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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 JAMES HAWKINS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS/COLLECTIVE ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

Hearing: March 14, 2025
Time: 9:00 AM
Dept: 23

Reservation Number: #A-18644-001

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 Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class and Collective Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit A** is a true and correct copy of the executed Stipulation Of Class, Collective, And Representative Action Settlement, (“Settlement Agreement”), which the Parties ask the Court to approve. Attached hereto as **Exhibit B** is a copy of the proposed Notice of California Class, Representative, And Collective Action Settlement (“Class Notice”). Attached hereto as **Exhibit C** is a copy of the proposed Notice of FLSA Settlement. (“FLSA Notice”).

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.

4. On September 20, 2022, Named Plaintiff submitted a PAGA Notice to the LWDA.

5. 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.

6. On March 11, 2024, the Parties engaged in private mediation with a well-respected wage and hour class action mediator, the Honorable Brandon McKelvey. The Parties engaged in informal discovery and exchanged sufficient information to engage in good faith negotiations, including, policies, and a sample of 12% of employees time and pay records The Parties agreed to dismiss the federal action and refile the consolidated complaint in this Court where the Action was originally filed.

7. Defendant specifically and generally denies any and all liability or wrongdoing of any sort with regard to any of the Released Claims and makes no concessions or admissions of liability of any sort. Defendant maintains that for any purpose other than settlement, the Lawsuit is not appropriate for class action treatment pursuant to California Code of Civil Procedure § 382. Nonetheless, Defendant has concluded that further litigation would be protracted, distracting and expensive, and that it is desirable that the Lawsuit be fully and finally settled in the manner and upon the terms and conditions set forth in this Agreement. Defendant has also taken into account the uncertainty and risks inherent in any litigation. Defendant has therefore determined that it is desirable and beneficial to settle the Lawsuit in the manner and upon the terms and conditions set forth in this Agreement.

8. In short, 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. As a result of settlement efforts, the

Parties agreed to settle this matter for the Gross Fund Value of $4,450,000.00 for approximately 3,962 class members and 3,784 Collective Members during the FLSA Period, and the terms of which are fully memorialized in the Settlement Agreement. At all times, the Parties' negotiations were adversarial and non-collusive.

9. The "Class Members" defined as all non-exempt employees who have been employed by Defendant in California at any time during the Class Period. As of the date of mediation, March 11, 2024, it is estimated there are approximately 3,962 Settlement Class Members. Collective Members means all non-exempt employees who have been employed by Defendant anywhere in California during the FLSA Period of September 20, 2020, through the June 17, 2024.

10. Plaintiff's Counsel conducted a thorough investigation into the factual and legal issues implicated by Plaintiff's claims and was able to objectively assess the settlement's reasonableness. For example, prior to filing the action, Plaintiff contacted Plaintiff's Counsel to discuss the factual bases for pursuing their actions against Defendant for Labor Code violations. Plaintiff was intimately familiar with Defendant's labor policies and practices, and over the course of multiple interviews, knowledgeably summarized those policies and practices to Plaintiff's Counsel. During those conversations, Plaintiff's Counsel explained how the policies and practices were instituted and provided valuable insight into how they gave rise to the alleged Labor Code violations. Further, formal business records for Mr. Maisnier were requested and received and reviewed. Based on these interviews with Plaintiff, and review of records, Plaintiff's Counsel determined that there were legally sufficient grounds for pursuing the Actions against Defendant and in preparation for drafting the complaints, Plaintiff's Counsel conducted their own independent preliminary investigations into the factual bases for Plaintiff's claims, which entailed, *inter alia*, a careful examination of Plaintiff's personnel files and associated records.

11. 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 subsequent class representative through interviews, background investigations, and analyses of their 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 and driver manifest; (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.

12. By engaging in such a thorough investigation and evaluation of Plaintiff's claims, Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of 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.

13. Since the filing of the complaint, the Parties have exchanged extensive discovery and engaged in numerous discussions regarding the factual and legal issues surrounding this case. Throughout the litigation, Defendant produced thousands of pages of information and thousands of lines of data in both electronic and pdf formats, including policies, handbooks, relevant policies, and payroll and time records. Defendant also provided Plaintiff's personnel file, and information regarding the number of employees holding these positions during the relevant time period. Defendant also provided substantial information concerning the total number of potential class members, the payroll data at issue, and the applicable hourly rates, workweeks and pay periods, and other summary data related to the alleged class. The Parties have conducted themselves in informed, good faith arms-length negotiations after conducting informal discovery and exchanging extensive evidence and information about the claims and defenses of this lawsuit, and engaging in pre-mediation discussions, telephone conferences, and correspondence all aimed at settling their dispute.

14. As a result of the mediation, the Parties agreed to settle this matter for a Gross Fund Value ("GSF") of $4,450,000.00. Plaintiff's counsel balanced the terms of the proposed Settlement against the risk of litigation and probable outcome at the class certification stage, and if any Class were certified, at trial. 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 is fair, reasonable and adequate and is in the best interests of Plaintiff and the Class. Counsel for the Parties investigated the applicable law as applied to the facts discovered regarding the claims of Plaintiff, Defendant's defenses thereto and the damages claimed by Plaintiff on behalf of the Settlement Class.

15. I believe that the consideration and terms set forth in the Settlement Agreement are fair, reasonable, and adequate and are in the best interests of the Settlement Classes 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.

16. The GFV includes, without limitation, (1) attorneys' fees in the amount of $1,483,000.00 ("Attorneys' Fees and Costs") and reimbursement of reasonable litigation costs and expenses in the amount of up to $30,000.00 to Class Counsel; (2) Class Representative's incentive award to Plaintiff in the amount of up to $25,000.00 ("Enhancement Payment"); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount not to exceed $30,000.00 ("Settlement Administration Costs"); (4) $250,000.00 ("PAGA Fund, LWDA Payment, and/or PAGA Settlement Fund") with twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Sum that will be distributed to Class Members in the PAGA Group in the amount of $62,500.00; (5) the seventy-five percent (75%) share of PAGA Penalties in the amount of $187,500.00 to the California Labor and Workforce Development Agency ("LWDA"); (6) The FLSA Settlement Fund shall not exceed Fifty Thousand Dollars ($50,000) ("FLSA Settlement Fund") and the remainder to of the Net Settlement Fund to the Class Members; and the remainder to of the Net Settlement Amount to the Settlement Class Members. **The Entire Total Settlement Amount will be paid to all Class Members who do not**

opt out of the Settlement Class, and without the need to submit claims for payment except for the $50,000 FLSA allocation in which Collective members will need to opt in. After deductions, the Net Settlement Amount ("NSA") is estimated to be approximately **$2,582,000.00**. The Class Members are to be paid based from the NSA on a pro rata basis based upon the weeks each class member worked in comparison to the total work weeks worked by all Class Members.

17. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff involved both in not prevailing on one or more of the causes of action or theories alleged in the operative Complaints and in non-certification, and if successful, Defendant dispute the ability of Plaintiff to certify a class in this case. Defendant also argued it maintained lawful written policies that were provided to the class members and enforced those policies. Yet, despite the defenses proffered by Defendant, the proposed Settlement commits Defendant to pay each Class Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and not prevailing on their claims at class certification or at trial or not being paid anything even if trial was successful.

18. The Parties investigated relevant law as applied to the facts of the case, potential defenses, and damages claimed by Plaintiff on behalf of himself and the Class. Discovery largely focused on Plaintiff's allegations of Defendant's: (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. Information and data exchanges included significant sampling of Class Members' dates of employment, hourly rates time records, and payroll records. The parties conducted their own evaluations of the potential recoveries based on the claims alleged in the Action and the defenses at play.

19. Although Plaintiff's Counsel believe the class claims are strong, Plaintiff's Counsel also recognizes that if the litigation had continued, they may well have encountered significant legal and factual hurdles that could have prevented the Class from obtaining any recovery. To be sure, a

number of cases have found wage and hours actions to be especially amenable to class resolution. However, some courts have gone the other way, finding that some of the very claims at issue here-especially meal period and rest period violations-were not suitable for class adjudication because they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal. 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 1 76 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to having taken meal and rest periods demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *.Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims based on the predominance of individual issues); *Kenny v. Supercuts, Inc.*, 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.* , 245 F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when different employee stations provided different practices with respect to meal periods).

20. Some courts have denied certification even when an employer's policies are unlawful on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 20 1 3 U.S. Dist. LEXIS 7868, *35-4 1 (C.D. Cal. Jan. 17, 201 3), the court denied certification even though the plaintiff submitted evidence of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the predominance and superiority elements were not met based on the employer's presentation of anecdotal evidence of lawful compliance notwithstanding the unlawful policy. *Id*. at *38-40. And it should be underscored that claims which are amendable to certification can be disposed of by motion for summary judgment. *See Loudv. Eden Med. Ctr*., 2013 U.S. Dist. LEXIS 122873, **36-53 (N.D.

Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because plaintiff could not show injury due to defects and that incorrect wage information is not willful).

21. As the above examples illustrate, the prospect of certifying a wage and hour action is always uncertain, and the risk of being denied class certification militates in favor of settlement. A denial of class certification effectively forecloses continued litigation, as neither the individual nor his or her attorney will have any incentive to proceed with an individual case when such small claims are at stake. *See In re Baycol Cases I & II*, 5 1 Cal. 4th 75 1, 758 (2011) (explaining that a dismissal of class claims is effectively the "death knell" of the case, despite survival of individual claims). In other words, for cases where individual damages are relatively small, denial of class certification results in a near-complete loss for Plaintiff as well as no recovery for the employees, who are shut out of the action. Thus, if the putative Class had not been certified, the value of Plaintiff's case would have been reduced to a fraction of the value of this Settlement; indeed, Defendant would likely have offered no money to settle the class-wide claims if certification had been denied.

22. Finally, early resolutions save time and money that would otherwise go to litigation. Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if this action had settled following additional litigation, the settlement amount would likely have taken into account the additional costs incurred, and there may have been less available for Class Members. Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v. Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement comes in the litigation continuum."). This concern also supports settlement.

23. 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.

24. 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.

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

26. Based on the estimated Net Settlement Amount of $2,582,000.00 provides on average each Settlement Class Member with approximately **$651.00** per Class Member. The highest amount a Settlement Class Member will receive is approximately **$2,722** based upon $13.09 per workweek multiplied by approximately 209 maximum possible workweeks one could work during the Class Period. The lowest payment is estimated to be approximately **$13.09** for someone who worked only one workweek. 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.

27. The PAGA Group Members who worked during the PAGA period will be paid a PAGA Payment based upon a pro rata share of the number of pay periods each PAGA member worked compared to the total pay periods worked by all PAGA group members during the PAGA period (September 25, 2021, June 17, 2024). As a result, there are approximately 3,115 PAGA Group Members who will receive on average approximately $20 per PAGA member.

28. The Class Representative has provided extensive supporting documents and assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff also conducted record review and consultation with counsel in preparation for mediation, and to assist in evaluating and proving the claims. The settlement provides for a Payment to be paid to the Class Representative in the amount of $25,000.00 subject to Court approval. The purpose is to compensate the Class Representatives an additional incentive payment, taking into consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable information and negotiate and litigate this matter on behalf of all Settlement Class Members who otherwise, would probably not file their own individual claims to recover what may be relatively low damages. Further, the Payment of $25,000.00 as an Enhancement Payment to the Class Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement Class.

29. Class certification, as requested by the Parties for the purposes of the settlement only, should be granted because Plaintiff allege that the proposed Settlement Class Members' claims all stem from the same alleged conduct, i.e., that Defendant violated California law because their: failure to pay minimum and overtime wages, failure to provide meal periods, failure to pay all wages earned and owed upon separation from Defendant's: (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. Under these specific circumstances, the commonality requirement for class certification is satisfied. The typicality requirement for certification is also met as it is alleged that the Class Representatives and the proposed Settlement Class were subjected to similar violations based upon similar conduct, policies and practices of the Defendant regardless of their duties.

30. The adequacy requirement for certification is also met. The Class Representative and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The Class Representative will receive a reasonable award for the time and effort spent assisting Class

counsel with factual issues surrounding the case. Other than this specific payment to the Class Representative, all of the Settlement Class Members will receive a proportionate share of the NSA, as detailed above provided they do not exclude themselves. Further, all PAGA Group Members during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is no conflict of interest between the Class Representative and the Settlement Class Members. Further, the NSA will be fairly distributed among Participating Class Members, and no "settlement allocation" questions will be raised.

31. Common questions of law and fact predominate over individual questions and class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class Members share a common nucleus of facts and potential legal remedies, and since all of the Settlement Class Members and the Class Representative seek compensation for unpaid wages and other civil and statutory penalties from Defendant for the allegations described in the Complaints. Common questions about compensation or lack thereof for work performed by Settlement Class Members and the Settlement Class Members' potential legal remedies are identical. The alternative method of resolution is individual claims for relatively small amounts of damages, but individual cases would be uneconomical for potential Plaintiff because the cost of litigation dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

32. The class notice plan here calls for the Settlement ILYM Group, Inc., to mail a Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class Members based on Defendant's records. Further, the Settlement Administrator will conduct a skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the class certification notices approved by numerous state and federal courts, and is the best notice practicable under circumstances of this case. The proposed Settlement Class Members are ascertainable because all of the Settlement Class Members have worked for Defendant during the Class Periods and can be identified through Defendant's records.

33. The Notice also fulfills the neutrality requirement. It summarizes the proceedings

to date and the terms and conditions of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Settlement Class Members, as is required under prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of liability by Defendant and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement Class Members will have the option to participate or exclude themselves simply by mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be readily understood by the Settlement Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and understandable.

34. 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:

a. *Aguilar v. 7-Eleven, Inc*., et. al., Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher*, et. al., USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiff's counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiff's Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al*.; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiff's counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al*., Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc*., et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al,* Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA*, et al., Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by Defendant in the State of California. Plaintiff's counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc*. et al., Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al*., USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by Defendant in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

n. *Herrador v. Culligan International Company, et al*., USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled and awaiting Final Approval.

o. *Defries v. Domain Restaurants, et al.,* Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Denton v. BLB Enterprises, Inc., et al*., Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by Defendant in the State of California. Plaintiff's counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co*., Inc, et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by Defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc*., et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by Defendant in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.,* et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiff's counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc.,* et al., Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

v. *Davila, et al. v. Beckman Coulter, Inc*., et al., Orange County Superior Court, Case No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by Defendant in the State of California. Plaintiff's counsel appointed lead counsel. Cased settled; final approval granted; no objections and funds fully distributed.

w. *Perez v. Naked Juice Company of Glendora, Inc*., Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by Defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

35. Here, the Parties' agreement to pay Class Counsel Fees of 33 1/3% of the GFV is reasonable. My firm and I have been the only counsel to represent Plaintifff 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 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.

36. At this juncture, with the addition of more hours due to the administration of the Settlement by Class Counsel, administration of the Settlement, and preparation for final approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final approval

hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard concurrently with the motion for final approval in accordance with the terms of the settlement agreement.

37. 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 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.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2025 at Irvine, California.

James R. Hawkins

EXHIBIT A

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.

CLASS CERTIFICATION

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 B

NOTICE OF CALIFORNIA CLASS, REPRESENTATIVE, AND COLLECTIVE ACTION SETTLEMENT

Paul F. Maisnier v. National Vision, Inc.
Superior Court of the State of California for the County of Sacramento
Case No. 24CV018644

If you were employed by National Vision, Inc. as a non-exempt hourly employee who performed work in the State of California at any time during the Class Period of May 1, 2020 through June 17, 2024, you could be a Class Member and receive a payment from a proposed class action settlement. (Hereinafter, "Class Members").

You are not being sued. Read this notice carefully, as your legal rights could be affected whether you act or not.

The Superior Court for the County of Sacramento (the **"Court"**) has preliminarily approved a class, collective and representative action lawsuit, upon the terms set forth in the Joint Stipulation of Class, Collective, and PAGA Settlement And Release (**"Settlement"** or **"Settlement Agreement"**), that may affect your legal rights. The proposed Settlement resolves as lawsuit pending in the Court entitled *Paul F. Maisnier v. National Vision, Inc.*, Case No. 24CV018644 ("**Action**" or "**Lawsuit**"), filed by Paul F. Maisnier ("**Plaintiff**") against National Vision, Inc. ("NVI").

You are receiving this Notice because you have been identified by NVI as a Class Member, defined as follows:

> **All current and former non-exempt hourly employees of National Vision, Inc. who performed work in the State of California at any time during the Class Period of May 1, 2020 through June 17, 2024.**

- This Lawsuit is based on various allegations, including but not limited to, Plaintiff's claims that NVI: (i) failed to pay all overtime wages; (ii) failed to provide required meal and rest periods or premium payments in lieu thereof; (iii) failed to provide accurate wage statements; (iv) failed to timely pay Class Members wages during employment, upon termination, and associated waiting time penalties; (v) failed to provide paid sick leave to Class Members; (vi) failed to reimburse necessary business expenses, (viii) made unlawful wage deductions, (ix) violated California's unfair competition law; (x) violated the Private Attorneys General Act ("PAGA") (Labor Code §§ 2698 *et seq.*); and (xi) violated the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.*, ("FLSA") by allegedly failing to pay all minimum or overtime wages. Depending on your dates of employment, you may qualify for recovery under those claims as part of this Settlement to the extent the Court grants final approval of this Settlement.
- The Settlement provides cash payments to Class Members who worked in California, based on their number of workweeks of employment by NVI from May 1, 2020 through June 17, 2024 (the **"Class Period"**). NVI's records reflect you worked **[[Individual Workweeks]]** workweeks during the Class Period. Based on this information, if the Court grants final approval of the Settlement, your Individual Settlement Payment is estimated to be **$[[Individual Class Payment]]** (less any applicable state and federal withholdings). The actual amount you may receive will likely be different and will depend on multiple factors, such as whether there are any workweek adjustments for Class Members.
- To the extent the Court grants final approval of the Settlement, the Settlement also provides for additional cash payments to individuals who worked for NVI as non-exempt employees in California at any time from

September 25, 2021, June 17, 2024 (the **"PAGA Group Members"** during the **"PAGA Period"**), based on the number of weeks each PAGA Group Member worked during the PAGA Period.

- [IF APPLICABLE] You have been identified as a PAGA Group Member and NVI's records reflect you worked **[[PAGA Workweeks]]** workweeks during the PAGA Period. Based on this information, if the Court grants final approval of the Settlement, your PAGA Settlement Payment is estimated to be **$[[PAGA Settlement Payment]].**

- Finally, to the extent the Court grants final approval of the Settlement, the Settlement also provides additional cash payments to all those who worked for NVI as non-exempt employees in California at any time from September 20, 2020, through the June 17, 2024 (the **"Settlement Collective Members"** during the **"FLSA Period"**), based on the number of weeks each Settlement Collective Member worked during the FLSA Period. *If you have also been identified as a Settlement Collective Member, you will separately receive an additional notice detailing your legal rights and options with respect to the FLSA claims in this Lawsuit.*
- NVI denies Plaintiff's contentions and maintains it has fully complied with the law. By entering into this settlement, NVI in no way admits any violation of law or any liability whatsoever to Plaintiff, Class Members, or Settlement Collective Members, individually or collectively, and expressly denies all such liability.
- Plaintiff and NVI have reached this settlement in light of all known facts and circumstances—including the risks of significant delay and uncertainty associated with litigation, various defenses asserted by NVI, and numerous potential appellate issues—with the assistance of an experienced mediator knowledgeable of both the wage and hour laws and class, collective, and representative claims at issue.

THIS NOTICE IS NOT TO BE UNDERSTOOD OR VIEWED AS AN EXPRESSION OF ANY OPINION FROM THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS ASSERTED BY PLAINTIFF OR DEFENSES ASSERTED BY NVI.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You do not have to do anything in response to this notice. If you do nothing, you will remain eligible to automatically receive an Individual Settlement Payment related to the Released Class Claims if the Court grants final approval of the Settlement. In such case, you will be bound by the Released Class Claims in the Settlement and release your claims in exchange for compensation.
OPT OUT	You may opt out of the Released Class Claims in the Settlement by submitting a Request for Exclusion form as explained below. If you opt out, you cannot object to the Settlement, you will not receive an Individual Settlement Payment related to the Released Class Claims, and you shall not be bound by the Released Class Claims in the Settlement. However, regardless if you choose to opt out, to the extent the Court grants final approval of the settlement and you worked within the PAGA Period and/or FLSA Period identified above, you will still be sent a Settlement Check associated with those claims, as more fully described below.
OBJECT	You may object to the Settlement by submitting a written objection. If the Court grants final approval of the Settlement despite your objection, you will remain eligible to automatically receive an Individual Settlement Payment and you will

	be bound by the Released Class Claims. However, you can only file an objection if you do not opt out of the Settlement.

The Court's final approval hearing is scheduled to take place on **[[Final Approval Hearing Date]]** at **[[Final Approval Hearing Time]]** in Dept. __ of the Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814. You do not have to attend but you do have the right to appear. ***For more information, please carefully read this notice.***

1. Why Did I Receive This Notice And What Is This Lawsuit About?

You received this Notice because NVI's records show that you are a Class Member included in this Lawsuit by virtue of your employment with NVI. On __________, the Settlement was preliminarily approved by the Court in this Lawsuit. The Court in this Lawsuit ordered that this Class Notice be mailed to you and all other Class Members to notify you of the terms of the proposed Settlement so that you may make appropriate decisions, and to notify you of your rights to share in the proposed Settlement in this Lawsuit. This Class Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit.

The terms of the Settlement are set forth in detail in the Settlement Agreement. You may obtain a copy of the Settlement Agreement from the neutral third-party appointed by the Court to administer the settlement (the **"Settlement Administrator"**). Details about how to get additional information about the Settlement Agreement are provided at the end of this Class Notice.

The Lawsuit is brought by Plaintiff, individually and on behalf of other individuals, alleging, among other things, that that NVI: (i) failed to pay all overtime wages; (ii) failed to provide required meal and rest periods or premium payments in lieu thereof; (iii) failed to provide accurate wage statements; (iv) failed to timely pay Class Members wages during employment, upon termination, and associated waiting time penalties; (v) failed to provide paid sick leave to Class Members; (vi) failed to reimburse necessary business expenses, (viii) made unlawful wage deductions, (ix) violated California's unfair competition law; (x) violated PAGA; and (xi) violated the FLSA as to Settlement Collective Members by allegedly failing to pay all minimum and overtime wages. Plaintiff is represented by James Hawkins, APLC (**"Class Counsel"**).

NVI denies the allegations and denies that it owes money to Plaintiff, the Collective Members, the PAGA Group Members, or the Class Members for any of the alleged claims. NVI expressly denies any and all charges of wrongdoing or liability arising out of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. NVI contends that it has complied with applicable state, municipal, and federal laws, statutes, ordinances, regulations, common law, and wage orders. NVI has raised numerous defenses to Plaintiff's claims and those defenses could significantly reduce or even eliminate any liability or damages owed to the Class Members.

The parties participated in a mediation with a respected mediator. After significant investigation and research into the facts and circumstances underlying the issues raised in the Lawsuit and with the aid of the mediator, the parties agreed to settle the Lawsuit, which was approved by the Court, upon the terms set forth in the Settlement Agreement. The Court did not decide in favor of Plaintiff or NVI and there was no trial.

The Settlement Agreement represents a compromise of highly disputed claims. NVI, by settling the Lawsuit, does not admit, concede, or imply any fault, wrongdoing, or liability. Plaintiff and NVI, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the

Settlement is appropriate. Counsel for Plaintiff and the Class Members believe that the proposed Settlement is fair, adequate, and reasonable and in the best interests of the Class Members.

2. What Are the Settlement Terms?

As a part of the Settlement, which includes the California Class Action Settlement, the PAGA Settlement, and the FLSA Settlement, NVI has agreed to pay the amount of $4,450,000.00 ("**Gross Settlement Amount**").

At the Final Approval Hearing, the Plaintiff, through Class Counsel, will ask the Court to approve the Gross Settlement Amount, including authorizing: (1) all Settlement Payments to Settlement Class Members and to Settlement Collective Members, (2) the amount of up to $10,000 for Plaintiff's services as the representative of the Settlement Class and FLSA Members ("**Enhancement Payment**"); (3) the amount of up to 33.33% in attorneys' fees (i.e., an amount not to exceed $1,483,000.00) and the amount of up to $30,000 in litigation costs and expenses to Class Counsel ("**Attorneys' Fees and Costs**"); (4) reasonable settlement administration costs, up to $30,000 ("**Settlement Administration Costs**"); and (5) $250,000 to the California Labor and Workforce Development Agency for the PAGA Fund, 25% of which will be distributed to the PAGA Group Members ("**PAGA Settlement Fund**"). Defendant's share of applicable payroll taxes will be paid by Defendant separately.

The Gross Settlement Amount minus the Enhancement Payment, Attorneys' Fees and Costs, PAGA Settlement Fund, and the Settlement Administration Costs, is referred to as the "**Net Settlement Fund.**" $50,000 of the Net Settlement Fund will be allocated to the FLSA Settlement ("**FLSA Settlement Fund**"), with the remainder allocated to the California Class Settlement ("**Class Settlement Fund**"). Payments to the Settlement Collective Members and Settlement Class Members will be allocated based on the number of workweeks each individual worked during the Class Period and/or FLSA Period, on a pro-rata basis. Likewise, all non-exempt employees who worked in California during the PAGA Period ("PAGA Group Members") will receive a pro rata portion of the PAGA Settlement Fund based on the number of workweeks each individual worked during the PAGA Period. Partial weeks will be counted as full weeks.

The Class Settlement Fund shall be allocated under the following formula:

1. Distribution of Class Settlement Fund

The amount of the Class Settlement Fund each Settlement Class Member can receive will be determined based upon the number of workweeks worked during the Class Period. The Settlement Administrator will calculate Individual Settlement Payments by (1) dividing the Class Settlement Fund by the total number of workweeks worked by all Settlement Class Members, and then (2) multiplying the result by the number of workweeks worked by each respective Settlement Class Member.

a. Individual Class Payments

Each Class Member who does not timely and properly opt out of the Settlement ("Settlement Class Members") will be entitled to receive a portion of the Class Settlement Amount based on the formula above ("Individual Settlement Payments"). The Settlement Administrator will calculate Individual Settlement Payments for all Settlement Class Members.

25% of each Individual Settlement Payment shall constitute taxable wages ("Wage Portion") and 75% shall constitute interest and penalties ("Non-Wage Portion"). In accordance with applicable tax laws, required tax withholdings will be taken from each Individual Settlement Payment for the portion allocated to W-2 income and remitted to the appropriate taxing authorities. The Settlement Administrator shall issue any necessary IRS Form 1099 and W-2s to Settlement Class Members for their respective Individual Settlement Payments. Settlement Class Members shall be solely and legally responsible for paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify and hold harmless NVI from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

b. Undeliverable or Uncashed Checks

Any Settlement Check distributing Individual Settlement Payments returned to the Settlement Administrator as undeliverable shall be sent promptly via First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a single skip-trace search, and it shall then perform a single re-mailing. The principal for any Individual Settlement Payments that remain undeliverable or uncashed 180 calendar days after the postmarked date of their initial mailing will escheat to the State of California's Controller, to be held in the name of each expired check payee.

2. Attorneys' Fees and Costs Award

You do not need to pay individually any portion of Class Counsel's Attorneys' Fees and Costs. Any payments for those Attorneys' Fees and Costs will be deducted from the Gross Settlement Amount. Class Counsel intends to request that the Court approve an Attorneys' Fees and Costs Award in the amount of up to 33.33% of the Gross Settlement Amount (or $1,483,000.00) and costs in the amount of up to $30,000.

The Court's approval of an Attorneys' Fees and Costs Award is not a material term of the settlement. If the Court does not approve or approves only a lesser amount than requested by Class Counsel for an Attorneys' Fees and Costs Award, the other terms of the settlement shall apply. The Court's refusal to approve the Attorneys' Fees and Costs Award requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the Settlement. Any amount of an Attorneys' Fees and Costs Award requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

3. Enhancement Payments

Class Counsel intends to request that the Court approve an Enhancement Award for Plaintiff in the total amount of up to $10,000. Plaintiff's Enhancement Payment is in addition to Plaintiff's Individual Settlement Payment.

The Court's approval of Plaintiff's Enhancement Payment is not a material term of the settlement. If the Court does not approve or approves only a lesser amount than requested by Class Counsel for Plaintiff's Enhancement Payment, the other terms of the settlement shall apply. The Court's refusal to approve Plaintiff's Enhancement Payment requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the Settlement. Any amount of Plaintiff's Enhancement Payment requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

4. Settlement Administration Costs

Class Counsel intends to request that the Court approve Settlement Administration Costs of up to $30,000.00, payable to the Settlement Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Notices, providing any required tax forms, processing any required tax payments or reporting, and calculating and distributing settlement payments. Any amount of Settlement Administration Costs requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

5. PAGA Fund

Class Counsel intends to request that the Court allocate $250,000 to the PAGA Fund out of the Gross Settlement Amount, and approve an LWDA Payment of $187,500 (or 75% of the PAGA Fund) to the State of California Labor and Workforce Development Agency ("LWDA"), and the remaining $62,500 (or 25% of the PAGA Fund) for a payment to the PAGA Group Members ("PAGA Settlement Fund"). Any amount of the PAGA Fund requested by Plaintiff but not approved by the Court shall be allocated to the Net Settlement Amount.

6. All Payments Subject to Court Approval

All of the payments listed above will be made if and only if the Court grants final approval of the settlement. The Court may adjust the amounts of certain payments.

4. What Do I Release Under the Settlement?

In exchange for your Individual Settlement Payment, you will be treated as a Settlement Class Member, participating fully in the settlement, unless you submit a signed Request for Exclusion by [[Response Deadline]] (**"Response Deadline"**).

After the judgment is final and NVI has fully funded the settlement, Participating Class Members will be legally barred from asserting against NVI, and all of its present and former owners, parent companies, subsidiaries, affiliates and joint ventures, and all of any 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 (collectively, the **"Released Parties"**) from any of the claims released under the Settlement (**"Released Class Claims"**), as follows:

> 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 Complaint, 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.

Should the Court grant final approval of the Settlement and you are also a PAGA Group Member, you will receive a check associated with the PAGA claims being resolved and you will release all claims under PAGA alleged in the Operative Complaint or PAGA 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 200-204 *et seq.*, 210, 218, 218.5, 218.6, 226 *et seq.*, 226.3, 226.7, 246-248.7 et seq., 256, 510, 512, 516, 558, 558.1, 1174, 1174.5, 1194, 1197.1, 1198, 1199, 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 (**"Released PAGA Claims"**).

Likewise, should the Court grant final approval of the Settlement and you are a Settlement Collective Member, to the extent you cash, deposit, or otherwise negotiate the Settlement Check that will be issued to you for your FLSA claims pursuant to this Settlement within 180 days after mailing, you will release all claims under the FLSA that accrued during your employment during the FLSA Period, including all claims for unpaid overtime wages and any and all related claims for liquidated damages, attorneys' fees, costs, and expenses (**"Released FLSA Claims"**).

6. How Can I Correct The Number of Workweeks Attributed To Me?

You have until the Response Deadline to correct or challenge the number of workweeks attributed to you in this Notice. You can submit your challenge by signing and sending a letter to the Settlement Administrator via mail or email to the Settlement Administrator at the following address:

Settlement Administrator:

[ ]

The Settlement Administrator will accept NVI's calculation of workweeks as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you.

7. How Will I Get Paid?

The Settlement Administrator will send, by U.S. mail, a single check to every Settlement Class Member following the Effective Date of this Settlement. Your check will be sent to the same address as this Notice. If you change your address, notify the Settlement Administrator as soon as possible.

8. What If I Lose My Settlement Check or Fail To Cash It?

If you lose or misplace your Settlement Check, the Settlement Administrator will replace it if you request a replacement before the void date on the face of the original check. If your check is already void or you have otherwise failed to cash it, it will be provided to the State of California's Unclaimed Property Division in your name. For more information, please review how to process a claim for your funds with the State of California, https://www.sco.ca.gov/upd_form_claim.html.

9. How Do I Opt Out of the Class Settlement?

If you do not want to participate in the Class Settlement, you may opt out of the Class Settlement. If you opt out of the Class Settlement, you may not object to the Class Settlement, shall not receive any Individual Settlement Payment, and shall not be bound by the Released Class Claims in the Settlement Agreement. However, notwithstanding your decision to opt out, if the Court grants final approval of the Settlement and you otherwise qualify to participate in the Settlement as it pertains to the PAGA and/or FLSA claims, you will still receive a Settlement Check in the mail associated with those claims, and you may not opt out of an approved PAGA settlement.

In order to opt out, you MUST express your desire to be excluded from the Class Settlement by taking the steps below. Failure to do so will be deemed a waiver of your request to opt out of the settlement, and you will be bound by the Released Class Claims:

(1) You must mail a written statement to the Settlement Administrator listed above.

(2) The written statement MUST include: your name, address, telephone number, the last four digits of your Social Security number, and the case name and number.

(3) The written statement must state in substance, "I wish to opt out of the settlement in the lawsuit *Paul F. Maisnier v. National Vision, Inc.*, Case No. 24CV018644."

(4) The written statement must be postmarked by the Response Deadline, 45 calendar days after the initial mailing of Class Notice.

This can be accomplished by mailing to the Settlement Administrator a "Request for Exclusion." You may use the attached "Request for Exclusion" form. Any such Request for Exclusion must be postmarked by the Response Deadline.

Any Request for Exclusion that does not include all required information or that is not submitted timely will be deemed null, void, and ineffective. A Request for Exclusion shall be deemed to be submitted as of the postmarked date. If you submit both a Request for Exclusion and an objection, your objection will be valid and be deemed to invalidate the Request for Exclusion.

Any Class Member who validly requests to be excluded from the Settlement will not be a Settlement Class Member and will not receive an Individual Payment for the release of the Released Class Claims. Notwithstanding, should the Court grant final approval of the Settlement and you are a PAGA Group Member, you will still receive a settlement payment associated with the resolution of the PAGA claims in this Lawsuit and you will be bound by the Released PAGA Claims. Likewise, if the Court grants final approval and you are a Settlement Collective Member, you will still receive a settlement payment based on the resolution of the FLSA claims in the Settlement. If you do not want to be bound by the Released FLSA Claims, then you should not cash or tender the Settlement Check for the Released FLSA Claims at that time.

10. How Do I Object to the Settlement?

If you want to participate in the Settlement, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will receive your Individual Settlement Payment automatically if the Court grants final approval of the Settlement.

However, if you want to object to the Settlement, you must take the steps below. Failure to do so will be deemed a waiver of any objections, and you may not be permitted to appear at the final approval hearing before the Court:

(1) You must mail a written statement to the Settlement Administrator listed above.

(2) The written statement MUST include: your name, address, telephone number, last four digits of your Social Security number, and the basis for your objection along with copies of any papers, briefs, or other documents upon which the objection is based.

(3) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.

(4) The written statement must be postmarked by 45 calendar days after the initial mailing of Class Notice.

If you fail to make an objection in the manner specified above, you shall be deemed to have waived any objections and shall be foreclosed from making any objection, whether by appeal or otherwise, to this settlement. The Settlement Administrator will send a copy of your objection to all Parties involved in the Lawsuit who will file all objections with the Court within 10 calendar days after the above postmark deadline to submit objections.

If you submit an objection, you will be bound by the Settlement if it is finally approved. If you do not want to be bound by the Settlement if finally approved, you must opt out of the settlement.

11. Can I Attend the Final Approval Hearing?

You may, but are not required to, attend the Final Approval Hearing on [[Final Approval Hearing Date]] at [[Final Approval Hearing Time]] in Dept. __ of the Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814. At the hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to the LWDA, Class Counsel, the Plaintiff, and the Settlement Administrator. The Court will invite comment from objectors, Class Counsel, and defense counsel before making a decision.

It is possible the Court will reschedule the Final Approval Hearing. Please review the Court's online docket or contact the Settlement Administrator or Class Counsel to verify the date and time of the Final Approval Hearing if you intend to appear.

12. How Can I Get More Information?

The Settlement Agreement sets forth everything NVI and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Settlement Agreement or any other Settlement documents is to go to the Court's website, access the Register of Actions, and search for the case using the case number at the top of this notice. You can also contact the Settlement Administrator (__________, contact information above), or Class Counsel at the address below:

<u>Class Counsel:</u>
JAMES HAWKINS APLC
James Hawkins, Esq.
Gregory Mauro, Esq.
9880 Research Dr., Irvine, CA 92618
Office: (949) 387-7200
Fax: (949) 387-6676
www.jameshawkinsaplc.com

PLEASE DO NOT CALL THE COURT, CLERK OF THE COURT, JUDGE, THE COMPANY, OR NVI'S ATTORNEYS WITH INQUIRIES FOR INFORMATION REGARDING THE SETTLEMENT

<u>Request for Exclusion Form</u>

Paul F. Maisnier v. National Vision, Inc.
Superior Court of the State of California for the County of Sacramento
Case No. 24CV018644

By signing and returning this form, I confirm that I do <u>not</u> want to be included in the Settlement or receive a settlement check in the class action lawsuit referenced above.

I understand that by opting out, I am giving up my right to receive any payments related to the class action claims in this Settlement. To "opt out," this form must be postmarked no later than [[Response Deadline]] and mailed via U.S. Mail to the following address:

[ ]

I confirm I have reviewed the Notice of Class Action Settlement. I have decided to be excluded from the class and **not** participate in the proposed class action settlement or receive an individual settlement check I am otherwise entitled to receive.

Dated: ____________________

____
(Signature)

____
(Last Four Digits of SSN)

____
(Type or print name and former name(s))

____
(Telephone Number)

____
(Address)

EXHIBIT C

NOTICE OF FLSA SETTLEMENT

Paul F. Maisnier v. National Vision, Inc.
Superior Court of the State of California for the County of Los Angeles
Case No. 24CV018644

If you were employed by NVI in California as a non-exempt classified employee at any time from September 20, 2020, through the June 17, 2024, you could be a Settlement Collective Member and receive a payment from a proposed FLSA Settlement.

You are not being sued. This Notice is being sent pursuant to a Court order and is not a solicitation. Read this notice carefully, as your legal rights could be affected whether you act or not.

The Court has preliminarily approved a class, collective, and representative action settlement, upon the terms set forth in the Joint Stipulation of Class, Collective, and PAGA Settlement and Release ("**Settlement**" or "**Settlement Agreement**"), that may affect your legal rights. The proposed Settlement resolves a lawsuit pending in the Superior Court of Sacramento (the "**Court**") entitled *Paul F. Maisnier v. National Vision, Inc.*, Case No. 24CV018644 ("**Action**" or "**Lawsuit**"), filed by Paul F. Maisnier ("Plaintiff") against National Vision, Inc. ("NVI").

The Court has approved this Notice of FLSA Settlement ("**FLSA Notice"**) regarding the Settlement and resolution of any and all claims pursuant to the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.*, including all federal claims for unpaid minimum or overtime wages, and any and all related claims for liquidated damages, attorneys' fees, costs, and expenses (the "**Released FLSA Claims**"), in this case. You are receiving this FLSA Notice because you have been identified by NVI as an FLSA Collective Member, defined as follows:

All current or former non-exempt employees of NVI during the period of September 20, 2020, through the June 17, 2024 who worked in California, and who consent to join the collective action. (Hereinafter, "Settlement Collective Members").

- This Lawsuit is based on various allegations, including but not limited to, Plaintiff's claims that NVI failed to pay Settlement Collective Members all minimum and overtime wages.
- The Settlement provides cash payments to Settlement Collective Members based on their number of workweeks of employment by NVI from September 20, 2020, through June 17, 2024 (the **"FLSA Period"**). As an individual eligible to participate in the Settlement, you will receive a Settlement Check reflecting a gross settlement payment related to the Released FLSA Claims (i.e., before tax withholdings) of approximately $_____. To participate in the Settlement, you need only endorse, cash, and/or otherwise deposit the check, which reflects a "Consent to Join" on the back of the check and an associated release of claims, as further described herein.
- The Settlement also provides for additional cash payments to individuals who worked for NVI in California as non-exempt employees at any time from September 25, 2021, June 17, 2024 (the **"PAGA Period"**), based on the number of weeks each eligible individual worked during the PAGA Period. Finally, the Settlement also provides additional cash payments to all those who worked for NVI in California as a non-exempt employee at any time from May 1, 2020 through June 17, 2024 (the **"Class Period"**), based on the number of weeks each eligible such individual worked during the Class Period.
- NVI denies Plaintiff's contentions and maintains it has fully complied with the law. By entering into this settlement, NVI in no way admits any violation of law or any liability whatsoever to Plaintiff, Settlement

Collective Members, PAGA Group Members, or Class Members, individually or collectively, and expressly denies all such liability.

- Plaintiff and NVI have reached this settlement in light of all known facts and circumstances—including the risks of significant delay and uncertainty associated with litigation, various defenses asserted by NVI, and numerous potential appellate issues—with the assistance of an experienced mediator knowledgeable of both the wage and hour laws and class, collective, and representative claims at issue.

THIS NOTICE IS NOT TO BE UNDERSTOOD OR VIEWED AS AN EXPRESSION OF ANY OPINION FROM THE COURT AS TO THE MERITS OF ANY OF THE CLAIMS ASSERTED BY PLAINTIFF OR DEFENSES ASSERTED BY NVI.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
PARTICIPATE IN THE SETTLEMENT/ OPT IN	By signing the Consent to Join on the back of the Settlement Check and/or depositing/cashing the Settlement Check, you would be agreeing to (i) join this lawsuit as an "Opt-in Plaintiff," (ii) participate in the settlement, (iii) collect your monetary settlement payment, and (iv) release your FLSA claims for unpaid overtime wages or minimum wages and any and all related claims for penalties, interest, liquidated damages, attorneys' fees, costs, and expenses (as detailed in Section 3 below).
DO NOTHING	By doing nothing, you will NOT be included in this Lawsuit with respect to the FLSA Released Claims. This means that you will not be bound by any judgment and will not be eligible to participate in any monetary settlement or recovery of Plaintiff's FLSA claims. However, you keep any rights to sue NVI separately about the same legal claims in this Lawsuit under the FLSA. You should be aware that your time to bring FLSA claims is limited by either a two- or three-year statute of limitations.
OBJECT	You may object to the Settlement by submitting a written objection. If you object to the Settlement, you will be deemed to have opted-in to the Settlement. If the Court grants final approval of the Settlement despite your objection, you will remain eligible to automatically receive an Individual Settlement Payment.

The Court's final approval hearing is scheduled to take place on **[[Final Approval Hearing Date]]** at **[[Final Approval Hearing Time]]** in Dept. __ of the Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814. You do not have to attend but you do have the right to appear. ***For more information, please carefully read this notice.***

1. Why Did I Receive This FLSA Settlement Notice and What Is This Lawsuit About?

You received this Notice because NVI's records show that you are an FLSA Collective Member included in this Lawsuit by virtue of your employment with NVI. On ___________, the Settlement was preliminarily approved by the Court in this Lawsuit. The Court in this Lawsuit ordered that this FLSA Notice be mailed to you and all other Settlement Collective Members to notify you of the terms of the proposed FLSA Settlement so that you may make appropriate decisions, and to notify you of your rights to share in the proposed FLSA Settlement in this Lawsuit. This FLSA Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit.

The terms of the Settlement are set forth in detail in the Settlement Agreement. You may obtain a copy of the Settlement Agreement from the neutral third-party appointed by the Court to administer the settlement (the

"Settlement Administrator"). Details about how to get additional information about the Settlement Agreement are provided at the end of this FLSA Notice.

The Lawsuit is brought by Plaintiff, individually and on behalf of other individuals, alleging, among other things, that NVI: (i) failed to pay all overtime wages; (ii) failed to provide required meal and rest periods or premium payments in lieu thereof; (iii) failed to provide accurate wage statements; (iv) failed to timely pay Class Members wages during employment, upon termination, and associated waiting time penalties; (v) failed to provide paid sick leave to Class Members; (vi) failed to reimburse necessary business expenses, (viii) made unlawful wage deductions, (ix) violated California's unfair competition law; (x) violated PAGA; and (xi) violated the FLSA as to Settlement Collective Members by allegedly failing to pay all minimum and overtime wages. Plaintiff is represented by James Hawkins APLC (**"Class Counsel"**).

The FLSA claims in the lawsuit are brought as a "collective action." In a collective action, one or more persons who are identified as the plaintiffs initiate the action and others who are similarly situated are provided an opportunity to "opt-in" to the action and share in the recovery, if any. The Court will resolve the issues for all persons who opt-in to the FLSA Settlement.

NVI denies the allegations and denies that it owes money to Plaintiff, the Settlement Collective Members, the PAGA Group Members, or the Class Members for any of the alleged claims. NVI expressly denies any and all charges of wrongdoing or liability arising out of the acts, omissions, facts, matters, transactions, or occurrences alleged, or that could have been alleged, in the Lawsuit. NVI contends that it has complied with applicable state, municipal, and federal laws, statutes, ordinances, regulations, common law, and wage orders. NVI has raised numerous defenses to Plaintiff's claims and those defenses could significantly reduce or even eliminate any liability or damages owed to the Settlement Collective Members.

The parties participated in a mediation with a respected mediator. After significant investigation and research into the facts and circumstances underlying the issues raised in the Lawsuit and with the aid of the mediator, the parties agreed to settle the Lawsuit, which was approved by the Court, upon the terms set forth in the Settlement Agreement. The Court did not decide in favor of Plaintiff or NVI and there was no trial.

The Settlement Agreement represents a compromise of highly disputed claims. NVI, by settling the Lawsuit, does not admit, concede, or imply any fault, wrongdoing, or liability. Plaintiff and NVI, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is appropriate. Counsel for Plaintiff and the Settlement Collective Members (**"Class Counsel"**) believe that the proposed Settlement is fair, adequate, and reasonable and in the best interests of the Settlement Collective Members.

2. How Do I Participate In the FLSA Settlement and Receive Payment Under the FLSA Settlement?

If the Court finally approves the Settlement, you will receive an FLSA Settlement Check. To participate and "opt-in" to the FLSA Settlement, **you must timely endorse, cash, deposit, or otherwise negotiate your FLSA payment check within one hundred eighty (180) calendar days after the date on which the FLSA payment is issued**.

By doing so, you will be deemed to have consented to join the Action under the FLSA and opted-in on a collective basis with respect to the FLSA Released Claims, and will be bound to the FLSA Settlement and any judgment entered by the Court based thereon, and thereby forever release and discharge the FLSA Released Claims.

Your FLSA payment will contain the following notice that informs you of your election to opt-in to the FLSA Settlement:

By endorsing, cashing, depositing, or otherwise negotiating this check, I consent to join the lawsuit entitled *Maisnier v. National Vision, Inc.*, pursuant to the Fair Labor Standards Act (FLSA), 29 USC Section 216(b), for purposes of participating in the settlement. I understand and agree that my endorsing, cashing, depositing, or otherwise negotiating this check constitutes a full and complete release of any and all FLSA claims, and that a copy of this check may be filed with the Court if required, with personal information other than my name redacted.

If you do not timely opt-in to the FLSA Settlement by signing, cashing, depositing, or otherwise negotiating your FLSA payment check within one hundred eighty (180) calendar days after the date on which the FLSA payment is issued, you will not be subject to the release of the FLSA Released Claims.

3. What Is the FLSA Settlement, and What Will I Give Up If I Participate In the FLSA Settlement?

"**FLSA Settlement**" means the settlement and resolution of the Released FLSA Claims, as described above. If you opt-in to the FLSA Settlement (*i.e.*, you timely endorse, cash, deposit, or otherwise negotiate your FLSA settlement check), you will give up your right to make the Released FLSA Claims against the Released Parties.

"**Released Parties**" means NVI and all of its present and former owners, parent companies, subsidiaries, affiliates and joint ventures, and all of any 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

4. What Are the Settlement Terms?

As a part of the Settlement, which includes both a California Class Action Settlement, PAGA Settlement, and this FLSA Settlement, NVI has agreed to pay the amount of $4,450,000.00 ("**Gross Settlement Amount**").

The Gross Settlement Amount includes (1) all Settlement Payments to Settlement Class Members and to Settlement Collective Members, (2) up to $10,000 for Plaintiff's services as the representative of the Settlement Class and FLSA Members ("**Enhancement Payment**"); (3) up to 33.33% in attorneys' fees (i.e., an amount not to exceed $1,483,000.00) and the amount of up to $30,000 in litigation costs and expenses to Class Counsel ("**Attorneys' Fees and Costs**"); (4) reasonable settlement administration costs, up to $30,000 ("**Settlement Administration Costs**"); and (5) $250,000 to the California Labor and Workforce Development Agency for the PAGA Fund, 25% of which will be distributed to the PAGA Group Members ("**PAGA Settlement Fund**"). NVI's share of applicable payroll taxes will be paid by NVI separately.

The Gross Settlement Amount minus the Enhancement Payment, Attorneys' Fees and Costs, PAGA Fund, and the Settlement Administration Costs, is referred to as the "**Net Settlement Fund.**" $50,000 of the Net Settlement Fund will be allocated to the FLSA Settlement ("FLSA Settlement Fund"), with the remainder allocated to the California Class Settlement ("Class Settlement Fund"). Payments to the Settlement Collective Member and Class Members will be allocated based on the number of workweeks each individual worked during the FLSA Period and/or Class Period, on a pro-rata basis. Likewise, all PAGA Group Members will receive a pro rata portion of the employee portion of the PAGA Settlement Fund based on the number of workweeks each individual worked during the PAGA Period. Partial weeks will be counted as full weeks.

a. FLSA payments

Each Settlement Collective Member who consents to participate in the Settlement by endorsing, cashing, or otherwise depositing their enclosed Settlement Check will be part of the Settlement. The Settlement Administrator will calculate the Individual Settlement Payments for all Settlement Collective Members, as detailed below.

1. Applicable Tax Withholding and Responsibility for Taxes

Each Settlement Collective Member's FLSA payment from the FLSA Settlement Fund will be characterized as 50% 1099 income and 50% W-2 income. In accordance with applicable tax laws, required tax withholdings will be taken from each Individual Settlement Payment for the portion allocated to W-2 income and remitted to the appropriate taxing authorities. The Settlement Administrator shall issue any necessary IRS Form 1099 and W-2s to Settlement Collective Members for their respective Individual Settlement Payments. Settlement Collective Members shall be solely and legally responsible for paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify and hold harmless NVI from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

2. Undeliverable or Uncashed Checks

Any Settlement Check distributing FLSA payments returned to the Settlement Administrator as undeliverable shall be sent promptly via First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to determine the correct address using a single skip-trace search, and it shall then perform a single re-mailing. The principal for any Individual Settlement Payments from the FLSA Settlement Fund that remain undeliverable, or are otherwise not cashed, deposited, or otherwise negotiated within 180 days after mailing, shall be cancelled, and the amounts returned to NVI, as no FLSA release will be effectuated as to those individuals.

b. Attorneys' Fees and Costs Award

You do not need to pay individually any portion of Class Counsel's Attorneys' Fees and Costs. Any payments for those Attorneys' Fees and Costs will be deducted from the Gross Settlement Amount. Class Counsel intends to request that the Court approve an Attorneys' Fees and Costs Award in the amount of up to 33.33% of the Gross Settlement Amount (or $1,483,000.00) and costs in the amount of up to $30,000. The Court's approval of an Attorneys' Fees and Costs Award is not a material term of the settlement. If the Court does not approve or approves only a lesser amount than requested by Class Counsel for an Attorneys' Fees and Costs Award, the other terms of the settlement shall apply. The Court's refusal to approve the Attorneys' Fees and Costs Award requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the settlement. Any amount of an Attorneys' Fees and Costs Award requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

c. Enhancement Payments

Class Counsel intends to request that the Court approve an Enhancement Payment for Plaintiff in the total amount of up to $10,000. Plaintiff's Enhancement Payment is in addition to Plaintiff's Individual Settlement Payment. The Court's approval of Plaintiff's Enhancement Payment is not a material term of the settlement. If the Court does not approve or approves only a lesser amount than requested by Class Counsel for Plaintiff's Enhancement Payment, the other terms of the settlement shall apply. The Court's refusal to approve Plaintiff's Enhancement Payment requested by Class Counsel does not give Plaintiff or Class Counsel any basis to abrogate the settlement. Any amount of Plaintiff's Enhancement Payment requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

d. Settlement Administration Costs

Class Counsel intends to request that the Court approve Settlement Administration Costs of up to $30,000.00, payable to the Settlement Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Notices, providing any required tax forms, processing any required tax payments or reporting, and calculating and distributing FLSA, Class, and PAGA payments. Any amount of Settlement

Administration Costs requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

e. PAGA Fund

Class Counsel intends to request that the Court allocate $250,000 to the PAGA Fund out of the Gross Settlement Amount, and approve an LWDA Payment of $187,500 (or 75% of the PAGA Fund) to the State of California Labor and Workforce Development Agency ("LWDA"), and the remaining $62,500 (or 25% of the PAGA Fund) for a payment to the PAGA Group Members ("PAGA Settlement Fund"). Any amount of the PAGA Fund requested by Plaintiff but not approved by the Court shall be allocated to the Net Settlement Amount.

f. All Payments Subject to Court Approval

All of the payments listed above will be made if and only if the Court grants final approval of the settlement. The Court may adjust the amounts of certain payments.

5. How Much Money Will I Get If I Participate In the FLSA Settlement?

Each Collective Member will be issued a check for payment of a share of the FLSA Settlement Fund based on their weeks worked in during the FLSA Period, less applicable taxes as noted above. These settlement payments are to be calculated and distributed by dividing the FLSA Settlement Fund by the total number of workweeks worked by Collective Members during the FLSA Period, and multiplying the result by each Collective Member's workweeks worked. The Individual Settlement Payments will be distributed by check, and the check will provide the means for each FLSA Member to "opt-in" to the Settlement and become a Settlement Collective Member.

According to NVI's records, you worked a total of __________ Workweeks during the FLSA Period. Your gross share of the FLSA Settlement Fund (i.e., Individual Settlement Payment) is estimated to be approximately $__________.

6. How Can I Correct The Number of Workweeks Attributed To Me?

You have until the Response Deadline to correct or challenge the number of workweeks attributed to you in this Notice. You can submit your challenge by signing and sending a letter to the Settlement Administrator via mail or email to the Settlement Administrator at the following address:

Settlement Administrator:

[   ]

The Settlement Administrator will accept NVI's calculation of workweeks as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you.

7. How Will I Get Paid?

The Settlement Administrator will send, by U.S. mail, a single check to every Settlement Collective Member following the Effective Date of this Settlement. Your check will be sent to the same address as this Notice. If you change your address, notify the Settlement Administrator as soon as possible.

8. What If I Lose My Settlement Check or Fail To Cash It?

If you lose or misplace your Settlement Check, the Settlement Administrator will replace it if you request a replacement before the void date on the face of the original check. If your check is not cashed, deposited, or otherwise negotiated within 180 days after mailing, it shall be cancelled, and the amounts returned to NVI.

9. How Do I Object to the Settlement?

If you want to participate in the Settlement, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will receive your Individual Settlement Payment automatically if the Court grants final approval of the Settlement.

However, if you want to object to the Settlement, you must take the steps below. Failure to do so will be deemed a waiver of any objections, and you will not be permitted to appear at the final approval hearing before the Court:

(1) You must mail a written statement to the Settlement Administrator listed above.

(2) The written statement MUST include: your name, address, telephone number, last four digits of your Social Security number, and the basis for your objection along with copies of any papers, briefs, or other documents upon which the objection is based.

(3) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.

(4) The written statement must be postmarked by 45 calendar days after the initial mailing of Class Notice.

If you fail to make an objection in the manner specified above, you shall be deemed to have waived any objections and shall be foreclosed from making any objection, whether by appeal or otherwise, to this settlement. The Settlement Administrator will send a copy of your objection to all Parties involved in the Lawsuit who will file all objections with the Court within 10 calendar days after the above postmark deadline to submit objections. If you submit an objection, you will be deemed to have opted in to the Settlement, and you will be bound by the Settlement and the FLSA Released Claims if it is finally approved.

10. Can I Attend the Final Approval Hearing?

You may, but are not required to, attend the Final Approval Hearing on [[Final Approval Hearing Date]] at [[Final Approval Hearing Time]] in Dept. __ of the Sacramento Superior Court, located at 720 9th Street Sacramento, CA 95814. At the hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount will be paid to the LWDA, Class Counsel, the Plaintiff, and the Settlement Administrator. The Court will invite comment from objectors, Class Counsel, and defense counsel before making a decision.

It is possible the Court will reschedule the Final Approval Hearing. Please review the Court's online docket or contact the Settlement Administrator or Class Counsel to verify the date and time of the Final Approval Hearing if you intend to appear.

11. How Can I Get More Information?

The Settlement Agreement sets forth everything NVI and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Settlement Agreement or any other Settlement documents is to go to the Court's website, access the Register of Actions, and search for the case using the case number at the top of this notice. You can also contact the Settlement Administrator (Phoenix Settlement Administrators, contact information above), or Class Counsel at the address below:

Class Counsel:
JAMES HAWKINS APLC
James Hawkins, Esq.
Gregory Mauro, Esq.
9880 Research Dr., Irvine, CA 92618
Office: (949) 387-7200
Fax: (949) 387-6676
www.jameshawkinsaplc.com

PLEASE DO NOT CONTACT THE COURT, CLERK OF THE COURT, JUDGE, THE COMPANY, OR NVI'S ATTORNEYS WITH INQUIRIES ABOUT THE SETTLEMENT.