PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Efren Lopez, on behalf of himself and alleged aggrieved employees ("Plaintiff") and Defendant The Fishel Company ("Fishel").[1] The Agreement refers to Plaintiff and Fishel collectively as "Parties," or individually as "Party."

1. **DEFINITIONS**.

1.1. "Action" means the Plaintiff's First Amended Complaint alleging wage and hour violations against Fishel captioned *Efren Lopez v. The Fishel Company* filed on May 22, 2023, Case No. 30-2023-01305726-CU-OE-CXC and pending in Superior Court of the State of California, County of Orange.

1.2. "Administrator" means ILYM, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with approval of this Settlement.

1.4. "Aggrieved Employee" means all current and former non-exempt employees whom Fishel employed in the State of California in the PAGA Period.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Fishel's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods where feasible (and hire and termination dates to calculate pay periods where pay period numbers are not provided).

1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. "Court" means the Superior Court of California, County of Orange.

1.8. "Defense Counsel" means P. Dustin Bodaghi of Littler Mendelson, P.C.

1.9. "Enhancement Award" shall mean any additional monetary payment provided to Plaintiff for his efforts and risks on behalf of the Aggrieved Employees in this Action.

[1] This Agreement replaces the prior settlement agreement signed by the Parties on or about April 25, 2024, which is hereby deemed null and void.

1.10. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.

1.11. "Gross Settlement Amount" means $200,000.00 which is the total amount Fishel agrees to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the Enhancement Award to Plaintiff, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.12. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the Net Settlement Amount calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.

1.13. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.14. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.15. "LWDA PAGA Payment" means the 75% of the Net Settlement Amount paid to the LWDA under Labor Code section 2699, subd. (i).

1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the Enhancement Award to Plaintiff, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA and the remaining twenty-five percent (25%) will be distributed to Aggrieved Employees as Individual PAGA Payments.

1.17. "Notice" means the form of notice that will be sent to each PAGA Member accompanying their Individual Settlement Payments, which shall be substantially in the form attached hereto as **Exhibit A**.

1.18. "PAGA Counsel" means Richard Kim of Law offices of Richard Kim PC, the attorneys representing the Plaintiff in the Action.

1.19. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.

1.20. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Fishel for at least one day during the PAGA Period.

1.21. "PAGA Period" means the period from January 20, 2022 to July 6, 2024..

1.22. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.23. "PAGA Notice" means Plaintiff's PAGA letter to Fishel and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.24. "Plaintiff" means Efren Lopez, the named plaintiff in the Action.

1.25. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

1.26. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.

1.27. "Released Parties" means: Fishel and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns subsidiaries and affiliates.

1.28. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.29. "Fishel" means named Defendant The Fishel Company.

2. **RECITALS.**

2.1. On January 20, 2023, Plaintiff submitted a letter to the Labor Workforce Development Agency ("LWDA") asserting various claims for penalties under PAGA against Defendant. On February 3, 2023, Plaintiff filed a class action complaint in Orange County Superior Court asserting the following causes of action: 1) Failure to Pay Minimum Wage; 2) Failure to Pay Overtime and Double Time Compensation; 3) Failure to Provide Meal Periods; 4) Failure to Provide Rest Periods; 5) Failure to Provide Accurate Itemized Wage Statements; 6) Waiting Time Penalties; 7) Failure to Reimburse for Work-Related Expenses; 8) Unfair Competition and Unlawful Business Practices; and 9) Failure to Furnish Payroll Records. On May 22, 2023, Plaintiff filed a First Amended Complaint alleging the same class action claims and adding a cause of action under the PAGA. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint."). Fishel denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged. On or about March 28, 2024, a Stipulation for Dismissal of the class claims was filed by Plaintiff.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Fishel and the LWDA by sending the PAGA Notice.

2.3. On February 14, 2024, the Parties participated in an all-day mediation presided over by Tripper Ortman, Esq., which led to this Agreement to settle the Action.

2.4. Prior to mediation and negotiating the Settlement, Plaintiff obtained, through informal discovery, available time and pay records of the Aggrieved Employees, and relevant employee policies.

2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Fishel promises to pay $200,000.00 and no more as the Gross Settlement Amount. Fishel has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Fishel.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33.33% which is currently estimated to be $66,666.67 and PAGA Counsel Litigation Expenses Payment of not more than $30,000. Fishel will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Fishel harmless, and indemnifies Fishel, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. Enhancement award to Plaintiff: Plaintiff may petition the Court to approve an Enhancement Award in an amount up to Five Thousand Dollars and No Cents ($5,000.00) for Plaintiff to acknowledge his efforts on behalf of the Aggrieved Employees in this Action, including assisting in the investigation and consulting with PAGA Counsel. Defendant shall not oppose any request by PAGA Counsel for an Enhancement Award in such an amount. Any Enhancement Award approved by the Court shall be paid to Plaintiff from the Gross Settlement Amount and shall be in addition to any distribution to which he may otherwise be entitled as an Aggrieved Employee. Any Enhancement Award approved by the Court shall not be considered wages, and the Administrator shall issue to Plaintiff an IRS Form 1099 reflecting such payment. Plaintiff shall be responsible for the payment of all taxes with respect to any Enhancement Award approved by the Court and shall hold Defendant harmless from all liability with regard thereto.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $10,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $10,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. Net Settlement Amount: Seventy-five percent (75%) of the Net Settlement Amount will be allocated to the LWDA PAGA Payment and 25% will be allocated to the Individual PAGA Payments.

The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of the Net Settlement Amount by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.1. . The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records, from January 20, 2022 to July 6, 2024, Fishel estimates there are 158 Aggrieved Employees who worked a total of 5,199 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 30 days, Fishel will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Fishel has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Fishel must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted

Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Fishel shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 14 days after Fishel funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Notice, the Administration Expenses Payment, the PAGA Counsel Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are retuned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate Fishel to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS**. Effective on the date when Fishel fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the PAGA Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads: A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or Released Party.

5.2 Release by Aggrieved Employees:

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice.

5.3 Release by PAGA Counsel:

PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. **MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved

Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

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

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM to serve as the Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

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

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury

Regulation section 468B-1.

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

7.5 Website: The Administrator will establish and maintain and use an internet website to post information of interest to Aggrieved Employees, including the operative Complaint, the Notice, and Final Order and Judgment for at least 90 days after approval.

8. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain continuing and exclusive jurisdiction over the Parties, Action, and the Settlement under California Code of Civil Procedure Section 664.6 and California Rule of Court rule 3.769(h) including for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

9. ADDITIONAL PROVISIONS.

10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Fishel that any of the allegations in the Operative Complaint have merit or that Fishel has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Fishel's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Fishel reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Fishel's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Fishel, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Fishel nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Fishel in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Fishel unless, prior to the Administrator's payment of all Settlement Funds, Fishel makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:

To Plaintiff:

Richard Kim
LAW OFFICES OF RICHARD KIM PC
6131 Orangethorpe Ave., Suite 370
Buena Park, CA 90620
rkim@richkimlaw.com

To Fishel:

P. Dustin Bodaghi
LITTLER MENDELSON, PC
18565 Jamboree Rd, Suite 800
Irvine, CA 92612
DBodaghi@littler.com

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

10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Date: ________, 2024

Date: Oct. 3, 2024

____

Plaintiff Efren Lopez

____

The Fishel Company

By:

Its: President

Ken Katz

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of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.17 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

Date: 10/02, 2024 Date: _________, 2024

02/10/24 Efren Lopez
Efren Lopez (Oct 2, 2024 14:08 PDT)

Plaintiff Efren Lopez

The Fishel Company

By:

Its:

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Exhibit A

Efren Lopez v. The Fishel Company
Orange County Superior Court Case No. 30-2023-01305726-CU-OE-CXC

NOTICE OF PRIVATE ATTORNEY GENERAL ACT ("PAGA") SETTLEMENT[1]

THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION FROM A LAWYER. PLEASE READ THIS NOTICE CAREFULLY. YOU ARE RECEIVING MONEY IN CONNECTION WITH A COURT-APPROVED SETTLEMENT. THIS NOTICE EXPLAINS WHY YOU ARE RECEIVING MONEY AND HOW IT AFFECTS YOUR RIGHTS.

TO: All current and former non-exempt employees of The Fishel Company who worked in the State of California from January 20, 2022 through July 6, 2024.

BASIC INFORMATION

1. What is this settlement about?

This Private Attorney General Act ("PAGA") representative action (the "Action") claims that Defendant The Fishel Company ("Fishel"): (1) failed to compensate employees at the minimum wage and the prevailing wage; (2) failed to timely pay wages at the appropriate rate of pay; (3) failed to provide meal periods; (4) failed to provide rest periods; (5) failed to provide employees adequate supply of potable water, soap, or other suitable cleansing agent and single use towels for hand washing; (6) failed to compensate for missed rest periods at the regular rate of pay; (7) failed to provide prompt payment of wages to employees upon termination and resignation; (8) failed to provide accurate itemized wage statements to employees; (9) failure to comply with payroll reporting requirements for public works projects; and (10) failed to reimburse for work-related expenses. Fishel denies all of the alleged violations and denies that it owes any penalties. The Court has not made a ruling on the merits of the case.

2. Why is this a representative action?

In a representative action, one or more persons called a Representative Plaintiff (in this case Efren Lopez) sues on behalf of certain current or former employees who appear to have similar claims. All such individuals are referred to as the "Aggrieved Employees." A court resolves the issues on behalf of all Aggrieved Employees.

3. Why is there a settlement?

The Court hearing this case did not decide in favor of the Representative Plaintiff or the Aggrieved Employees or Fishel. Instead, both sides agreed to a settlement. That way, they can avoid the

[1] Capitalized/defined terms herein that are not otherwise defined in this Notice can be found in the Private Attorneys General Act Settlement Agreement and Release on file with the Court.

cost of a trial and the Aggrieved Employees can receive compensation. The Representative Plaintiff and his lawyers think that the settlement is in the best interests of the Aggrieved Employees. Fishel denies that it engaged in any wrongdoing, but agreed to this settlement for various reasons, including to avoid the costs of protracted litigation.

WHO IS IN THE SETTLEMENT?

4. Why am I part of the settlement?

You are an Aggrieved Employee, and therefore part of the settlement, if you worked for Fishel as a non-exempt employee in the State of California any time between January 20, 2022 and July 6, 2024 (the "PAGA Period").

THE SETTLEMENT BENEFITS – WHAT YOU ARE RECEIVING AND WHY

5. What does the settlement provide and how was my payment calculated?

The settlement provides that Fishel will pay the total amount of $200,000.00, which is the Gross Settlement Amount.

The settlement primarily consists of a payment to California's Labor and Workforce Development Agency ("LWDA"), as required under PAGA statute, in the amount of seventy-five percent (75%) of the Net Settlement Amount, while the Aggrieved Employees (including you, if you meet the above definition) will receive twenty-five percent (25%) of the Net Settlement Amount, distributed pro rata based on number of pay periods worked as a non-exempt employee during the PAGA Period. That payment is currently estimated to be **[Amount]**. The Net Settlement Amount, out of which the payments to the LWDA and Aggrieved Employees will be paid, is what remains after the attorneys' fees and costs, enhancement payment to the Representative Plaintiff, and settlement administrator fees, are paid.

The settlement includes a payment to the Representative Plaintiff's attorneys for the services they have rendered and will render to the Aggrieved Employees in the Action in the amount of $66,666.67 in fees and an amount not to exceed $30,000 in costs.

The settlement also includes an enhancement payment in the amount of $5,000 to the Representative Plaintiff in recognition of his effort in obtaining the benefits of the settlement for the Aggrieved Employees and for his release of any and all claims he has or may have against Fishel.

The settlement includes a payment to the Settlement Administrator, ILYM, in an amount not to exceed $10,000.00 to issue this Notice and to administer the payment of the settlement funds.

Based on Fishel's records, it was determined that you worked [__] pay periods during the PAGA Period as a non-exempt hourly employee (defined as any pay periods during which you worked at least one (1) shift), and you are therefore entitled to receive [$_________] from this settlement. **Current Employees will not be retaliated against for cashing this check.**

6. What am I giving up to get a payment?

You are automatically part of the settlement, which means that you cannot sue, continue to sue, or be part of any other lawsuit against Fishel or the Released Parties ((a) Fishel; (b) each of Fishel's past, present and future direct and indirect parents; (c) the respective past, present and future direct and indirect subsidiaries and affiliates of any of the foregoing; (d) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors and assigns of any of the foregoing; and (e) any individual or entity which could be jointly liable with any of the foregoing) regarding the legal issues in this case. Specifically, it means that you are releasing all claims for civil penalties under PAGA arising from the same facts and/or claims alleged in the Action, or related to claims that were pled or that could have been pled based on the facts alleged in the Action, including but not limited to: California Labor Code sections 201, 202, 203, 204.3, 210, 226, 226.3, 226.7, 510, 511, 512, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, the California Industrial Commission Wage Orders, and California Code of Regulations Title 8, section 11050, 11000, *et seq*., and including all claims for civil penalties under PAGA related to alleged unpaid wages, overtime or double time wages, minimum wages, timely payment of wages during employment, timely payment of wages at separation, failure to provide employees an adequate supply of portable water/soap/otherwise suitable cleaning agent and single use towels for hand washing, prevailing wages, meal periods and meal period premiums, rest break and rest break premiums, off-the-clock work, wage statements, payroll records and recordkeeping, business expense reimbursement, interest, attorneys' fees, and costs arising therefrom, during the PAGA Period and through the date the Court grants approval of the Settlement and enters the Final Judgment in this Action. No non-PAGA individual California wage and hour claims are released by this settlement.

YOUR RIGHTS AND OPTIONS AND MORE INFORMATION

7. Can I exclude myself from this settlement?

No. According to settled California law, aggrieved employees do not have the right to opt-out or exclude themselves from PAGA settlements. Therefore, you do not have a statutory right to exclude yourself from the settlement.

8. How do I get more information?

This Notice is just a summary of the proposed settlement. A complete copy of the operative Complaint, this Notice, and the Court's order granting final approval of the Settlement and Judgment are available at www.ilymgroup.com. More details are in the Private Attorneys General Act Settlement Agreement and Release that the Court has reviewed and approved. You can get a copy of that document by contacting the Settlement Administrator or Plaintiff's Counsel.

Contacting the Settlement Administrator:

ILYM Group, Inc.
P.O. Box 2031
Tustin, California 92781
(888) 250-6810

Contacting Plaintiff's Counsel:

Richard Kim
Law Offices of Richard Kim PC
6131 Orangethorpe Ave., Suite 370
Buena Park, CA 90620
rkim@richkimlaw.com
Telephone: 714-276-1122

DO NOT ADDRESS ANY QUESTIONS ABOUT THIS SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.