JAMES HAWKINS APLC
James R. Hawkins (#192925)
Gregory Mauro (#222239)
Michael Calvo (#314986)
Lauren Falk (#316893)
Ava Issary (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

Attorneys for Plaintiff PAUL F. MAISNIER, individually and On behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

PAUL F. MAISNIER, individually and on behalf of all others similarly situated, Plaintiff, v. NATIONAL VISION, INC. dba AMERICA'S BEST CONTACTS AND EYEGLASSES; and DOES 1-50, inclusive, Defendant.	Case No. 24CV018644 ASSIGNED FOR ALL PURPOSES TO: Honorable Jill Talley, Dept. 23 **DECLARATION OF JAMES HAWKINS IN SUPPORT OF PAGA CLASS/COLLECTIVE ACTION SETTLEMENT** Date: July 25, 2025 Time: 9:00 a.m. Dept.: 23

DECLARATION OF JAMES HAWKINS

I, James 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 PAUL F. MAISNIER (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this class and PAGA action on behalf of the Settlement Class, Settlement Collective Members, and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Final Approval of the PAGA Class/Collective Action Settlement and attorneys' fees, costs and service awards, 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. Attached hereto as **Exhibit A** is a true and correct copy of the Order Granting Preliminary Approval of the Settlement. Attached as **Exhibit B** is a true and correct copy of the Stipulation Of Class, Collective, And Representative Action Settlement ("Settlement Agreement") which the Parties ask the Court to approve. Attached as **Exhibit C** to this declaration is the Amendment To Joint Stipulation Of Class, Collective, And Representative Agreement. The Settlement Administration is now complete. Of the 3,736 class members, three Class Members requested exclusion, and none objected to the settlement. As such, Plaintiff now requests the Court grant final approval of the settlement.

<u>Procedural Background</u>

3. On September 20, 2022, Plaintiff filed a class action complaint, *Paul Maisnier v. National Vision, Inc. d/b/a America's Best Contacts and Eyeglasses*, in the Superior Court for the State of California, County of Alameda, Case No. 22CV018224, which Defendant removed to the United States District Court, Northern District of California, Case No. 3:22-cv-07859 ("Federal Court Action"). Plaintiff's class action complaint alleges causes of action for (i) failure to pay hourly and overtime wages; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest breaks or compensation in life lieu thereof; (iv) failure to timely pay wages; (v) failure to provide accurate itemized wage statements; (vi) failure to

reimburse reasonable business expenses; (vii) unlawful wage deductions; and (viii) violation of California's Unfair Competition Law.

4. On November 29, 2022, Plaintiff filed a complaint for civil penalties under the California Private Attorneys General Act of 2004, Labor Code §§ 2698 et seq., entitled *Paul Maisnier v. National Vision, Inc. d/b/a America's Best Contacts and Eyeglasses*, in the Superior Court for the State of California, County of Alameda, Case No. 22CV022738 ("PAGA Action"). Plaintiff's complaint in the PAGA Action seeks civil penalties based on alleged violations of the California Labor Code, including Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and the California Wage Orders. The PAGA Action asserts the same alleged Labor Code violations Plaintiff alleged in his September 20, 2022, notice of intent to sue to the Labor and Workforce Development Agency

5. The Parties agreed, for purposes of settlement, to Plaintiff filing a consolidated Complaint in Sacramento County Superior Court, including the claims alleged in the Federal Court Action, the PAGA Action, and a claim under the FLSA (the "Action"). Defendant denies all material allegations set forth in the Action and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Released Claims. (Settlement Agreement ¶3).

6. On March 11, 2024, the Parties engaged in private mediation with a well-respected wage and hour class action mediator, Brandon McKelvey. In preparation for the mediation Defendant provided Class Counsel with hire and term dates for all employees, time and payroll records and relevant policies for Class Members, PAGA Group Members, and Collective Members during the Class Period. Defendant provided discovery sufficient to enable the Plaintiff and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages arising from the claims made in this case. At all times, the Parties' negotiations were adversarial and non-collusive.

7. The "Settlement Class" or "Settlement Class Members" means all current and former California non-exempt employees of Defendant during the applicable Class Period of May 1, 2020

through June 17, 2024. At the time of mediaiton, Defendant presented there were approximately 3,962 Class Members. As of June 26, 2025 Ilym Group, Inc. will report 3,733 Participating Class Members, constituting 99.2% of the total 3,736 Settlement Class Members. "Colelctive Members" or "Collective"means all non-exempt employees who have been employed by Defendant anywhere in California during the FLSA Period. At the time of mediaiton Defendant represented there are approximately 3,784 Collective Members during the FLSA Period of September 20, 2020, through the June 17, 2024.[1]

8. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general and class representative through interviews, background investigations, and analyses of employment files and related records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing employees' time and wage records; (5) reviewing Defendant's employment policies and practices; (6) researching settlements in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation.

Mediation

9. As a result of the mediation, the parties agreed to settle this matter for a Gross Fund Value ("GFV") of $4,450,000.00. Based on their own respective independent investigations and evaluations, and after taking into account the sharply disputed factual and legal issues involved in this matter, the risks attending further prosecution of the case, and the monetary benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's counsel is of the opinion that Settlement for the consideration and on the terms set forth in the Settlement Agreement remains fair, reasonable and adequate and is in the best interests of the Class Members.

[1] There are 3,545 FLSA Collective Members as of June 26, 2025.

10. Even without the presumption of fairness and reasonableness, the settlement is clearly within the range of reasonableness as thoroughly discussed in detail in the motion for preliminary approval, and as considered by the Court in granting preliminary approval

11. The settlement negotiations were hard-fought and conducted in good faith and at arm's length between attorneys with substantial experience litigating class action and wage-and-hour cases. The settlement was the product of a non-collusive settlement process. The final settlement amount was reached as a result of reasonable compromises in light of these considerations. The Parties entered into a long form Settlement Agreement which is now presented for Court approval.

12. From Class Counsel's review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and Class Counsel's own prior litigation experience, Class Counsel believe that the recovery for each Settlement Class Member is fair and reasonable taking into consideration the amounts received in other wage and hour class actions, the risks inherent in litigation of this genre, and the reasonable.

13. Accounting for the risks of continued litigation and impediments to discovery, Plaintiff determined that a settlement amounting to $4,450,000.00 was fair and reasonable and the court preliminarily agreed.

<u>The Claims</u>

14. The GFV is well within the acceptable range of reasonableness for the claims of the Settlement Class Members. After analysis and review of Defendant's time and pay record production and other payroll data, Class counsel estimates the overall value of the class claims at approximately $25,651,342 should Plaintiff prevail at the class certification stage and at trial and survive any appeals and win on all claims, and be awarded damages for call class members, for all workweek and pay periods, and certain assumptions and extrapolations were confirmed with further discovery. This amount was reduced by a reasonable 50% to account for the risks of continued litigation and not prevailing on one or more claims and the Court not awarding penalties based upon Defendant's good faith arguments.

15. During the negotiations Defendant provided there are approximately 3,962

16. employees who worked approximately 197,241 Workweeks during the Class Period and approximately 103,000 Pay Periods during the PAGA Period. The value of the failure to pay wages for off the clock work was valued at approximately **$4,855,486** calculated as follows: 0.17 minutes X $27.75 weighted average OT X 1,029,250 work shifts**.** Defendant also potentially owe class members **$8,138,520 in waiting time penalties** (for a total of 1,833 termed employees). The meal period claim was valued at approximately **$150,664** based upon a less than 1% violation rate at $18.50 per hour. The rest break claim was given little to no value based on apparent complaint policies and the mostly complaint meal periods . The expense reimbursement claim was valued at **$1,137,058** and calculated at $20 per month for cell phone reimbursement. The value of the regular rate claim for pay periods where a bonus was paid where OT and/or meal period premiums were paid was **$342,914.60**. There were approximately 37.5% of pay periods where a bonus and overtime and/or meal period premiums were paid. The value of the LC 226 claim was valued at **$5,909,750** for approximately 2,705 employees in the wage statement period. Defendant also potentially owe class members **$5,116,950 in PAGA penalties** (102,339 pay periods x reasonable $50 penalty). The FLSA claim could also provide for liquidated damages in the amount of unpaid wages. However, the state law claims provide for recovery of the same FLSA based claims. As a result, it is very possible a court would not provide for double penalties under FLSA. As a result, the GFV of $4,450,000.00 represents a reasonable recovery and approximately 18%-35% of the overall potential value assigning adjusted risks as discussed above. This recovery could easily be much higher if at trial, damages were not found for certain individuals for certain workweeks and/or PAGA penalties were reduced for certain pay periods. As a result, the proposed GFV is within the "ballpark of reasonableness" and should be approved. Counsel for Plaintiff believe that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the law and uncertainties of class certification and litigation, the policies and practices Defendant has had in place or implemented during the purported liability period, and the benefit to be recovered for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class, and should be preliminarily approved

17. Based on the estimated Net Settlement Amount of $2,595,322.80, the Participating

Class Members will receive an estimated average gross payment of $694.68, with the estimated highest gross payment being $2,580.96, and the estimated lowest gross payment being $11.95. Based on these calculations, the 3,545 FLSA Collective Members will receive an estimated average gross payment of $14.10, with the estimated highest gross payment being $49.33.

18. To the extent any amount for Attorneys' Fees, Costs, Claims Administration Costs or Incentives are not awarded, the difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid to Settlement Class Members now, rather than the continued risk of further litigation and receiving no money sometime in the far future and after trial and appeals.

19. Pursuant to the Agreement and the Amendment to the Settlement Agreement, Exhibit C to this declaration, 35% of the PAGA Payment ($87,500.00) will be allocated to Aggrieved Employees regardless of whether they opt out of the class settlement. Aggrieved Employees cannot opt out of the PAGA settlement. There are 2,917 Aggrieved Employees who worked a total of 144,157 weeks during the PAGA Period.

20. Aggrieved Employees will receive an estimated average gross payment of $30.00, with the estimated highest gross payment being $86.19, and the estimated lowest gross payment being $0.61.

21. I believe that the consideration and terms set forth in the Settlement Agreement is fair, reasonable, and adequate and are in the best interests of the Settlement Class in light of all known facts and circumstances, including the various defenses asserted by Defendant, and numerous potential appellate issues. In addition, the prospect of a potential adverse summary judgment ruling, as well as the uncertainty of class certification, the difficulties of complex litigation, the lengthy process of establishing specific damages and various possible delays and appeals, were also carefully considered in agreeing to the proposed Settlement.

22. Further, beyond the risk of an adverse ruling on the merits or certification, Class Counsel considered the fact that continued litigation would likely take years and would be extremely expensive given the breadth and complexity of the claims. In this case, post-trial and appellate proceedings are likely to occur, which will surely drag the case far into the future even

with a positive trial result. When facing a distant and unsure resolution of the allegations in this action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly litigation in favor of more immediate benefits to the Class was a consideration favoring settlement. Given these realities, it is highly likely that the future expense of this litigation, and its likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this settlement.

23. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class, and should be finally approved.

Experience of Class Counsel

24. My practice is limited exclusively to litigation, focusing on the representation of employees in wage and hour and consumer class action matters. I have a great deal of experience in wage and hour class action litigation. I have obtained certification of several classes, I have been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

- ***Mojica v. Compass Group, Inc., et. al.*** USDC Central District, Case No. 8:13-cv-01754.
- ***Dao v. 3M Company, et al.*** USDC, CENTRAL DISTRICT, Case No. CV-08-04554.
- ***Ortiz v. Kmart,*** USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
- ***Morgan v. Aramark Campus, LLC,*** USDC, CENTRAL DISTRICT, Case No. SACV08-00412.
- ***West v Iron Mountain Information Management, Inc, et. al.;*** Los Angeles County Superior Court, Case No. BC393709.
- ***Gonzalez v. Superior Industries International, Inc.,* et al.,** Los Angeles County Superior Court, Case No. BC 357912.
- ***Acosta v. Fleetwood Travel Trailers of California, Inc.,* et al.,** Riverside County Superior Court, Case No. RIC 440630.

- ***Walker v. Sharkeez,* et al.,** Orange County Superior Court, Case No. 05CC00293.
- ***Padron v. Universal Protection Service, et al,*** Orange County Superior Court, Case No. 05CC00013.
- ***Martinez v. Securitas Security Services USA, et al.,*** Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460.
- ***Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.,*** Riverside Superior Court, Case No. RIC 420909.
- ***Ruiz, et al. v. Unisourse Worldwide, Inc., et al.,*** USDC, CENTRAL DISTRICT, Case No. CV09-05848.
- ***Herrador v. Culligan International Company, et al.,*** USDC, CENTRAL DISTRICT, Case No. SACV 08-680.
- ***Defries v. Domain Restaurants, et al.,*** Orange County Superior Court, Case No. 05CC00128.
- ***Denton v. BLB Enterprises, Inc., et al.,*** Orange County Superior Court, Case No. 07CC01292.
- ***Rios v. Sandberg Furniture Manufacturing Co., Inc, et al.,*** Los Angeles Superior Court, Case No. BC411477.
- ***McMurray v. Dave and Busters, Inc., et al.,*** Orange County Superior Court, Case No. 06CC00099.
- ***Osuna v. DFG Restaurants, Inc., et al.,*** Los Angeles Superior Court, Case No. BC 330145.
- ***Burns v. Gymboree Operations, Inc.,* et al.,** San Francisco Superior Court, Case No. CGC-07-461612.
- ***Willems v. Diedrich Coffee, Inc., et al.,*** Orange County Superior Court, Case No. 07CC00015.
- ***Davila, et al. v. Beckman Coulter, Inc., et al.,*** Orange County Superior Court, Case No. 07CC01347.

- ***Perez v. Naked Juice Company of Glendora, Inc.,*** Los Angeles Superior Court, Case No. BC387088.
- ***Coordination Proceeding Special Title [Rule 1550(b)] Wackenhut Wage and Hour Cases***, Los Angeles Superior Court, Case No. JCCP 4545.
- ***Placencia v. Amcor Packaging Distribution, Inc.,*** Orange County Superior Court, Case No. 30-2013-00694012-CU-OE-CXC.
- ***Trani v. Lisi Aerospace, et al.,*** Los Angeles Superior Court, Case No. BC495527.
- ***Galvan v. Goodwin Co.,*** Orange County Superior Court, Case No. 30-2013-00637062-CU-OE-CXC.
- ***Reyes v. Bristol Fiberlite,*** Orange County Superior Court, Case No. 30-2013-00653425-CU-OE-CXC.
- ***Gutierrez v. HMT Tank,*** **USDC Central Dist.,** Case No. CV14-1967-CAS(MAN)
- ***Williams v. Il Fornaio America Corp.,*** Sacramento County, Case No. 34-2011-0009616.
- ***Aguilar v. 7-Eleven, Inc.,*** Orange County, Case No. 30-2009-002687141-CU-OE-CXC.
- ***Madrigal v. Huntington Beach Market Broiler, Inc.,*** Orange County, Case No. 30-2012-00611260.
- ***Vang v. Jazz Semiconductor, Inc.,*** Orange County, Case no. 30-2011-00460278.
- ***Vigueras v. Red Robin International, Inc,*** USDC Central Dist. Case No. *SACV 17-1422 JVS (DFMx);*
- ***Smith v. Space Exploration Technologies Corp.,*** Los Angeles Superior Court, Case No. *BC55429;*
- ***Cano v. Financial Statement Services, Inc.,*** Orange County Superior Court, Case No. 30-2013-00653349-CU-OE-CXC;
- ***Mendez v. Liberty Glass Fabricators, Inc.,*** Riverside County Superior Court Case No. RIC1800119;
- ***Attia v. Neiman Marcus Group, Inc.,*** United States District Court for the Central

District of California Case No. 8:16-cv-001504-DOC-FFM;

- ***O'Brien, et al. v. Cerida Investment Corp.,*** Santa Clara Superior Court Case No. 21CV384527;
- ***Gonzalez v. Quality Aluminum Forge, LLC,*** Orange County Superior Court Case No. 30-2015-00817941;
- ***Shay v. Apple, Inc.,*** United States District Court for the Southern District of California Case No. 3:20-cv-1629-JO-BLM;
- ***Milligan v. CWI, Inc.,*** San Bernardino Superior Court Case No. CIVDS 2013999;
- ***Aguilar v. LDI Mechanical, Inc.,*** Riverside County Case No. RIC1610019;
- ***Abron v. University Healthcare Alliance,*** Alameda County Superior Court Case No. RG20066438;
- ***Benson v. F21 Opco, LLC,*** San Diego Superior Court Case No. 37-2021,00024619-CU-OE-CTL;
- ***Allen v. Creative Stone Mfg., Inc.,*** San Bernardino County Superior Court Case No. CIVSB2201498;
- ***Santamaria v. Bright Horizons Children's Center,*** San Bernardino County Superior Court Case No. CIVSB2210140;
- ***Yniguez v. Airgas USA, LLC,*** Los Angeles County Superior Court Case No. 20STCV18190;
- ***Cervantez v. Genuine Parts Company,*** Los Angeles County Superior Court Case No. 22STCV00981;
- ***Robles v. Jetro Holdings, LLC,*** San Diego Superior Court Case No. 37-2021-00015414-CU-OE-CTL;
- ***Hernandez v. Euromarket Designs, Inc.,*** Santa Clara County Superior Court Case No. 20CV3770922;
- ***Ayala v. Veg-Land, et al.,*** Orange County Superior Court Case No. 30-2014-00738775-CU-OE-CXC;

- ***Puente v. Sully-Miller Contracting Co.,*** Orange County Superior Court Case No. 30-2015-00792088-CU-OE-CXC;
- ***Garcia v. Revolution Foods, Inc.,*** Los Angeles Superior Court Case No. BC579142;
- ***Attaway, et al. v. Alliance Residential, LLC,*** Santa Clara County Superior Court Case No. 20CV365134;
- ***Bowman v. Delta Dental of California,*** Alameda County Superior Court Case No. RG21108230;
- ***Hernandez v. Burrtec Waste & Recycling Services, LLC,*** United States District Court for the Central District of California Case No. 5:21-CV-001490-JWH-SP;
- ***Grant v. T-Mobile USA, Inc.,*** United States District Court for the Central District of California Case No. 2:21-CV-02268;
- ***Dawson v. Wonderful Pistachios and Almonds, LLC,*** Kern County Superior Court Case No. BCV-17-100848;
- ***Hamilton, et al. v. Michael Kors Stores (California), Inc.,*** Los Angeles County Superior Court Case NO. 19STCV37061;
- ***Ross v. Stater Bros.,*** San Bernardino Superior Court Case No. CIVDS1902518;
- ***Walker v. Barrett Business Services, Inc., et al.,*** Los Angeles County Superior Court Case No. 20STCV39172;
- ***Benitez, et al. v. Medtronic, Inc., et al.,*** Orange County Superior Court Case No. 30-2019-01069185-CU-OE-CXC;
- ***Montgomery v. Copart, Inc.,*** Sacramento County Superior Court Case No. 34-2020-00280733-CU-OE-GDS;
- ***Vizcarra-McNamee v. Nordstrom, Inc.,*** Orange County Superior Court Case No. 30-2020-01141916-CU-OE-CXC;
- ***Ayers v. Cherry Hill Programs, Inc.,*** Fresno County Superior Court Case No. 20CECG00821;
- ***Sleeper v. Boot Barn, Inc.,*** Sacramento County Superior Court Case No. 34-2019-00272000-CU-OE-GDS;

- ***Pulido-Dias v. Dirt Cheap, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1719694;
- ***Villanueva v. Nordstrom, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1918706;
- ***Bryson v. Madame Tussauds, et al.,*** Los Angeles County Superior Court Case No. 19STCV33514
- ***Hightower v. Levy Premium, et al.,*** Santa Clara County Superior Court Case No. 19CV359262;
- ***Marquez v. Maxim Crane Works, L.P.,* et al,** Los Angeles County Superior Court Case No. 19STCV39548;
- ***Rovira v. Silverado Senior Living Management, Inc.,*** Orange County Superior Court Case No. 30-2020-01136565-CU-OE-CXC;
- ***Hallum, et al. v. FCA US, LLC,*** San Bernardino County Case No. CIVDS1936782;
- ***Martinez v. Placer Title Co., et al.,*** Kern County Case No. BCV-19-103486;
- ***Torres v. Van Law Food Products, Inc.,*** Orange County Case No. 37-2017-00946312-CU-OE-CXC;
- ***Holmes v. Pet Food Express, LLC,*** Alameda County Case No. 22CV014140;
- ***Ventura v. Conduent Commercial Solutions, LLC,*** Kern County Case No. BCV-22-102043;
- ***Ramirez v. CSI Electrical Contractors, Inc.,*** Fresno County Superior Court Case No. 18CECG04150;
- ***Magana v. Eibach Springs, Inc.,*** Riverside County Superior Court Case No. RIC1708917;
- ***Knox v. Express Messenger Systems, Inc.,*** San Bernardino County Superior Court Case No. CIVDS1932323;
- ***Corona, et al. v. G&M Oil Company, Inc.,*** Los Angeles County Superior Court Case No. BC640876

- ***Aguilar v. Peach Home Services, Inc., et al.,*** Riverside County Superior Court Case No. RIC1823057;
- ***Wilson v. M.C. LLC,*** Orange County Superior Court Case No. 30-2019-01103382-CU-OE-CXC.
- ***Nunez v. Nevell Group, Inc.,*** Orange County Superior Court Case No. 30-2015-00783269.
- ***Bendorf, et al. v. Sea World LLC,*** *et al.*, San Diego Superior Court Case No. 37-2021-00034922-CU-OE-CTL;
- ***DeMartini, et al. v. Safelite Fulfillment, Inc.,*** Marin County Case No. CIV20002076;
- ***Ayala, et al., v. Macy's West Stores, Inc.,*** Los Angeles County Case No. 20STCV34182;
- ***Wallen, et al. v. United Rentals (North America), Inc., et al.,*** Stanislaus County Case No. CV-22-000399;
- ***Granados v. Hyatt Corporation,*** United States District Court for the Southern District of California Case No. 3:23-cv-01001-H-VET;
- ***Vigil v. Hyatt Corporation,*** United States District Court for the Northern District of California Case No. 4:22-cv-00693;
- ***Garcia v. U.S. Best Ingredients, Inc.,*** Los Angeles Superior Court Case No. 21TRCV00813.

Reasonableness of Attorneys' Fees

25. Here, the Parties' agreement to pay Class Counsel Fees of $1,481,729.21[2] (33.33% of the GFV) is reasonable. My firm has been the only counsel to represent Plaintiff and the Settlement Class in this matter, and we have borne the entire risk and cost of this litigation on a pure contingency fee basis. The legal issues raised drew significantly upon my experience and

[2] The original Attorneys Fees requested were $1,483,000. Plaintiff's counsel is now requesting fees of $1,481,729.21 (instead based on the amount of the settlement reverting to Defendant due to the 3 requests for exclusion. This amount reverting to Defendant is $4,812.36 (See Hernandez Decl. at paragraphs 14-15).

the extensive review and analysis of documents and information by me and others at my firm. In a complex action such as this, the proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency fees.

26. Here, Class Counsel has spent approximately 433.30 hours litigating this matter and finalizing the Settlement for a combined lodestar value of approximately $332,992.00. Over the course of this litigation, four professionals billed time toward the matter. Greg Mauro, James Hawkins, and Michael Calvo, all attorneys at the firm, collectively devoted significant time to the case. Greg Mauro contributed 167.90 hours at an average hourly rate of $850, generating unbilled time valued at $142,715.00. James Hawkins recorded 105.80 hours at an average rate of approximately $1,050 per hour, totaling $111,090.00 in unbilled time. Michael Calvo spent 102.50 hours on the matter, billing at a rate around $650 per hour, with total unbilled time amounting to $66,625.00. Melissa Whitson, a paralegal, logged 57.10 hours at an average hourly rate of approximately $220, resulting in $12,562.00 of unbilled time. In total, the team devoted 433.30 billable hours to this matter.

In light of the facts and circumstances of this matter, as well as the results that Class Counsel have achieved, Class Counsel have spent a reasonable number of hours performing work on this matter. In addition, Class Counsel will continue to perform work on this matter through the date of final approval and in connection with the implementation of the Settlement and thus respectfully request the Court apply a modest multiplier of 4.45. Where "exceptional effort produced an exceptional benefit," a fee award may be enhanced. *Thayer v. Wells Fargo* 92 Cal. App. 4th at 838; *In re Vitamin Cases*, 110 Cal. App. 4th 1041, 1058-1059 (2003) (high-quality work from counsel supports multiplier).

27. In addition to the requested attorneys' fees, our office has expended a total of **$13,914.84** in costs in prosecuting this action. These costs have been necessary costs associated with prosecution of this important matter. Counsel for Plaintiff respectfully requests the Court grant the request to have these costs repaid from the Settlement. Attached as **Exhibit D** is a true and correct copy of Class Counsel James Hawkins costs bill.

28. Despite the complexity of the case, Class Counsel has, through the investment of

substantial effort and the resources of my law firm been able to secure an outstanding settlement on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been required to establish a significant amount of witness testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order to present their case both at the class certification stage and trial. Defendant has vigorously contested liability, the amount of claimed damages, and the propriety of class certification, and would have continued to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendant, and numerous potential appellate issues.

Reasonableness of the Enhancement Payment

29. The parties request payment of an Enhancement Payment from the Gross Fund Value to the Class Representative in the amount of $25,000.00 in addition to the payment he is otherwise entitled to receive as a Class Member. The proposed Enhancement Payment is reasonable compensation given the time and effort that the named Plaintiff devoted to this case; the valuable assistance they provided to Class Counsel; and the fact that they entered into a general release of claims that is broader than the release of the Class.

30. Plaintiff provided invaluable assistance to Class Counsel and the Class in this case, including providing factual background for the Class Complaint; reviewing the relevant documents, and Complaint; participating in phone calls with their lawyers to discuss litigation and settlement strategy; and reviewing the settlement documents. Plaintiff agreed to participate in this case with no guarantee of personal benefit. Attached hereto as **Exhibit E** is a true and correct copy of the declaration of Plaintiff Maisnier.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on July 2, 2025 at Irvine, California.

James R. Hawkins

Exhibit A

JAMES HAWKINS APLC
James R. Hawkins (#192925)
Gregory Mauro (#222239)
Michael Calvo (#314986)
Lauren Falk (#316893)
Ava Issary (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

Attorneys for Plaintiff PAUL F. MAISNIER,
individually and on behalf of all others similarly situated

FILED
Superior Court of California
County of Sacramento
04/14/2025
T. Shaddix, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

PAUL F. MAISNIER, individually and on behalf of all others similarly situated, Plaintiff, v. NATIONAL VISION, INC. dba AMERICA'S BEST CONTACTS AND EYEGLASSES; and DOES 1-50, inclusive, Defendant	Case No. 24CV018644 Judge: Hon. Jill H. Talley Dept: 23 **~~[PROPOSED]~~ ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Hearing: March 14, 2025 Time: 9:00 AM Dept: 23 **Reservation Number: #A-18644-001**

ORDER

This matter came on for hearing on March 14, 2025 at 9:00 AM in Department 23 of the above-captioned court on the Motion for Preliminary Approval of Class Action Settlement, upon the terms and conditions set forth in the Stipulation Of Class, Collective, And Representative Action Settlement (hereinafter "Settlement Agreement").

The Court, having fully reviewed the Motion for Preliminary Approval of Class Action Settlement, the Memorandum of Points and Authorities and Declarations filed in support thereof, the Settlement Agreement, including the proposed Class Notice and FLSA Notice, and in recognition of the Court's duty to make a preliminary determination as to the reasonableness of any proposed class action settlement, and if preliminarily determined to be reasonable, to ensure proper notice is provided to Settlement Class Members in accordance with due process requirements, and to set a Final Approval Hearing to consider the proposed Settlement Agreement as to the good faith, fairness, adequacy and reasonableness of any proposed settlement, and having heard the argument of Counsel for the respective parties, the Court **HEREBY MAKES THE FOLLOWING DETERMINATIONS AND ORDERS**:

It appears to the Court on a preliminary basis that the Gross Fund Value ("GFV") is fair and reasonable to the Class Members when balanced against the probable outcome of further litigation relating to class certification, the liability and damages issues involved, and the potential for appeals. It further appears that sufficient investigation, research, and litigation has been conducted such that counsel for the Parties at this time is able to reasonably evaluate their respective positions. It further appears that the Settlement at this time will avoid substantial costs, delay and risks that would be presented by the further prosecution of the litigation. It further appears that the proposed Settlement has been reached as the result of intensive, serious and non-collusive negotiations between the Parties. ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY GRANTED, AND AS A PART OF SAID PRELIMINARY APPROVAL, THE COURT HEREBY ORDERS THAT THE SETTLEMENT CLASS BE CONDITIONALLY CERTIFIED FOR SETTLEMENT PURPOSES ONLY, AND THAT JAMES HAWKINS, APLC BE CONDITIONALLY AND

PRELIMINARILY APPOINTED CLASS COUNSEL. MORE SPECIFICALLY, THE COURT FINDS AS FOLLOWS:

This Order incorporates by reference all definitions in the Parties' Settlement Agreement in the action entitled *Paul Maisnier v. National Vision, Inc. d/b/a America's Best Contacts and Eyeglasses,* Case Nos. 22CV018224 and 22CV022738 (the "Lawsuits") and all terms used herein shall have the same meanings as set forth in the Settlement Agreement.

The Court preliminarily approves the Settlement as set forth in the Settlement Agreement on the basis that the Settlement between Plaintiff and Defendant appear to be within the range of reasonableness of a settlement which could ultimately be given final approval by this Court. The Court preliminarily finds that the terms of the Settlement are fair, reasonable, and adequate, pursuant to Section 382 of the California Code of Civil Procedure.

The Court notes that Defendant has agreed to a non-reversionary GFV of $4,450,000.00. The GFV includes without limitation any and all payments Defendant may be responsible for under the Settlement, including any Attorney's Fees and Litigation Expenses, Enhancement Payment, the Class Member Payments, the PAGA Payments (which includes payment to the LWDA), Settlement Collective Member Payments, Claims Administration Costs, and all payroll taxes (excluding employer-side payroll taxes) due and owing as a result of the Settlement.

The Court finds the requirements of Code of Civil Procedure 382 are satisfied for purposes of settlement and conditionally certifies the Settlement Class for settlement purposes, with Plaintiff acting as the Class Representative.

The Court hereby appoints, for settlement purposes, Plaintiff PAUL F. MAISNIER as the Class Representative and finds Plaintiff is an adequate representative for the Settlement Class for settlement purposes. The Court further finds that James Hawkins APLC has preliminarily established adequacy to be appointed as Class Counsel and appoints them as Class Counsel.

The Class as identified in the Settlement Agreement is provisionally certified by this Order.

The Court finds that the proposed manner of class notice is adequate.

The Court finds that the proposed manner of FLSA notice is adequate.

The Court approves Ilym Group, Inc., to serve as the Settlement Administrator.

The Court further hereby approves, as to form and content, the proposed Notice of Class Action Settlement and Orders the notice to be mailed to the Settlement Class.

The Court finds that the Notice of Class Action Settlement constitutes the best notice practicable under the circumstances, is in full compliance with the laws of the State of California and, to the extent applicable, the United States Constitution and the requirements of due process. The Court further finds that the Class Notice fully and accurately informs Settlement Class Members of all material elements of the proposed Settlement, of each Settlement Class Member's right to be excluded from the Settlement Class, and each Settlement Class Member's right and opportunity to object to the proposed Settlement. The Notice of Class Action Settlement adequately advises the Class about: the Class Action; the terms of the proposed Settlement and the benefits available to each Settlement Class Member; each Settlement Class Member's right to participate, submit an exclusion/Opt-Out, or Objection to the proposed Settlement, and the timing and procedures for doing so; the temporary and conditional certification of the Settlement Class for settlement purposes only; preliminary Court approval of the proposed Settlement; timing and procedures for distributing the Gross Settlement and the Individual Settlement Payments to the Participating Class Members; and the date of the Final Approval Hearing as well as the rights of the Settlement Class to file documentation in support of or in opposition to and appear in connection with said hearing.

The Court finds that the FLSA Notice constitutes the best notice practicable under the circumstances, is in full compliance with the laws of the State of California and, to the extent applicable, the United States Constitution and the requirements of due process. The FLSA Notice provides collective members with: a detailed explanation of the terms of the settlement; the claims being released; how the settlement funds will be allocated; a detailed explanation of how attorney's fees and costs will be calculated and the total amount being requested; a description of how employees can opt-in to or opt-out of the settlement; adequate notice to the Employees; and the date of the Final Approval Hearing.

ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY APPROVES THE PROPOSED CLASS NOTICE PACKET TO THE CLASS AND FINDS that mailing to the last known address of the Settlement Class, as specifically described within the Settlement Agreement, constitutes an effective method of notifying Settlement Class Members of their rights with respect to the proposed Settlement. ACCORDINGLY, IT IS HEREBY ORDERED that:

Within fourteen (14) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator. The Class List is a confidential list containing names, employee ID numbers, last known address, number of workweeks worked during the Class Period, FLSA Period, and PAGA Period, and, Social Security Numbers to facilitate the administration of the settlement and provided confidentially to the Settlement Administrator.

IT IS FURTHER ORDERED that within fourteen (14) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Preliminary Approval Notice in English to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

IT IS FURTHER ORDERED that with respect to Preliminary Approval Notices that are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Preliminary Approval Notice within five (5) calendar days.

IT IS FURTHER ORDERED Class Members will have an opportunity to dispute the number of Workweeks to which they have been credited, as reflected in their respective Preliminary Approval Notices. In order to dispute Qualifying Workweeks, Class Members must submit a written letter to the Settlement Administrator that: (a) contains the case name and number of the Action, (b) is signed by the Class Member, (c) contains the full name, address, telephone number, and the last four. digits of the Social Security Number of the disputing Class Member, (d) clearly states that the Class Member disputes the number of Qualifying Workweeks credited to them and what they contend is the correct number to be credited to them, (e) includes information and/or attaches documentation demonstrating that the number of Qualifying Workweeks that they contend should be credited to them are correct, and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

IT IS FURTHER ORDERED that Any Class Member wishing to be excluded from the Settlement must submit a written Request for Exclusion to the Settlement Administrator, by mail, within the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant s Counsel the Requests for Exclusion that were timely submitted, and also identify the individuals who have submitted a timely and valid Request for Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing. Any Class Member who submits a Request for Exclusion is prohibited from making any objection to the Settlement. Individuals who opt-out of the Settlement shall also have their settlement allocation amount from the Net Settlement Fund returned to Defendant, as they shall have no Released Class Claims. Any Class Member who validly requests to be excluded from the Settlement will not be a Settlement Class Member and will not have any right to object, appeal, or comment on the Settlement; however, if the Class Member worked during the PAGA Period, they will remain a PAGA Group Member, will receive an Individual PAGA Payment, and will be bound by the PAGA Settlement and Released PAGA Claims.

IT IS FURTHER ORDERED To object to the Settlement, Class Members who have not opted out of the Settlement (i.e., Settlement Class Members) must submit a timely and complete Notice of Objection to the Settlement Administrator, by mail, on or before the Response Deadline. The Notice of Objection must be signed by the Settlement Class Member and contain all information required by this Agreement. The postmark date will be deemed the exclusive means for determining that the Notice of Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to object to the Settlement or appeal from the Final Approval Order and Judgment. Settlement Class Members may also present their objection at the Final Approval Hearing.

IT IS FURTHER ORDERED that a Final Approval hearing shall be held on ___________________ at _______. before the Honorable Jill H. Talley in Department 23. At the

Final Approval hearing, the Court will determine whether the Settlement should be finally approved as fair, reasonable and adequate, and whether the terms of this Preliminary Approval Order and any other applicable legal perquisites to Judgment are satisfied. The Court will also determine the amount properly payable for (i) Attorneys' Fees and Costs, (ii) Enhancement Payment, (iii) the Settlement Administration Costs, (iv) Class Member Payments; (v) Settlement Collective Member Payments and (vi) the PAGA Payments.

IT IS FURTHER ORDERED that all briefs and materials in support of an Order Granting Final Approval and application for attorneys' fees and costs and class representative Enhancement Payment shall be filed with this Court No later than thirty (30) calendar days before the Final Approval Hearing.

IT IS FURTHER ORDERED that, if for any reason the Court does not execute and file an Order Granting Final Approval and Judgment, or if the Effective Date does not occur for any reason whatsoever, the Settlement Agreement and the proposed Settlement which is the subject of this Order and all evidence and proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Parties to the litigation as more specifically set forth in the Settlement Agreement.

IT IS FURTHER ORDERED that, pending further order of this Court, all proceedings in this matter except those contemplated herein and in the Settlement Agreement are stayed.

The Court expressly reserves the right to adjourn or continue the Final Fairness Approval Hearing from time to time without further notice to the Class.

IT IS SO ORDERED.

Dated: 04/14/2025, 2025

Jill Talley

Honorable Jill H. Talley

JUDGE OF THE SUPERIOR COURT

Exhibit B

STIPULATION OF CLASS, COLLECTIVE, AND REPRESENTATIVE ACTION SETTLEMENT

This Joint Stipulation of Class, Representative ("PAGA"), and Collective Action Settlement ("Agreement" or "Settlement") is made and entered into by and between Plaintiff Paul Maisnier ("Plaintiff" or "Class Representative"), on behalf of all other similarly situated Class Members, PAGA Group Members, Collective Members, and Defendant National Vision, Inc. ("Defendant") (collectively with Plaintiff, the "Parties").

This Settlement shall be binding on Plaintiff and Settlement Class Members, PAGA Group Members, and Settlement Collective Members, and on Defendant, subject to the terms and conditions hereof and the approval of the Court.

RECITALS

1. On September 20, 2022, Plaintiff filed a class action complaint, *Paul Maisnier v. National Vision, Inc. d/b/a America's Best Contacts and Eyeglasses*, in the Superior Court for the State of California, County of Alameda, Case No. 22CV018224, which Defendant removed to the United States District Court, Northern District of California, Case No. 3:22-cv-07859 ("Federal Court Action"). Plaintiff's class action complaint alleges causes of action for (i) failure to pay hourly and overtime wages; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest breaks or compensation in life lieu thereof; (iv) failure to timely pay wages; (v) failure to provide accurate itemized wage statements; (vi) failure to reimburse reasonable business expenses; (vii) unlawful wage deductions; and (viii) violation of California's Unfair Competition Law.

2. On November 29, 2022, Plaintiff filed a complaint for civil penalties under the California Private Attorneys General Act of 2004, Labor Code §§ 2698 et seq., entitled *Paul Maisnier v. National Vision, Inc. d/b/a America's Best Contacts and Eyeglasses*, in the Superior Court for the State of California, County of Alameda, Case No. 22CV022738 ("PAGA Action"). Plaintiff's complaint in the PAGA Action seeks civil penalties based on alleged violations of the California Labor Code, including Labor Code §§ 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and the California Wage Orders. The PAGA Action asserts the same alleged Labor Code violations Plaintiff alleged in his September 20, 2022, notice of intent to sue to the Labor and

Workforce Development Agency.

3. Defendant denies all material allegations set forth in the Federal Court Action and PAGA Action, and has asserted numerous affirmative defenses. Notwithstanding, in the interest of avoiding further litigation, Defendant desires to fully and finally settle the Released Claims.

4. Class Counsel in the Action diligently investigated the claims of the proposed Class Members, PAGA Group Members, and Collective Members against Defendant, including any and all applicable defenses and the applicable law. The investigation included, *inter alia*, the exchange of information, data, and documents, and review of numerous corporate policies and practices.

5. On March 11, 2024, the Parties participated in mediation with Brandon McKelvey (the "Mediator"), a respected mediator of complex wage and hour actions, and with the assistance of the Mediator, reached the settlement that is memorialized herein. At all times, the settlement discussions were conducted at arm's-length. Based on the documents produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel believes that the settlement with Defendant for the consideration and on the terms set forth in this Agreement is fair, reasonable, and adequate and is in the best interest of the Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation and various defenses asserted by Defendant.

6. The Parties expressly acknowledge that this Agreement is entered into solely for the purpose of compromising significantly disputed claims and that nothing herein is an admission of liability or wrongdoing by Defendant. If for any reason the Agreement is not approved, it will be of no force or effect, and the Parties shall be returned to their original respective positions.

DEFINITIONS

7. The following definitions are applicable to this Agreement. Definitions contained elsewhere in this Agreement will also be effective:

a. "Action" refers to the lawsuit Plaintiff will file in the Superior Court for the State of California, County of Sacramento. In the Action, Plaintiff will allege (1) all of the class action claims asserted in the Federal Court Action, (2) all of the PAGA claims asserted in the PAGA Action, and (3) an additional cause of action for alleged violations of the Fair Labor Standards Act ("FLSA"), which will include all wage and hour claims under the FLSA of whatever kind or nature that were or reasonably could have been brought based on the facts alleged in the Federal Court Action and PAGA Action.

b. "Agreement" or "Settlement" means the settlement and resolution of the Released Claims.

c. "Attorneys' Fees and Costs" means attorneys' fees approved by the Court for Class Counsel's litigation and resolution of the Actions, and all actual costs incurred and to be incurred by Class Counsel in the Actions, as set forth in Paragraph 10 below.

d. "Class Counsel" or "Plaintiff's Counsel" mean James Hawkins, APLC.

e. "Class List" means a complete, confidential list containing names, employee ID numbers, last known address, number of workweeks worked during the Class Period, FLSA Period, and PAGA Period, and, Social Security Numbers to facilitate the administration of the settlement and provided confidentially to the Settlement Administrator.

f. "Class Member(s)" means all non-exempt employees who have been employed by Defendant in California at any time during the Class Period. Defendant represents there are approximately 3,962 Class Members.

g. "Class Period" means the time period from May 1, 2020 through June 17, 2024.

h. "Class Representative" or "Plaintiff" means Paul Maisnier.

i. "Class Settlement Fund" means the Gross Fund Value, less the PAGA Fund, FLSA Settlement Fund, court-approved attorneys' fees and costs, settlement administration costs, and any Enhancement Payment, as may be approved by the Court.

j. "Court" means the Superior Court of the State of California for the County of Sacramento.

k. "Collective Members" or "Collective" means all non-exempt employees who have been employed by Defendant anywhere in California during the FLSA Period. Defendant represents there are approximately 3,784 Collective Members during the FLSA Period.

l. "Defendant" means National Vision, Inc.

m. "Defendant's Counsel" means Phil Ebsworth and Jeffrey A. Nordlander of Seyfarth Shaw LLP.

n. "Effective Date" means the date the Court enters a Final Approval Order and Judgment and the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a petition for review filed, the date of denial of the petition, or the date the Court's Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Court's Judgment. If a timely and proper objection to the Settlement is filed (including an objection from the California Labor & Workforce Development Agency ("LWDA")), "Effective Date" shall be the later of: (a) the date on which the time for all appeals relating to objections to the Settlement and the Final Approval Order and Judgment has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment. Provided, however, if the LWDA has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the foregoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to the Settlement is resolved and no longer appealable.

o. "Enhancement Payment" means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Actions on behalf of Class Members, PAGA Group Members, and Collective Members, and in exchange for a general release, as set forth in Paragraph 11 below.

p. "Final Approval" means the determination by the Court that the settlement is fair, reasonable, and adequate, and entry of the Final Approval Order and Judgment based thereon.

q. "Final Approval Hearing" means the hearing at which the Court will consider and determine whether the settlement should be granted Final Approval.

r. "FLSA Period" means the time period from September 20, 2020, through the June 17, 2024.

s. "FLSA Settlement Fund" means the amount of the Settlement allocated for payment to Settlement Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed Fifty Thousand Dollars ($50,000). The FLSA Settlement Fund shall be paid out of the Gross Fund Value. Any checks issued out of the FLSA Settlement Fund that are cancelled due to a failure to deposit or cash the check within one hundred and eighty (180) days shall be returned to Defendant, as no FLSA release will be effectuated as to those individuals.

t. "Gross Fund Value" means the amount of Four Million Four Hundred and Fifty Thousand Dollars ($4,450,000.00) that Defendant will pay under the Settlement Agreement. The Gross Fund Value shall include all payments to Class Members, PAGA Group Members, Settlement Collective Members, Settlement Administrator Costs, attorneys' fees and costs, the Enhancement Payment for Plaintiff. The Class Settlement Fund, the PAGA Fund, the FLSA Settlement Fund shall all come out of the Gross Fund Value. In no event shall Defendant have to contribute monies in excess of the Gross Fund Value, except for the employer share of any payroll taxes.

u. "Individual PAGA Payment" means the amount payable to each PAGA Group Member from the 25% portion of the PAGA Fund that is allocated to PAGA Group Members as provided in Paragraph 14(b).

v. "Individual Settlement Payment" means the net payment of each Settlement Class Member or Settlement Collective Member's Individual Settlement Share, after reduction for the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Share, as provided in Paragraph 27 below.

w. "Individual Settlement Share" means the *pro rata* share of the Net Settlement Fund that a Class Member or Settlement Collective Member may be eligible to receive under the Agreement, to be calculated in accordance with Paragraph 14(a),(c).

x. "LWDA Payment" means the amount that the Parties have agreed to pay to the California Labor and Workforce Development Agency ("LWDA") as set forth in Paragraph 13.

y. "Net Settlement Fund" means the portion of the Gross Fund Value that is available for distribution to Settlement Class Members or Settlement Collective Members, which is the Gross Fund Value less the PAGA Fund, court-approved attorneys' fees and costs, settlement administration costs, and the court-approved Enhancement Payment.

z. "Notice of Objection" means a Settlement Class Member's valid and timely written objection to the Settlement, which must be in writing and include: (a) the case name and number of the Action; (b) the objector's full name, signature, address, and telephone number, and the last four digits of their Social Security number, (c) a written statement of all grounds for the objection accompanied by any legal support for such objection, (d) copies of any papers, briefs, or other documents upon which the objection is based; and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope on the submission will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. For the avoidance of doubt, only Settlement Class Members have standing to file a Notice of Objection as to the Settlement.

aa. "Operative Complaint" means the Complaint in the Action filed in the Superior Court for the State of California, County of Sacramento.

bb. "PAGA Fund, LWDA Payment, and/or PAGA Settlement Fund" means the amount of the Settlement allocated for payment to PAGA Group Members for settlement and release of claims under the PAGA. The PAGA Fund shall not exceed Fifty-Thousand Dollars ($50,000), unless otherwise ordered by the Court. Class Counsel shall request that the Court approve a payment to the LWDA not to exceed Seventy-Five percent (75%) of the PAGA Fund ("LWDA Payment") and that the remaining Twenty-Five percent (25%) of the PAGA Fund be distributed to the PAGA Group Members ("PAGA Settlement Fund"). The PAGA Fund, LWDA Payment, and PAGA Settlement Fund shall be paid out of the Gross Fund Value.

cc. "PAGA Group Members" or "PAGA Group" means all non-exempt California employees of Defendant at any time during the PAGA Period. Defendant represents there are approximately 3,115 PAGA Group Members.

dd. "PAGA Period" means the time period from September 25, 2021, June 17, 2024.

ee. "PAGA Settlement" means the settlement and resolution of the Released PAGA Claims.

ff. "Parties" means Plaintiff and Defendant, collectively, and "Party" means either Plaintiff or Defendant.

gg. "Preliminary Approval" means entry of the Court's order granting preliminary approval of the Agreement.

hh. “Preliminary Approval Notice” means the Notice of Class Action Settlement, substantially in the form attached as “**Exhibit A.**”

ii. “Qualifying Workweeks” means any workweeks worked during the Class Period, PAGA Period, and/or FLSA Period by Settlement Class Members, PAGA Group Members, or Settlement Collective Members. Partial Qualifying Workweeks will be counted as full Qualifying Workweeks. For clarity, a single unique Qualifying Workweek may be counted for purposes of distribution of each of the PAGA Fund, FLSA Settlement Fund, and the Class Settlement Fund, but it will only be counted as one unique workweek for purposes of the Escalator Clause.

jj. “Released Claims” means the Released Class Claims, the Released PAGA Claims, and the Released FLSA Claims.

kk. “Released Class Claims” means any and all wage and hour claims that were pleaded or could have been pleaded, based on, or which arise out of the facts alleged in the Operative Complaint in the Action, arising during the Class Period, including, claims for unpaid wages, claims for unpaid, agreed, minimum, and overtime wages, claims for unpaid or incorrectly paid sick pay, claims for alleged errors in calculating the regular rate of pay, claims for unreimbursed employee business expenses, claims for liquidated damages, claims for record-keeping violations, claims for wage-statement penalties, claims for “waiting time” penalties, claims of late/untimely payment of wages, and derivative claims under Business and Professions Code section 17200, *et seq.* This includes known and unknown claims arising under California Labor Code sections 201-203, 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2802, the applicable IWC Wage Order(s), the California Unfair Competition Law, California Business and Professions Code section 17200 *et seq.*, as well as all claims arising under the listed Labor Code statutes based on the primary rights of those statutes, irrespective of the theory of recovery alleged. It is the intention of the Parties that all of the claims in the Federal Court Action will be pled and released as part of the Settlement of the Action.

ll. “Released PAGA Claims” means all claims under the California Private Attorneys General Act of 2004 (“PAGA”) alleged in the Operative Complaint in the Action or claims that could have been alleged based on the facts pertaining to Plaintiff and the PAGA Group Members, arising during the PAGA Period. This includes, but is not limited to PAGA claims based on California Labor Code sections 201-203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1198, 2802, and the applicable IWC Wage Order(s), as well as all claims arising under the listed Labor Code statutes based on the primary rights of those statutes, irrespective of the theory of recovery alleged. It is understood that PAGA Group Members will not have the opportunity to opt out of, or object, to the Released PAGA Claims. Further, the PAGA Group Members are bound by the Released PAGA Claims regardless of whether they cash and/or otherwise negotiate their Individual PAGA Payment. It is the intention of the Parties that all of the claims in the PAGA Action will be pled and released as part of the Settlement of the Action.

mm. “Released FLSA Claims” means all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq*. under any legal theory that was or reasonably could have been brought based on the facts alleged in the Action pertaining to Plaintiff and the Collective Members.

nn. “Released Parties” means Defendant and all of its present and former parent companies, subsidiaries, affiliates and joint ventures, and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.

oo. “Request for Exclusion” means a timely letter submitted by a Class Member indicating a request to be excluded from the Settlement. The Request for Exclusion must: (a) contain the case name and number of the Action, (b) be signed by the Class Member, (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion, (d) clearly state that the Class Member does not wish to be included in the Settlement, and (e) be returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope on the submission will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the Settlement will be deemed a Settlement Class Member and will be bound by all terms of the Agreement if the Settlement is granted Final Approval by the Court.

pp. “Response Deadline” means the deadline by which Class Members must submit a Request for Exclusion, Notice of Objection, and/or dispute of the Qualifying Workweeks credited to them, which shall be the date that is forty-five (45) calendar days from the initial mailing of the Preliminary Approval Notice by the Settlement Administrator, unless the 45th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendant's Counsel. Under no circumstances, however, will the Settlement Administrator have the authority to extend the Response Deadline. In the event that a Preliminary Approval Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall be the extended by fifteen (15) calendar days.

qq. "Settlement Administrator" means ILYM Group, Inc. that will administer this settlement, and will issue to Settlement Class Members forms W-2 (for wage payments) and forms 1099 (for penalties and interest) for all amounts paid under this settlement, making all deductions and withholdings required under law.

rr. "Settlement Administration Costs" means the costs payable from the Gross Fund Value, subject to Court approval, to the Settlement Administrator for administering this settlement, as set forth in Paragraph 12 below.

ss. "Settlement Class Members" means all Class Members who do not timely and properly opt out of the settlement provided for in this settlement with respect to the California state law claims.

tt. "Settlement Collective Members" means all Collective Members who opt into the collective action with respect to claims under FLSA.

<u>CLASS CERTIFICATION</u>

8. The Parties stipulate and agree to certification of the Class and Collective, for purposes of this Settlement only. This Agreement is subject to approval by the Court and is made for the sole purpose of consummating settlement of the Action. Should the Settlement not become final and effective as provided herein, class and collective certification shall immediately be set aside and the Class and Collective immediately decertified, subject to further proceedings on the motion of any party to certify or deny certification thereafter. The Parties' willingness to stipulate to class and collective certification as part of the Settlement shall have no bearing on, and shall not be admissible in or considered in connection

with, the issue of whether a class should be certified in a non-settlement context in this Action and shall have no bearing on, and shall not be admissible or considered in connection with, the issue of whether a class or collective should be certified in any other lawsuit

TERMS OF AGREEMENT

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

9. Dismissal of the Federal Court Action and PAGA Action and Filing of the Action. For purposes of this Settlement, the Parties stipulated to the dismissal of the Federal Court Action and the PAGA Action without prejudice. Plaintiff has filed a new Action in the Superior Court for the State of California, County of Sacramento, where Plaintiff has alleged (1) all of the claims asserted in the Federal Court Action, (2) all of the claims asserted in the PAGA Action, and (3) an additional cause of action for alleged violations of the FLSA, which will include all wage and hour claims under the FLSA of whatever kind or nature that were or reasonably could have been brought based on the facts alleged in the Federal Court Action. In the Action, Defendant will not raise statute of limitations or similar defenses to the extent necessary for Plaintiff to plead all of the claims alleged in the Federal Court Action, PAGA Action, and to release the FLSA claims included in this Settlement. For the avoidance of doubt, the Parties intend the Class Period, FLSA Period, and PAGA Period in the Action to be the same as those terms are defined herein.

10. Funding of the Gross Fund Value. The payments in this settlement shall be distributed within Fourteen (14) days after the Effective Date, or as otherwise directed by the Court.

11. Administration of the Settlement. The Settlement Administrator will be selected by the Parties. The Settlement Administrator will administer this Settlement, and will issue to Settlement Class Members, Settlement Collective Members, and PAGA Group Members forms W-2 (for wage payments) and/or forms 1099 (for penalties and interest) for all amounts paid under this Settlement consistent with the terms specified herein, making all deductions and withholdings required under law. The Settlement Administrator shall furnish its own Employer ID Number and calculate all settlement checks and payroll deductions and withholdings required under law, based on information that will be confidentially furnished by Defendant. The Settlement Administrator also will establish a Qualified Settlement Fund

pursuant to Section 468B(g) of the Internal Revenue Code for the purpose of administering the Settlement. To the extent required by law, the Settlement Administrator will report payments made under Settlement Agreement to the appropriate tax authorities. The Settlement Administrator will also issue a Court-approved payment to itself for services performed in connection with the Settlement.

Defendant will give the Settlement Administrator the Class List to facilitate the administration of the Settlement. The Settlement Administrator shall not share the information with any third party or counsel for Plaintiff. The cost of the administration will be paid out of the Gross Fund Value. Any amount of Settlement Administration Costs not approved by the Court shall be allocated to the Class Settlement Fund.

12. Attorneys' Fees and Costs. Class Counsel will request, and Defendant will not oppose, that the Court approve an award of attorneys' fees in an amount not to exceed one-third of the Gross Fund Value (i.e., an amount not to exceed $1,483,000.00) plus costs in an amount not to exceed reasonable costs not expected to exceed $30,000, associated with Class Counsel's litigation and settlement of the Action, both of which will be paid from the Gross Fund Value subject to Court approval. These amounts will cover any and all work performed and any and all costs incurred by Class Counsel in connection with the litigation of the Action, including without limitation all work performed and costs incurred to date, and all work to be performed and all costs to be incurred in connection with obtaining the Court's approval of this Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Any portion of the Attorneys' Fees and Costs not awarded to Class Counsel shall be a part of the Class Settlement Fund for the benefit of Settlement Class Members.

The Court's approval of fees and costs requested by Class Counsel is not a material term of the Settlement. If the Court does not approve or approves only a lesser amount than that requested by Class Counsel for attorneys' fees or costs, the other terms of the Settlement shall still apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the Settlement.

13. Enhancement Payment. In recognition of his efforts and work in prosecuting the Action,

Defendant agrees not to oppose or impede any application or motion for Enhancement Payment in an amount up to twenty-five thousand dollars ($25,000.00) to Plaintiff. The Enhancement Payment, which will be paid from the Gross Fund Value, subject to Court approval, will be in addition to Plaintiff's Individual Settlement Payment and Individual PAGA Payment (if applicable) that are to be paid pursuant to the settlement. The Parties agree that, for purposes of this settlement, 100% of the Enhancement Payment will be allocated to 1099 income. The Settlement Administrator will issue an IRS Form 1099 to Plaintiff for the Enhancement Payment, and Plaintiff shall be solely and legally responsible for correctly characterizing this compensation for tax purposes and for paying any taxes on the amounts received. Plaintiff agrees to indemnify and hold Defendant harmless from any claim or liability for taxes, penalties, or interest arising as a result of the Enhancement Payment. Should the Court approve the Enhancement Payment to Plaintiff in an amount that is less than that set forth above, the difference between the lesser amounts approved by the Court and the amounts allocated toward the Enhancement Payment will be part of the Net Settlement Fund for the benefit of Settlement Class Members.

The Court's approval of an Enhancement Payment is not a material term of the Settlement. If the Court does not approve or approves only a lesser amount than that requested by Plaintiff for an Enhancement Payment, the other terms of the Settlement shall still apply. The Court's refusal to approve the Enhancement Payment requested by Plaintiff does not give any basis to abrogate the Settlement.

14. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments under the Settlement, which is currently estimated not to exceed Thirty Thousand Dollars and Zero Cents ($30,000.00). These costs, which will be paid from the Gross Fund Value, subject to Court approval, will include, *inter alia*, printing, distributing, and tracking Preliminary Approval Notices and FLSA Settlement Approval Notices and other documents for this Settlement, calculating and distributing payments due under the Settlement, issuing of 1099 and W-2 IRS Forms and all required tax reporting, filings, withholdings, and remittances, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties. To the extent actual Settlement Administration Costs are greater than the estimated amount stated herein, such excess amount will be deducted from the Gross Fund Value, subject to approval by the Court. Any portion of the estimated,

designated, and/or awarded Settlement Administration Costs which are not in fact required to fulfill payment to the Settlement Administrator to undertake the requirement settlement administration duties will become part of the Net Settlement Fund.

15. Labor and Workforce Development Agency Payment. Subject to approval by the Court, the Parties agree that the amount of two-hundred fifty thousand dollars ($250,000.00) from the Gross Fund Value will be allocated toward penalties under the Private Attorneys General Act, California Labor Code Section 2698, *et seq*. ("PAGA Fund"), of which seventy-five percent (75%), or $187,500, will be paid to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) or, $62,500 ("PAGA Settlement Fund"), will be distributed to PAGA Group Members.

16. Individual Settlement Share and Individual PAGA Payment Calculations. Class Members and PAGA Group Members shall not be required to submit a claim in order to receive a share of the Net Settlement Fund and PAGA Settlement Fund, respectively. Individual Settlement Shares and Individual PAGA Payment will be calculated and apportioned as follows:

a. The pro rata portion of the Class Settlement Fund shall be determined by dividing the total number of Qualifying Workweeks worked during the Class Period into the Class Settlement Fund to arrive at a value per Qualifying Workweek for each eligible Settlement Class Member. The value per Qualifying Workweek shall be multiplied by the number of Qualifying Workweeks worked by each Settlement Class Member during the Class Period. Partial Qualifying Workweeks will be counted as full Qualifying Workweeks.

b. The pro rata portion of the FLSA Settlement Fund shall be determined by dividing the total number of Qualifying Workweeks worked during the FLSA Period into the FLSA Settlement Fund to arrive at a value per Qualifying Workweek for each eligible Collective Member. The value per Qualifying Workweek shall be multiplied by the number of Qualifying Workweeks worked by each Collective Member during the FLSA Period. Partial Qualifying Workweeks will be counted as full Qualifying Workweeks.

c. Individual PAGA Payment: The pro rata portion of the PAGA Settlement Fund shall be determined by dividing the total number of Qualifying Workweeks worked during the PAGA Settlement Period into the PAGA Settlement Fund to arrive at a value per Qualifying Workweek for each eligible PAGA Group Member. The value per Qualifying Workweek shall be multiplied by the number of Qualifying Workweeks worked by each PAGA Group Member during the PAGA Settlement Period. Partial Qualifying Workweeks will be counted as full Qualifying Workweeks.

17. Settlement Awards Do Not Trigger Additional Benefits. The payments made pursuant to this settlement shall not have any effect on the eligibility or calculation of any employee benefits provided by Defendant or any benefits plan. The Parties agree these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy. These payments also will not be considered wages, compensation, or annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan, employee welfare benefit plan or other program or policy.

18. Delivery of the Class List. Within fourteen (14) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator.

19. Notice by First-Class U.S. Mail.

a. Within fourteen (14) calendar days after receiving the Class List from Defendant, the Settlement Administrator will perform a search based on the National Change of Address Database or any other similar services available, such as provided by Experian, for information to update and correct for any known or identifiable address changes, and will mail a Preliminary Approval Notice in English (in the form attached as **Exhibit A** to this Agreement) to all Class Members via First-Class U.S. Mail, using the most current, known mailing addresses identified by the Settlement Administrator.

b. With respect to Preliminary Approval Notices that are returned as undeliverable on or before the Response Deadline, the Settlement Administrator will search for an alternate address by way of skip-trace and re-mail the Preliminary Approval Notice within five (5) calendar days.

20. Dispute Regarding Workweeks. Class Members will have an opportunity to dispute the number of Workweeks to which they have been credited, as reflected in their respective Preliminary Approval Notices. In order to dispute Qualifying Workweeks, Class Members must submit a written letter to the Settlement Administrator that: (a) contains the case name and number of the Action, (b) is signed by the Class Member, (c) contains the full name, address, telephone number, and the last four

digits of the Social Security Number of the disputing Class Member, (d) clearly states that the Class Member disputes the number of Qualifying Workweeks credited to them and what they contend is the correct number to be credited to them, (e) includes information and/or attaches documentation demonstrating that the number of Qualifying Workweeks that they contend should be credited to them are correct, and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. The date of the postmark on the return mailing envelope on the submission will be the exclusive means to determine whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of Defendant's records and data as they pertain to the number of Qualifying Workweeks to be credited to a disputing Class Member, Defendant's records will be presumed correct and determinative of the dispute. However, if a Class Member produces information and/or documents to the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member and the Settlement Administrator will resolve and determine the number of eligible Qualifying Workweeks that the disputing Class Member should be credited with under the Settlement. The Settlement Administrator's decision on such disputes will be final and non-appealable.

21. Settlement Checks. The Settlement Administrator will be responsible for undertaking appropriate deductions, required tax reporting, and issuing the Individual Settlement Payments and Individual PAGA Payment in accordance with this Agreement. All settlement checks mailed out will expire after one hundred eighty (180) days. However, ninety (90) days, and again one hundred thirty-five (135) days, after first distributing settlement checks, the Settlement Administrator shall distribute reminder postcards via U.S. Mail to all Collective Members, all Settlement Class Members who did not timely opt-out of the settlement, and all PAGA Group Members, who have yet to deposit or otherwise negotiate their settlement checks, reminding them of the deadline to do so.

The sum value of all expired checks will be tallied by the Settlement Administrator. All such uncollected funds associated with Settlement Class Members and PAGA Group Members' checks will escheat to the State of California's Controller, to be held in the name of each expired check payee, pursuant to applicable unclaimed property laws. The Settlement Administrator shall undertake amended and/or supplemental tax filings and reporting, required under applicable local, state, and federal tax laws, that may be necessitated due to the cancellation of any Individual Settlement Payment and Individual PAGA

Payment checks. Settlement Class Members whose checks are cancelled shall, nevertheless, be bound by this Agreement. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code section 384.

22. Procedure for Requesting Exclusion from the Settlement. Any Class Member wishing to be excluded from the Settlement must submit a written Request for Exclusion to the Settlement Administrator, by mail, within the Response Deadline. The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. The Settlement Administrator will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted, and also identify the individuals who have submitted a timely and valid Request for Exclusion in a declaration that is to be filed with the Court in advance of the Final Approval Hearing. Any Class Member who submits a Request for Exclusion is prohibited from making any objection to the Settlement. Individuals who opt-out of the Settlement shall also have their settlement allocation amount from the Net Settlement Fund returned to Defendant, as they shall have no Released Class Claims. Any Class Member who validly requests to be excluded from the Settlement will not be a Settlement Class Member and will not have any right to object, appeal, or comment on the Settlement; however, if the Class Member worked during the PAGA Period, they will remain a PAGA Group Member, will receive an Individual PAGA Payment, and will be bound by the PAGA Settlement and Released PAGA Claims.

23. Settlement Terms Bind All Class Members Who Do Not Request Exclusion. Any Class Member who does not affirmatively request exclusion from the Settlement by submitting a timely and valid Request for Exclusion will be bound by all of the terms of the Agreement, including and not limited to those pertaining to the Released Class Claims, as well as any judgment that may be entered by the Court if it grants Final Approval to the Settlement.

24. PAGA Group Members. PAGA Group Members will not be able to opt out of settlement of the PAGA claims and release of PAGA claims. The notice to PAGA Group Members, sent within 14 days of the Effective Date, will inform them of the amount they will receive for their PAGA claims and that they will not be able to opt out of the settlement and release of the PAGA claims. For PAGA Group Members who are also Settlement Class Members and who did not opt out of the Settlement, their

settlement payments shall be combined on a single check.

25. Opt-In Procedure for Collective Members. Each Collective Member's share from the FLSA Settlement Fund will be issued in a check separate from the payments to Settlement Class Members and PAGA Group Members, as a result, some individuals may ultimately receive more than one settlement check. However, for the avoidance of doubt, where the Settlement Administrator is to issue more than one check to an individual, they will be issued in the same envelope. Opt-in and release language regarding the release of the FLSA claim will be printed on the FLSA settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

> "My endorsing, cashing, depositing, or otherwise negotiating of this check constitutes my consent to join the lawsuit entitled *Maisnier v. National Vision, Inc.*, pending in the Superior Court of the State of California for the County of Sacramento, Case No. 24CV018644, pursuant to the provisions of the Fair Labor Standards Act ("FLSA"),29 U.S.C. Section 216(b)."

26. Procedures for Objecting to the Settlement. To object to the Settlement, Class Members who have not opted out of the Settlement (i.e., Settlement Class Members) must submit a timely and complete Notice of Objection to the Settlement Administrator, by mail, on or before the Response Deadline. The Notice of Objection must be signed by the Settlement Class Member and contain all information required by this Agreement. The postmark date will be deemed the exclusive means for determining that the Notice of Objection is timely. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Settlement Class Members to object to the Settlement or appeal from the Final Approval Order and Judgment. Settlement Class Members may also present their objection at the Final Approval Hearing.

27. Reports by the Settlement Administrator Regarding Settlement Administration. The Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report which certifies: (a) the number of Class Members who have submitted a dispute of Qualifying Workweeks (including providing those disputes); (b) the number of Class Members who have submitted timely and valid Requests for Exclusion or timely and complete Notices of Objection (including providing those Requests for Exclusion and Notices of Objection; and (c) the number of undeliverable and re-mailed Preliminary Approval Notices. Additionally, the Settlement Administrator will provide to counsel for

both Parties any updated reports regarding the administration of the Agreement as needed or requested, and immediately notify the Parties when it receives a request from an individual or any other entity regarding inclusion in the Class and/or Settlement.

28. Certification of Completion. Upon completion of administration of the Settlement, the Settlement Administrator will provide a written declaration under oath to certify such completion to the Court and counsel for all Parties.

29. Treatment of Individual Settlement Payments. Each Individual Settlement Share will be allocated as follows: 25% to wages and 75% to penalties and interest. The portion allocated to wages will be reported on an IRS Form W-2 and the portions allocated to interest and penalties will be reported on an IRS Form-1099 by the Settlement Administrator. The Settlement Administrator will withhold the employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, and issue checks to Settlement Class Members and Collective Members for their Individual Settlement Payments (i.e., payment of their Individual Settlement Share net of these taxes and withholdings). Any payment for an Individual PAGA Payment will be allocated as penalties, will not be subject to taxes or withholdings, and will be reported on an IRS Form-1099, if necessary. The employer's share of taxes and contributions on the wages portion of any distribution from the Net Settlement Fund will be paid separately and in addition to the Gross Fund Value.

30. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Settlement Class Members, PAGA Group Members, Settlement Collective Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Agreement. The Settlement Administrator will also be responsible for forwarding all payroll taxes, contributions, and withholdings to the appropriate government authorities.

31. Tax Liability. No opinion regarding the tax consequences of this Settlement to any individual Class Member is being given, or will be given, by Defendant, counsel for Defendant, any other Releasee, or Class Counsel. Class Members must consult their own tax advisors regarding the tax consequences of this Settlement, including but not limited to any payments provided or tax reporting obligations. Defendant, the Releasees, counsel for Defendant, and Class Counsel shall have no liability or

responsibility whatsoever for any tax consequences resulting from payments made pursuant to the Settlement.

32. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

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

34. Release of Claims by Settlement Class Members, PAGA Group Members, and Settlement Collective Members. Upon the Effective Date and distribution of Individual Settlement Payments, Plaintiff and all Class Members who do not submit a valid and timely Request for Exclusion (i.e., Settlement Class Members), will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims during the Class Period, except as to the right to enforce the terms and conditions of this settlement. Additionally, upon the Effective Date and distribution of Individual Settlement Payments, Plaintiff and each Settlement Collective Member who timely participates in the settlement by timely cashing, depositing, or otherwise negotiating their FLSA Individual Settlement Payment check will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released FLSA Claims during the FLSA Period, except as to the right to enforce the terms and conditions of this settlement. Finally, upon the Effective Date and distribution of Individual PAGA Payments, Plaintiff and all PAGA Group Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims during the PAGA Period, except as to the right to enforce the terms and conditions of this settlement.

35. General Release of Claims by Plaintiff. In addition, upon the Effective Date and in exchange for receiving and accepting an Enhancement Payment, Plaintiff will be deemed to have fully released and discharged the Released Parties of and from all claims arising from his employment with Defendant, separation of employment from Defendant, and any acts that have or could have been asserted in any legal action or proceeding against Defendant, whether known or unknown, arising under any federal, state, or local law, or statute, including, *inter alia*, those arising under the California Labor Code, Fair Labor Standards Act, the Age Discrimination in Employment Act ("ADEA"), the Older Workers Benefits Protection Act ("OWBPA"), Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended), and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation,

emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs, arising on or before the date on which the Settlement is executed. With respect to those claims released by Plaintiff in an individual capacity, Plaintiff acknowledges and waives any and all rights and benefits available under California Civil Code Section 1542, which provides:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Plaintiff understands and agrees that claims or facts in addition to or different from those which are now known or believed by his to exist may hereafter be discovered. It is Plaintiff's intention to settle fully and release all claims she now has against the Released Parties, whether known or unknown, suspected or unsuspected. The Enhancement Payment will be paid to Plaintiff specifically in exchange for the general release of the Released Parties from all claims, including those specified in this paragraph and a covenant not to sue the Released Parties with respect to the claims released herein. Notwithstanding the above, the general release by Plaintiff shall not extend to claims for workers' compensation benefits, claims for unemployment benefits, or other claims that may not be released by law.

36. <u>Duties of the Parties with Respect to Obtaining Preliminary Approval of the Settlement</u>. Upon execution of this Agreement, Plaintiff shall promptly obtain a hearing date for Plaintiff's Motion for Preliminary Approval of the Settlement, which Plaintiff and Class Counsel will be responsible for drafting and submit this Agreement to the Court in support of said motion. Class Counsel will provide Defendant's Counsel a draft of the Preliminary Approval Motion at least five (5) business days before the filing deadline. Defendant agrees not to oppose the Motion for Preliminary Approval of the Settlement consistent with this Agreement. Said motion shall apply to the Court for the entry of an order ("Preliminary Approval Order"), which shall be mutually agreed upon by the Parties, seeking the following:

a. Conditionally certifying the Class and Collective for settlement purposes only;

b. Granting Preliminary Approval of the Settlement;

c. Preliminarily appointing Plaintiff as representative of the Class and Collective;

d. Preliminarily appointing Plaintiff's Counsel as counsel for the Class and Collective;

e. Approving, as to form and content, the mutually-agreed upon and proposed Preliminary Approval Notice and directing their mailing to the Class and Collective by first class mail;

f. Approving the manner and method for Class Members to request exclusion from the Settlement as contained herein and within the Preliminary Approval Notice; and

g. Scheduling a Final Approval Hearing at which the Court will determine whether the Settlement should be finally approved as fair, reasonable and adequate as to the Settlement Class Members, Collective Members, and PAGA Group Members.

37. Duties of the Parties with Respect to Obtaining Final Approval of the Settlement. After the Response Deadline, and with the Court's permission, a Final Approval Hearing will be conducted to determine whether Final Approval of the Settlement should be granted, along with the amounts properly payable for (a) Individual Settlement Payments; (b) the LWDA Payment; (c) Individual PAGA Payments; (d) Attorneys' Fees and Costs; (e) Enhancement Payment; and (f) Settlement Administration Costs. The Final Approval Hearing will not be held earlier than thirty (30) calendar days after the Response Deadline. Plaintiff and Class Counsel will be responsible for drafting the motion seeking Final Approval of the Settlement. Class Counsel will provide Defendant's Counsel a draft of the Final Approval Motion at least five (5) business days before the filing deadline. By way of said motion, Plaintiff will apply for the entry of the mutually-agreed upon proposed order and judgment ("Final Approval Order and Judgment"), which will provide for, in substantial part, the following:

a. Approval of the Settlement as fair, reasonable, and adequate, and directing consummation of its terms and provisions;

b. Certification of the Settlement Class Members, PAGA Group Members, and Collective Members;

c. Approval of the application for Attorneys' Fees and Costs to Class Counsel;

d. Approval of the application for Enhancement Payment to Plaintiff;

e. Directing Defendant to fund all amounts due under the Agreement and ordered by the Court; and

f. Entering judgment in the Action barring and enjoining all Settlement Class Members and Settlement Collective Members from prosecuting the Released Class Claims and Released FLSA Claims, respectively, and PAGA Group Members from prosecuting the Released PAGA Claims, against any of the Released Parties, while maintaining continuing jurisdiction, in conformity with California Rules of Court 3.769 and the Agreement, to ensure the continuing implementation of the provisions of this Settlement.

38. Termination or Revocation of Settlement.

a. Notwithstanding any other provision of this Agreement, Defendant shall retain the right, in the exercise of its sole discretion, to nullify the settlement within fifteen (15) calendar days after expiration of the opt out period if ten percent (10%) or more of the Class Members, or Class Members representing 10% or more of the Qualifying Workweeks, opt out of this settlement. Defendant must exercise this right of rescission in writing that is provided to Class Counsel within fifteen (15) calendar days of the Response Deadline.

b. If the Court finds the Gross Fund Value to be insufficient to warrant Preliminary Approval or Final Approval of the Settlement, Defendant may, at its election, rescind the Agreement and all actions taken in furtherance of it will thereby be null and void.

39. Effects of Termination of the Settlement. Termination of the Agreement shall have the following effects:

a. The Agreement shall be void and shall have no force or effect, and no Party shall be bound by any of its terms;

b. In the event the Agreement is terminated, Defendant shall have no obligation to make any payments to any Party, Class Member, Collective Member, PAGA Group Member, or attorney, except that the terminating Party shall pay the Settlement Administrator for services rendered up to the date the Settlement Administrator is notified that the Settlement has been terminated;

c. The Preliminary Approval Order, Final Approval Order and Judgment, including any order certifying the Class, shall be vacated;

d. The Agreement and all negotiations, statements and proceedings relating thereto shall be without prejudice to the rights of any of the Parties, all of whom shall be restored to their respective positions in the Actions prior to the execution of the Memorandum of Understanding and this Settlement;

e. Neither this Agreement, nor any ancillary documents, actions, statements or filings in furtherance of the Settlement (including all matters associated with the mediation) shall be admissible or offered into evidence in the Actions or any other action for any purpose whatsoever; and

f. Any documents generated to bring the Settlement into effect, will be null and void, and any order or judgment entered by the Court in furtherance of this Agreement will likewise be treated as void from the beginning.

40. Escalator Clause. Defendant represents that between May 1, 2020 to March 9, 2024 Class, PAGA, and Collective Members worked approximately 197,241 total unique Qualifying Workweeks. If the number of unique Qualifying Workweeks at issue for the Class, PAGA, and Collective Members is more than ten percent (10%) of the represented number of unique Qualifying Workweeks (i.e., exceeds 216,965 unique workweeks), Defendant will have the option to either pay a proportional amount in addition to the Gross Fund Value for each additional such unique Qualifying Workweeks that exceeds 216,965 unique Qualifying Workweeks, or to stop the Class Period at the point at which the number of unique Qualifying Workweeks is no more 216,965 unique Qualifying Workweeks.

41. Continued Jurisdiction. After entry of judgment pursuant to the Settlement, the Court will have continuing jurisdiction pursuant to Rule 3.769 of the California Rules of Court and Section 664.6 of the California Code of Civil Procedure, for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-judgment matters as may be appropriate under court rules or as set forth in this Agreement. The Parties agree to adopt and apply Rule 3.769(h) of the California Rules of Court requiring entry of judgment.

42. Exhibits Incorporated by Reference. The terms of this Agreement include the terms set forth in any attached exhibits, which are incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are an integral part of the Settlement.

43. No Undue Publicity. Neither Party nor their counsel shall publicize, or cause to be publicized, directly or indirectly, the discussions resulting in or the existence of this Settlement or its terms, in any type of mass media, including, but not limited to, speeches, press conferences, press releases,

interviews, television or radio broadcasts, newspapers, messages on the Internet, Facebook, Twitter or any other social media, the Parties' counsels' or any other website. Breach of this provision by Plaintiff or Class Counsel shall entitle Defendant, in the exercise of its sole discretion, to nullify the Settlement at any time before final approval by the Court. Should Plaintiff at any time breach this provision, Plaintiff shall forfeit to Defendant the full amount of the Enhancement Payment. Without limitation by the foregoing, Defendant also may enforce this provision through an action for injunctive relief. Plaintiff waives any obligation by Defendant to file a bond in connection with any such action. Breach of this provision by Defendant or its counsel shall sever this Paragraph rendering this Paragraph null and void, while the rest of this Settlement shall survive and remain in full force and effect. Nothing in this Paragraph shall prohibit Class Counsel from referring to this litigation and this settlement in court filings. Likewise, nothing in this Paragraph shall prohibit Class Counsel from speaking with Plaintiff, Class Members, PAGA Group Members, and/or Collective Members about this Settlement to the fullest extent necessary to meet their ethical obligations as Class Counsel.

44. Neutral Reference. Defendant agrees that in response to any request for a reference as to Plaintiff, it will only confirm his dates of employment, role, and if requested by Plaintiff, his last rate of pay.

45. Disputes. Any disputes arising out of or relating to this Settlement will be submitted first to the Mediator for mediation. The Parties will split the costs of the mediator and all Parties will bear their own attorneys' fees and other costs incurred. However, to the extent the Parties are unable to resolve their disputes via mediation, the aggrieved party may seek Court intervention. In such an event, the prevailing party shall be entitled to an award of their reasonable attorneys' fees and costs from the non-prevailing party.

46. Entire Agreement. This Agreement and any attached exhibits constitute the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties expressly recognize California Civil Code § 1625 and California Code of Civil Procedure § 1856(a), which provide that a written agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or written representations or terms will modify, vary or contradict the terms

of this Agreement.

47. Interim Stay of Proceedings. The Parties agree to hold in abeyance all proceedings in the Actions (including with respect to California Code of Civil Procedure section 583.310), except such proceedings necessary to implement and complete the Agreement, pending the Final Approval Hearing to be conducted by the Court.

48. Waiver and Amendment. The Parties may not waive, amend, or modify any provision of this Agreement except by written agreement signed by counsel for all Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Agreement will not constitute a waiver of any other provision.

49. Authorization to Enter into Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Agreement. The Parties warrant that they understand and have full authority to enter into this Agreement, and further intend that this Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under state or federal law.

50. Signatories. It is agreed that because the members of the Class are so numerous, it is impossible or impractical to have each Settlement Class Member execute this Agreement. The Preliminary Approval Notice will advise all Class Members of the binding nature of the release as to the Settlement Class Members, and the release shall have the same force and effect as if this Agreement were executed by each Settlement Class Member.

51. Binding on Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

52. California Law Governs. All terms of this Agreement and attached exhibits hereto will be governed by and interpreted according to the laws of the State of California.

53. Execution and Counterparts. This Agreement is subject only to the execution of all

Parties. However, the Agreement may be executed in one or more counterparts, including via electronic means. All executed counterparts and each of them, including facsimile, electronic, and scanned copies of the signature page, will be deemed to be one and the same instrument.

54. Acknowledgment that the Settlement is Fair and Reasonable. The Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Agreement.

55. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Agreement valid and enforceable.

56. Plaintiff's Waiver of Right to Be Excluded and Election to Opt Into the Collective. Plaintiff agrees to sign this Agreement and, by signing this Agreement, is hereby bound by the terms herein.

57. Non-Admission of Liability. The Parties enter into this Agreement to resolve the dispute that has arisen between them and to avoid the burden, expense and risk of continued litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, that it has violated any state, federal, or local law; violated any regulations or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal requirements; breached any contract; violated or breached any duty; engaged in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed as an admission or concession by Defendant of any such violations or failures to comply with any applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this Agreement and its terms and provisions shall not be offered or received as evidence in any action or proceeding to establish any liability or admission on the part of Defendant or to establish the existence of any condition constituting a violation of, or a non-compliance with state, federal, local or other applicable law.

58. Captions. The captions and paragraph numbers in this Agreement are inserted for the reader's convenience, and in no way define, limit, construe or describe the scope or intent of the provisions of this Agreement.

59. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more strictly against one party than another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arms-length negotiations between the Parties, all Parties have contributed equally to the preparation of this Agreement.

60. Representation by Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Agreement, and that this Agreement has been executed with the consent and advice of counsel, and reviewed in full.

61. All Terms Subject to Final Court Approval. All amounts and procedures described in this Agreement herein will be subject to final Court approval.

62. Notices. All notices, demands, and other communications to be provided concerning this Agreement shall be in writing and delivered by overnight mail at the addresses set for below, or such other addresses as either Party may designate in writing from time to time:

To Plaintiff and Class Counsel:

James R. Hawkins, Esq.
Greg Mauro, Esq.
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

To Defendant:

Phillip J. Ebsworth
Jeffrey A. Nordlander
SEYFARTH SHAW LLP
400 Capitol Mall, Suite 2300
Sacramento, California 95814

63. Final Judgment. The Parties shall provide the Settlement Administrator with a copy of the Final Judgment once it is entered by the Court, and the Settlement Administrator shall post the Final Judgment on its website within three (3) business days of receipt. No individualized notice to the Class will be required.

64. Cooperation and Execution of Necessary Documents. All Parties and their counsel will cooperate with each other in good faith and use their best efforts to implement the settlement, including

and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

65. Integration Clause. This Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. Upon execution and entry of the Final Approval Order and Judgment, all prior writings are null and void. No rights hereunder may be waived except in writing.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action, Representative Action and Collective Action Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF PAUL MAISNIER

Dated: _________________, 2024

____
Paul Maisnier

DEFENDANT NATIONAL VISION, INC.

Dated: 11/1/2024, 2024

Amy Auffant
____

Full Name: Amy Auffant

Title: VP, Asst. General Counsel, Employment and Operations
On behalf of National Vision, Inc.

and not limited to, executing all documents to the extent reasonably necessary to effectuate the terms of this Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek the assistance of the Mediator and then the Court to resolve such disagreement.

65. Integration Clause. This Agreement contains the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged herein. Upon execution and entry of the Final Approval Order and Judgment, all prior writings are null and void. No rights hereunder may be waived except in writing.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action, Representative Action and Collective Action Settlement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF PAUL MAISNIER

Signed by:

C2AB4A2C6B834A8...

Dated: 10/29/2024, 2024

Paul Maisnier

DEFENDANT NATIONAL VISION, INC.

Dated: ________________, 2024

____

Full Name: ______________________________

Title: __________________________________
On behalf of National Vision, Inc.

APPROVED AS TO FORM

JAMES HAWKINS APLC

Dated: October 29, 2024

James R. Hawkins, Esq.
Greg Mauro, Esq.
Attorney for Plaintiff Paul Maisnier and Proposed Class Counsel

SEYFARTH SHAW LLP

Dated: ________________, 2024

Phillip J. Ebsworth
Attorneys for Defendant National Vision, Inc.

APPROVED AS TO FORM

JAMES HAWKINS APLC

Dated: ________________, 2024

____
James R. Hawkins, Esq.
Greg Mauro, Esq.
Attorney for Plaintiff Paul Maisnier and Proposed Class Counsel

SEYFARTH SHAW LLP

Dated: November 06, 2024

Phillip Ebsworth
____
Phillip J. Ebsworth
Attorneys for Defendant National Vision, Inc.

Exhibit C

AMENDMENT TO JOINT STIPULATION OF CLASS, COLLECTIVE, AND REPRESENTATIVE AGREEMENT

On February 13, 2025, Plaintiff Paul F. Maisnier ("Plaintiff"), filed a motion for preliminary approval of a proposed settlement in the Action. Plaintiff submitted the Joint Stipulation of Class, Collective, and Representative Agreement ("Agreement" or "Settlement") to the Court for approval with his motion.

On September 9, 2024, the Court issued a tentative ruling on Plaintiff's motion, in which the Court indicated that, in accordance with amendments to the California Private Attorneys General Act of 2004 ("PAGA"), effective June 19, 2024, the PAGA penalties provided for in the Agreement should be distributed 65 percent to the Labor Workforce Development Agency and 35 percent to the "aggrieved employee" group. Under prior law, PAGA penalties were distributed 75 percent to the Labor Workforce Development Agency and 25 percent to the "aggrieved employee" group. Thereafter, Plaintiff and Defendant National Vision, Inc. ("Defendant") (collectively with Plaintiff, the "Parties") met and conferred and have agreed to amend the Settlement, as set forth below. The Parties refer to this document as the "Amendment." Attached as **Exhibit 1** to this Amendment is a copy of the Agreement.

The Parties now wish to amend the Agreement by revising paragraph 15 of the Agreement so that it reads as follows:

15. Labor and Workforce Development Agency Payment. Subject to approval by the Court, the Parties agree that the amount of two-hundred fifty thousand dollars ($250,000.00) from the Gross Fund Value will be allocated toward penalties under the Private Attorneys General Act, California Labor Code Section 2698, et seq. ("PAGA Fund"), of which sixty-five percent (65%), or $162,500, will be paid to the LWDA (i.e., the LWDA Payment) and thirty-five percent (35%) or, $87,500 ("PAGA Settlement Fund"), will be distributed to PAGA Group Members.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Amendment to the Joint Stipulation of Class, Collective, and Representative Agreement between Plaintiff and Defendant:

IT IS SO AGREED.

PLAINTIFF PAUL F. MAISNIER

Dated: 3/18/2025, 2025

Signed by:

C2AB4A2C6B834A8...

Paul F. Maisnier

DEFENDANT NATIONAL VISION, INC.

Dated: ________________, 2025

____

Full Name: Amy Auffant___________________

Title: VP, Asst. General Counsel, Employment and Operations
On behalf of National Vision, Inc.

APPROVED AS TO FORM

Dated: March 18, 2025

JAMES HAWKINS APLC

James R. Hawkins, Esq.
Greg Mauro, Esq.
Attorney for Plaintiff Paul Maisnier and Proposed Class Counsel

Dated: ________________, 2025

SEYFARTH SHAW LLP

Phillip J. Ebsworth
Attorneys for Defendant National Vision, Inc.

APPROVED AS TO FORM

JAMES HAWKINS APLC

Dated: March __, 2025

____
James R. Hawkins, Esq.
Greg Mauro, Esq.
Attorney for Plaintiff Paul Maisnier and Proposed Class Counsel

SEYFARTH SHAW LLP

Dated: March 18, 2025

Phillip Ebsworth
____
Phillip J. Ebsworth
Attorneys for Defendant National Vision, Inc.

PLAINTIFF PAUL F. MAISNIER

Dated: ________________, 2024

____

Paul F. Maisnier

DEFENDANT NATIONAL VISION, INC.

Dated: March 18, 2025

____

Full Name: Amy Auffant

Title: VP, Asst. General Counsel, Employment and Operations

On behalf of National Vision, Inc.

Exhibit D

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: **01/01/1900 to 06/25/2025**
Client: **NATIONALVISN - Paul F. Maisnier**
Matter: **NATIONALVISION - National Vision Inc. dba America's Best Contacts-Paul F Maisnier**

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	$0.00						
09/20/2022	FST	First Legal Network- E-Filing: Complaint, Civil Case Cover Sheet IN#30212421	$1,618.95		Unbilled				
09/20/2022	FIL	Filing Fee - 09.20.22 LWDA Filing fee	$75.00		Unbilled				
09/20/2022	POS	Postage - 09.20.22 CRS re LWDA Letter (x1)	$9.17		Unbilled				
11/09/2022	CRT	Court Documents - 11.01.22 Order Re Complex Determ Hearing - 9.22.22 Ntc of CMC	$4.00		Unbilled				
11/09/2022	CRT	Court Documents - 11.01.22 Minute Order	$2.00		Unbilled				
11/09/2022	FST	First Legal Network - Process Serve - S&C, Initial Docs, Ntc, Order, E-Filing - Proof of Personal Service IN# 30219274	$254.86		Unbilled				
11/21/2023	MED	Mediation Services CK#11296	$8,250.00		Unbilled				
04/01/2024	EXA	Expert Analysis IN#240308 CK#11656	$1,700.00		Unbilled				
09/13/2024	POS	Postage - Crs to agents re LWDA filing via certified mail.	$12.10		Unbilled				
02/19/2025	LDS	Legal Document Server - EFiling - Motino for Preliminary Approval of Settlement, Dec, Poposed Order IN# 11335762	$88.50		Unbilled				
03/21/2025	LDS	Legal Document Server - E-Filing - Supplemental, Declaration IN# 11572679	$28.50		Unbilled				
03/21/2025	LDS	Legal Document Server - E-Filing - Proof of SErvice IN# 11573259	$28.50		Unbilled				
		Total:	$12,071.58	$0.00					
		Balance:	$12,071.58						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee

Total Fees Billed- - - - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Unbilled : - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Billed : - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Unbilled : - - - - - - - - - - - -	**$0.00**
Total Soft Cost Received : - - - - - - - - - - - -	**$0.00**
Total Hard Cost Billed : - - - - - - - - - - - - - -	**$0.00**
Total Hard Cost Unbilled : - - - - - - - - - - - -	**$12,071.58**
Total Hard Cost Received : - - - - - - - - - - - -	**$0.00**
Total Taxes Billed : - - - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Unbilled : - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Late Charges Billed : - - - - - - - - - -	**$0.00**
Total Late Charges Unbilled: - - - - - - - - -	**$0.00**
Total Late Charges Received : - - - - - - - - -	**$0.00**
Trust Balance: -	**$0.00**

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: 01/01/1900 to 06/25/2025
Client: NATIONALVISN - Paul F. Maisnier
Matter: NTALVISIONPAGA - National Vision Inc. - PAGA -dba America's Best Contacts-Paul F Maisnier

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	$0.00						
11/29/2022	FST	First Legal Network - E-Filing - Complaint, Summons, Civil Case Cover IN# 30219274	$1,618.95		Unbilled				
01/18/2023	CRT	Court Documents - 01.13.23 Minute Order	$2.00		Unbilled				
01/18/2023	FST	First Legal Network - Process Serve - S&C, Initial Docs, Ntc, Order, E-Filing - Proof of Personal Service IN# 30224217	$98.41		Unbilled				
03/13/2023	CRT	Court Documents - 03.10.23 Order	$2.00		Unbilled				
03/14/2023	FST	First Legal Network - Case management Statement IN# 30230586	$42.70		Unbilled				
04/14/2023	FST	First Legal Network - E-Filing - Case Management Statement IN# 30233810	$42.70		Unbilled				
04/28/2023	CRT	Court Documents - 04-28-23 Order	$1.00		Unbilled				
04/28/2023	CRT	Court Documents - 04-28-2023 Minute Order	$2.00		Unbilled				
12/27/2024	LDS	Legal Document Server - E-Filing - CM Statement IN# 11019100	$33.50		Unbilled				
		Total:	$1,843.26	$0.00					
		Balance:	$1,843.26						

Matter Billing Detail

JAMES HAWKINS APLC

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee

Total Fees Billed- - - - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Unbilled : - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Billed : - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Unbilled : - - - - - - - - - - - -	**$0.00**
Total Soft Cost Received : - - - - - - - - - - - -	**$0.00**
Total Hard Cost Billed : - - - - - - - - - - - - - -	**$0.00**
Total Hard Cost Unbilled : - - - - - - - - - - - -	**$1,843.26**
Total Hard Cost Received : - - - - - - - - - - - -	**$0.00**
Total Taxes Billed : - - - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Unbilled : - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Late Charges Billed : - - - - - - - - - -	**$0.00**
Total Late Charges Unbilled: - - - - - - - - -	**$0.00**
Total Late Charges Received : - - - - - - - - -	**$0.00**
Trust Balance: -	**$0.00**

Matter Billing Detail

JAMES HAWKINS APLC

Date Range: **01/01/1900 to 06/25/2025**
Client: **NATIONALVISN - Paul F. Maisnier**
Matter: **NATIONAL VISION - National Vision, Inc. dba America's Best Contacts-Paul F Maisnier**

Date	Expense Code	Description	Debit	Credit	Billing Status	On Hold	Invoice Number	Check Number	Payee
		Balance Forward:	$0.00						
09/19/2024	LDS	Legal Document Server - E-Filing - Complaint, Civil Case Cover Sheet, Summons IN# 10417124	$1,448.45		Unbilled				
10/08/2024	LDS	Legal Document Server - E-Filing - Notice IN# 10531473	$13.45		Unbilled				
10/17/2024	LDS	Legal Document Server - E-Filing - Notice and Acknowledgment of Receipt IN# 10595338	$13.45		Unbilled				
		Total:	$1,475.35	$0.00					
		Balance:	$1,475.35						

Total Fees Billed- - - - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Unbilled : - - - - - - - - - - - - - - - -	**$0.00**
Total Fees Received : - - - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Billed : - - - - - - - - - - - - - -	**$0.00**
Total Soft Cost Unbilled : - - - - - - - - - - -	**$0.00**
Total Soft Cost Received : - - - - - - - - - - -	**$0.00**
Total Hard Cost Billed : - - - - - - - - - - - - -	**$0.00**
Total Hard Cost Unbilled : - - - - - - - - - - -	**$1,475.35**
Total Hard Cost Received : - - - - - - - - - - -	**$0.00**
Total Taxes Billed : - - - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Unbilled : - - - - - - - - - - - - - - -	**$0.00**
Total Taxes Received : - - - - - - - - - - - - - - -	**$0.00**
Total Late Charges Billed : - - - - - - - - -	**$0.00**
Total Late Charges Unbilled: - - - - - - - -	**$0.00**
Total Late Charges Received : - - - - - - - -	**$0.00**
Trust Balance: -	**$0.00**

Exhibit E

JAMES HAWKINS APLC
James R. Hawkins (#192925)
Gregory Mauro (#222239)
Michael Calvo (#314986)
Lauren Falk (#316893)
Ava Issary (#342252)
9880 Research Drive, Suite 200
Irvine, CA 92618
Tel.: (949) 387-7200
Fax: (949) 387-6676
Email: James@jameshawkinsaplc.com
Email: Greg@jameshawkinsaplc.com
Email: Michael@jameshawkinsaplc.com
Email: Lauren@jameshawkinsaplc.com
Email: Ava@jameshawkinsaplc.com

Attorneys for Plaintiff PAUL F. MAISNIER, individually and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO

PAUL F. MAISNIER, individually and on behalf of all others similarly situated, Plaintiff, v. NATIONAL VISION, INC. dba AMERICA'S BEST CONTACTS AND EYEGLASSES; and DOES 1-50, inclusive, Defendant	Case No. 24CV018644 Judge: HON. Jill H. Talley Dept: 23 **DECLARATION OF PLAINTIFF PAUL F. MAISNIER IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT** Date: July 25, 2025 Time: 9:00 a.m. Dept.: 23

DECLARATION OF PAUL F. MAISNIER

I, PAUL F. MAISNIER hereby declare as follows:

1. I am over the age of eighteen and I submit this Declaration in support of the Plaintiffs' Motion for Final Approval of Class Action Settlement. The following is based upon my personal knowledge and if called as a witness, I could and would competently testify thereto.

2. I was employed by Defendant NATIONAL VISION, INC. dba AMERICA'S BEST CONTACTS AND EYEGLASSES ("Defendant") in December 30, 2017 as a Non-Exempt Employee with the title of Manager and worked during the liability period for Defendant until my separation from Defendant's employ in approximately September 29, 2021.

3. As a non-exempt employee, I suffered the same damages as other employees. These included Defendant's: (a) failure to pay wages including overtime; (b) failure to provide meal periods for every work period exceeding more than five (5) or ten (10) hours per day and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a meal period; (c) failure to provide rest breaks for every four hours or major fraction thereof worked and failure to pay an additional hour's of pay or accurately pay an additional hour's of pay in lieu of providing a rest period; (d) failing to pay timely wages required by Labor Code § 203; (e) failing to provide accurate itemized wage statements; (f) failing to reimburse expenses; (g) failure to pay overtime wages in violation of the Fair Labor Standards Act 29 U.S.C. §§ 201, et seq. ("FLSA"); (h) unlawful deductions from wages; and (i) violation of Business & Professions Code section 17200, et seq. As a result of these alleged violations, I sought consultation with my attorneys at James Hawkins, APLC.

4. Based upon my allegations, and after consultation and full disclosure from my attorneys about the potential risks I faced as a Plaintiff in a putative class action, I freely decided to pursue this lawsuit to try and vindicate my rights and the rights of others who also worked for Defendant and suffered similar harms due to Defendant's common practices and policies.

5. Prior to filing my action, my attorneys and I had multiple conferences

about the factual bases for the claims that I wanted to pursue against Defendant. During those conferences, my attorneys provided me with an overview of how those claims would be litigated and generally educated me about the nature of complex/representative litigation and my role as the representative Plaintiff.

6. My attorneys provided me with a draft of the complaint for my review and approval. I closely reviewed the complaint to ensure accuracy and completeness. As a result, I caused my attorneys to file the class action complaint alleging claims for the allegations alleged therein. Thereafter, I have been fully involved in my case. Following the filing of the complaint, I collaborated with my attorneys on the prosecution of my claims, and I regularly contacted my attorneys to stay current on the status of the litigation, and to discuss my attorneys' progress in prosecuting the claims.

7. Since I believe I was not paid overtime and minimum wages owed to me, not paid all wages earned and owed upon separation from Defendant's employ, not paid timely during my employment, not provided meal and rest periods, not provided accurate itemized wage statements, not reimbursed necessary business expenses, not paid overtime wages in violation of the Fair Labor Standards Act 29 U.S.C. §§ 201, et seq. ("FLSA") as well as violations under the UCL all in accordance with California law and that I have been similarly injured as to all other class members in the settlement who worked for Defendant during the class period, I believe the claims asserted in the Complaint are also shared by the other Class Members. I worked with various other non-exempt employees and I believe we were all treated the same and subject to the same unlawful policies.

8. Since I agreed to become a Class Representative, I have worked every step of the way with my attorneys. During the course of the litigation I have always kept the best interest of the Class Members on equal footing as mine. I have been, and I am willing to continue to pursue the Class Members' claims vigorously on our collective behalf if the Settlement is not finally approved. As a result, I firmly believe that I do not have any interests adverse to the interests of the Class Members. I have maintained the Class Members best interest from the inception of the case.

9. As a Class Representative, I have spent numerous hours consulting with my attorneys, providing documentation, consulting with other Class Members, responding to questions by my attorneys, providing documents to my attorneys, working with my attorneys to review documents received, helping my attorneys in preparing for the mediation and attending the mediation via telephone. I was consulted about the status of the case and provided constant feedback about the case from my attorneys including the mediation, settlement negotiations and eventual settlement. I estimate I have spent approximately 44 hours working on this case.

10. I understand from my counsel that there have been zero objections and three requests for opt out by Class Members and as a result have embraced the settlement.

11. From the beginning of this case, I have freely chosen to accept the risks of being a Class Representative in this class action lawsuit. I chose to assume these risks and pursue the claims on behalf of the Class Members as I wanted to vindicate their rights. I believe we have achieved that result with the settlement and the individual payments to the Class Members. I believe the settlement is fair reasonable and adequate based on the numerous defenses asserted by Defendant. I believe the efforts and work I put forth helped to achieve the fair settlement that will benefit the Class Members. As a result of my efforts, I also believe the Enhancement Payment is reasonable, and I respectfully request the Court approve the amount of $25,000.00 to the named Plaintiff.

I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct. Executed on June 25, 2025, at Oakley, California.

Signed by:

C2AB4A2C8B834A8...

PAUL F. MAISNIER