action lawsuit (the “Action”) filed against *Centro de Salud de la Comunidad de San Ysidro* (“San Ysidro Health”) for alleged wage and hour violations. The Action was filed by former San Ysidro Health employee ALEXANDRIA ILENE KABITZKE (“Plaintiff”) and seeks payment of alleged (1) unpaid wages and other relief on behalf of all nonexempt [hourly] employees (“Class Members”) employed by San Ysidro Health during the Class Period spanning from December 15, 2016 to March 24, 2023; and for (2) penalties under the California Private Attorney General Act (“PAGA”) on behalf of all nonexempt employees (“Aggrieved Employees”) who worked for San Ysidro Health during the PAGA Period spanning from April 20, 2020 to March 24, 2023.

The proposed Settlement has two main parts: (1) a Class Settlement pursuant to which San Ysidro Health has agreed to fund Individual Class Payments, and (2) a PAGA Settlement pursuant to which San Ysidro Health has agreed to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on San Ysidro Health’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be in the gross amount of \$_____ (before mandated withholdings) and your Individual PAGA Payment is estimated to be \$_____.** The actual amount you will ultimately receive may be different from this amount but will depend on a number of factors. (If no amount is stated for an Individual PAGA Payment, that is because, according to San Ysidro Health’s records, you did not work during the PAGA Period and are not eligible for an Individual PAGA Payment under the Settlement.)

The above estimates are based on San Ysidro Health’s records, which estimate you worked _____ workweeks during the Class Period and estimates your worked _____ pay periods during the PAGA Period. If you believe you actually worked more workweeks or pay periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

Although the Court has preliminarily approved the proposed Settlement and this Notice, it 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 Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires San Ysidro Health to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against San Ysidro Health.

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

(1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment as a Participating Class Member,

though, you will give up your rights to assert Class Period wage claims and PAGA Period penalty claims against San Ysidro Health.

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against SAN YSIDRO that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is 	If you don't want to participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. SAN YSIDRO must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by 	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but the amount paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on . You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.

You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by _____	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to SAN YSIDRO's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by _____ (date) _____. See Section 4 of this Notice.
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1. WHAT IS THE ACTION ABOUT?

The Plaintiff is a former San Ysidro Health employee. The Action accuses San Ysidro Health of violating California labor laws by failing to pay minimum wages, timely wages, and employee expenses, and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: James Hawkins, Esq., Isandra Fernandez, Esq., and Lance Dacre, Esq., of James Hawkins APLC. ("Class Counsel.")

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

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

So far, the Court has made no determination on the merits of the lawsuit against San Ysidro Health. However, Plaintiff and San Ysidro Health hired an experienced, retired Superior Court Judge to serve as a neutral mediator in an effort to negotiate a settlement of the Action rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and San Ysidro Health 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, San Ysidro Health does not admit any violations or concede the merit of any claims.

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

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

1. San Ysidro Health Will Pay \$2,900,000 as the Gross Settlement Amount (Gross Settlement). San Ysidro Health has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, San Ysidro Health will

fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

- A. Up to \$966,570 (33.33% of the Gross Settlement] to Class Counsel for attorneys' fees and up to \$50,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$10,000 to Plaintiff as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
- C. Up to \$30,000 to the Administrator for services administering the Settlement.
- D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA/PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on the number of Pay Periods they worked during the PAGA Period.

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

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

4. Taxes Owed on Payments to Class Members. Plaintiff and San Ysidro Health are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to non-wage penalties and interest ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

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

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

If the monies represented by your check are sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [REDACTED], 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 [REDACTED] Response Deadline. The Request for Exclusion should be a letter from a Class Member 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 San Ysidro Health.

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

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and San Ysidro Health have agreed that, if either occurs, the Settlement will be void: San Ysidro Health will not pay any money and Class Members will not release any claims against San Ysidro Health.

8. Administrator. The Court has appointed a neutral company, ILYM, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. In the Settlement if finally approved, the Judgment is final and San Ysidro Health has fully funded the Gross Settlement, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against San Ysidro Health or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

Each of the Participating Class Members will be bound by the following release:

Upon the Effective Date, Plaintiff and all Participating Class Members shall be deemed to have fully released the Released Parties from any and all claims, wages, penalties, interest, debts, demands, rights, liabilities, costs, compensation, damages, attorneys' fees, actions, and/or causes of action that were pleaded or could have been pleaded based upon the factual allegations set forth by Plaintiff in her original and/or FAC filed in this Action and arising at any time during the Class Period, including any and all claims for and/or related to the causes of action pled for alleged: (1) Failure to Pay Lawful Wages; (2) Failure to Provide Lawful Meal Periods or Compensation in Lieu Thereof; (3) Failure to Provide Lawful Rest Periods or Compensation in Lieu Thereof; (4) Failure to Pay Employee Expenses; (5) Failure to Timely Pay Wages During Employment; (6) Failure to Timely Pay Wages at Termination; (7) Failure to Provide Accurate, Itemized Wage Statements; and (8) Violations of the Unfair Competition Law.

10. Aggrieved Employees' PAGA Release. Assuming the Settlement received final court approval and San Ysidro Health has paid the full amount of Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against San Ysidro

Health, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against San Ysidro Health or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases and Non-Participating Class Members are as follows:

Upon entry of Final Judgment and funding of the Gross Settlement Amount, all Aggrieved Employees (regardless of whether they are Participating Class Members or Non-Participating Class Members) will be deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged in the complaints in the Actions and those based solely upon the facts alleged in the complaints in the Actions, including, e.g., PAGA penalties for meal break violations, rest break violations, unpaid wages, off the clock work, wage statement violations, failure to reimburse necessary expenses, failure to keep required records, waiting time penalties and failure to pay or to timely pay all wages due during employment and/or upon termination, and California Labor Code sections 201-204, 210, 221, 223, 224, 225.5, 226, 226(a), 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, *et seq.* The release by Aggrieved Employees who are also Non-Participating Class Members is limited to claims under the PAGA arising during the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$ [REDACTED] by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The estimated number of Class Workweeks you worked during the Class Period and number of PAGA Pay Periods you worked during the PAGA Period, as recorded in San Ysidro Health's records, are stated in the first page of this Notice. You have until [REDACTED] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax, on or before _____. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

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

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Kabitzke v. San Ysidro Health*, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and San Ysidro Health are asking the Court to approve. At least 16 days before the [redacted] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [redacted] (url) or the Court's website [redacted] (url).

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

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on _____ at _____ (time) in Department 71 of the San Diego Superior Court, located at 330 W Broadway, San Diego, CA 92101. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff Kabitzke, and the Administrator. The Court will invite comments from objectors, Class Counsel and San Ysidro Health's Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually. Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Plaintiff and San Ysidro Health have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to _____ (specify entity) 's website at _____ (url) _____. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to and entering the Case Number for the Action, Case No. _____.

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

Class Counsel:

Name of Attorney: James Hawkins, Esq., Isandra Fernandez, Esq., Lance Dacre, Esq.

Email Addresses: james@jameshawkinsaplc.com, isandra@jameshawkinsaplc.com;

lance@jameshawkinsaplc.com

Name of Firm: JAMES HAWKINS APLC

Mailing Address: 9800 Research Dr, Suite 200, Irvine, CA 92618

Telephone: (949) 387-7200

Settlement Administrator:

Name of Company: _____

Email Address: _____

Mailing Address: _____

Telephone: _____

Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund _____ for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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