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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN DIEGO**

JOHNATHAN SATELE, an individual, on  
behalf of himself and others similarly  
situated,

PLAINTIFF,

v.

KSARIA SERVICE CORPORATION; and  
DOES 1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 37-2023-00002198-CU-OE-CTL

[Case Assigned for All Purposes to Hon.  
Gregory W. Pollack in Dept. C-71]

**NOTICE OF MOTION AND MOTION FOR  
FINAL APPROVAL OF CLASS ACTION  
SETTLEMENT; MEMORANDUM OF  
POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

*[Filed concurrently with Motion for Approval  
of Attorneys' Fees and Costs; Declarations of  
Liane Katzenstein Ly, Johnathan Satele and  
Makenna Snow, Proposed Order, and  
Judgment]*

Date: January 17, 2023

Time: 9:30 AM

Dept.: C-71

Complaint Filed: January 17, 2023

FAC Filed: March 24, 2023

Trial Date: None Set

**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on January 17, 2025 at 9:30 AM in Department C-71 of the above-entitled court, Plaintiff Johnathan Satele (“Plaintiff”) will, and hereby does, move the Court for an Order of Final Approval of the Class Settlement in this case. Plaintiff moves the Court for an order:

1. Granting final approval of the settlement in the case pursuant to the Class Action and PAGA Settlement Agreement (“Agreement”), a copy of which is attached to the concurrently-filed Declaration of Liane Katzenstein Ly as Exhibit “1”;

2. Affirming Kingsley Szamet & Ly and Abramson Labor Group as Class Counsel;

3. Affirming Johnathan Satele as Class Representative and awarding an enhancement award of \$5,000.00;

4. Awarding ILYM Group, Inc. claims administration fees of \$10,000.00 for its services as Administrator; and,

5. Entering judgment.

This Motion will be made pursuant to Code of Civil Procedure section 382 and California Rule of Court, rule 3.769 on the grounds that the proposed Agreement is fair, adequate, reasonable, and in the best interest of the Class Members and the parties.

The Motion will be based on this Notice of Motion, the attached Memorandum of Points and Authorities, the Declarations of Liane Katzenstein Ly, Johnathan Satele, Makenna Snow, all other papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing on this Motion.

DATED: December 9, 2024

KINGSLEY SZAMET & LY

By: 

Liane Katzenstein Ly  
Attorneys for Plaintiff JOHNATHAN SATELE and  
the proposed class

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Johnathan Satele (“Plaintiff”) submits this Motion for Final Approval of Class  
4 Settlement and requests that the Court:

5 1. Grant final approval of the settlement in this case pursuant to the Class Action and  
6 PAGA Settlement Agreement (“Agreement”), a copy of which is attached to the concurrently-filed  
7 Declaration of Liane Katzenstein Ly as Exhibit “1”;

8 2. Award attorneys’ fees and costs as detailed in the concurrently-filed Motion for  
9 Attorneys’ Fees and Costs;

10 3. Award ILYM Group, Inc. claims administration fees of \$10,000.00 for its services  
11 as Administrator;

12 4. Affirm named Plaintiff Johnathan Satele as Class Representative and award a  
13 cumulative Class Representative payment of \$5,000.00; and

14 5. Enter judgment.

15 **II. FACTUAL BACKGROUND**

16 **A. Litigation Overview and Procedural History**

17 On January 17, 2023, Plaintiff filed a Class Action Complaint seeking recovery for: (1)  
18 failure to reimburse expenses pursuant to Labor Code §2802 and (2) violation of Business &  
19 Professions Code §17200. (Declaration of Liane Katzenstein Ly (“Ly Decl.”) ¶5.) Also on January  
20 17, 2023, Plaintiff sent a notice letter, pursuant to Labor Code §2699, et seq. (“PAGA”), to the  
21 Labor Workforce Development Agency (“LWDA”) regarding his intent to seek civil penalties for  
22 the violations above, under PAGA. (Ly Decl. ¶6.) Plaintiff also included a claim for a violation of  
23 Labor Code §432.5, arguing that the non-solicitation agreement signed by the aggrieved  
24 employees was illegal. (*Id.*)

25 On March 24, 2023, Plaintiff filed an amended Complaint adding an additional cause of  
26 action for penalties pursuant to PAGA. (Hereafter, the “Action”.) (Ly Decl. ¶7.)

27 **B. The Discovery Process**

28 The Parties have yet to engage in formal discovery, instead focusing their efforts on

1 resolving this case through early mediation. Defendant informally produced the necessary  
2 discovery for mediation. (Ly Decl. ¶8.)

3 Defendant denies any liability or wrongdoing of any kind associated with the claims  
4 alleged, disputes the damages and penalties claimed by Plaintiff, and further contends that, for any  
5 purpose other than settlement, Plaintiff's claims are not appropriate for class or representative  
6 action treatment. (Ly Decl. ¶9.) Defendant contends, among other things, that, at all times, it has  
7 complied with the California Labor Code, and the Industrial Wage Commission Orders. (*Id.*)

8 Based on their own independent investigation and evaluation, Class Counsel is of the  
9 opinion that the Agreement with Defendant is fair, reasonable and adequate, and in the best interest  
10 of the settlement classes in light of all known facts and circumstances, including the risk of  
11 significant delay, defenses asserted by Defendant, uncertainties regarding a class and  
12 representative action trial on the merits, and numerous potential appellate issues. (Ly Decl. ¶10.)  
13 Although Defendant denies any liability, Defendant is agreeing to this Agreement solely to avoid  
14 the cost of litigation. (*Id.*) Accordingly, the Parties and their counsel desire to fully, finally, and  
15 forever settle, compromise and discharge all disputes and claims arising from or relating to the  
16 Action on the terms set forth here. (*Id.*)

17 C. Preliminary Approval

18 On August 16, 2024, the Court issued an Order preliminarily approving the settlement in  
19 this case, approving the proposed Class Notice, ordering that the Administrator send notice to the  
20 Class, and setting a date for the Final Approval and Fairness Hearing. (Ly Decl. ¶11.)

21 **III. THE PRELIMINARILY APPROVED SETTLEMENT**

22 A. The Settlement Class

23 For purposes of Agreement, the settlement class is defined as: "means all individuals who  
24 have worked for Defendant in California as non-exempt employees during the Class Period,  
25 excluding those individuals who have entered agreements releasing the claims alleged by  
26 Plaintiff." ("Class"). (Ly Decl. ¶12; Agreement, Ex. 1 at ¶1.5.) The Class Period is from January  
27 17, 2019 through January 6, 2024. (Ly Decl. ¶13; Ex. 1 at ¶1.13.) As of September 27, 2023 (the  
28 date of mediation), and based on documents and other information produced by Defendant, there

are approximately 79 Class Members. (Ly Decl. ¶14.)

The final Class contained 83 individuals. (Snow Decl. ¶5.)

B. Aggrieved Employees

For purposes of Agreement, the Allegedly Aggrieved Employees are defined as: all individuals who worked for Defendant in California as non-exempt employees during the PAGA Period. (“Allegedly Aggrieved Employees”). (Ly Decl. ¶15; Agreement, Ex. 1 at ¶1.4.) The PAGA Period is from January 17, 2022 to through January 6, 2024. (Ly Decl. ¶16; Ex. 1 at ¶1.32.) As of September 27, 2023 (the date of mediation), and based on documents and other information produced by Defendant, there are approximately 55 aggrieved employees. (Ly Decl. ¶17.)

C. Settlement Payments

As detailed fully in the Agreement, the Settlement provides for Defendant to pay a Gross Settlement Amount of \$70,000.00, which includes the sum of the Individual Class Payments, the Class Representative service award, the Class Counsel Award (including fees and expenses), PAGA Payment (including Individual PAGA Payments and the LWDA PAGA Payment), and the Settlement Administration Costs. (Ly Decl. ¶18; Ex. 1 at ¶1.23.) The Net Settlement Amount is the Gross Settlement Amount, less Class Counsel Award (including fees and expenses), Class Representative Service Payment, PAGA Payment (including Individual PAGA Payments and the LWDA PAGA Payment), and Settlement Administration Costs. (Ly Decl. ¶19; Ex. 1 at ¶1.29.) Plaintiff now requests final approval of the allocation of the Gross Settlement Amount to determine the Net Settlement Amount for distribution to the Class as follows:

|                             |    |                                     |
|-----------------------------|----|-------------------------------------|
| Gross Settlement Amount:    | \$ | 70,000.00                           |
| Less Class Counsel’s Fees:  | \$ | 23,333.33                           |
| Less Class Counsel’s Costs: | \$ | 7,437.95 <sup>1</sup>               |
| Less Administrator Costs:   | \$ | 10,000.00                           |
| Less PAGA Payment:          | \$ | 7,500.00                            |
|                             |    | (\$5,625.00 to the LWDA; \$1,875.00 |

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<sup>1</sup> The Agreement provided for counsel to receive cost reimbursement up to \$10,000.00. However, counsel’s final costs come to \$7,437.95, which includes the anticipated cost of \$600 for filing the instant motion. (Ly Decl. ¶19, Ex.6). The extra \$2,562.05 will remain in the net settlement fund, causing the net distribution to the Class Members to be slightly higher than the \$14,166.67 contemplated in the settlement agreement (*Id.*, Ex. 1 §3, ¶3.2.2)

1 *to remain in the Net Settlement*  
2 *Amount)*  
3 Less Class Representative Enhancement: \$ 5,000.00  
4 **Net Settlement Amount:** \$ 16,728.72

5 D. Individual Settlement Payments

6 The Individual Class Payment amount of each Participating Class Member is an  
7 individualized amount that is calculated according to the number of Class Workweeks worked  
8 during the Class Period. (Ex. 1 at ¶1.24; see also Ex. A to the Agreement [Class Notice].)  
9 Specifically, Individual Class Payments will be paid from the Net Settlement Amount and shall be  
10 paid pursuant to the settlement formula as follows: a) dividing the Net Settlement Amount by the  
11 total number of Class Workweeks worked by all Participating Class Members during the Class  
12 Period and (b) multiplying the result by each Participating Class Member's Class Workweeks.  
(Ex. 1 at ¶3.2.4)

13 Each Participating Class Member's Individual Class Payment will be allocated to  
14 settlement of claims as ten percent (10%) for interest and ninety percent (90%) for restitution. (Ex.  
15 1 at ¶ 3.2.4.1.) The Individual Class Payments are not subject to wage withholdings. (Id.) The  
16 Agreement provides for a specific and detailed dispute process regarding Individual Class  
17 Payments. (See Ex. 1 at ¶7.6.)

18 The Individual PAGA Payment will be an equal payment to all Allegedly Aggrieved  
19 Employees calculated as follows: twenty-five percent (25%) of the PAGA Penalties (or \$1,875.00)  
20 calculated according to the number of PAGA Pay Periods worked during the PAGA Period. (See  
21 Ex. 1 at ¶1.25.)

22 Based on these calculations, the average potential recovery is \$218.88 per Class Member.  
23 (Snow Decl. ¶17.)

24 E. Class Notice

25 The Court approved the proposed Class Notice, and directed the mailing of the Notice by  
26 first-class mail to Class Members in accordance with the proposed implementation schedule. (Ly  
27 Decl. ¶20). The procedures for giving notice to the Class Members, as set forth in the Agreement  
28 and Plaintiffs' Motion for Preliminary Approval and approved by the Court, have been fully and

properly carried out. (Snow Decl. ¶8.)

To date, ILYM Group, Inc. received zero (0) request to be excluded (“opt-outs”) from the proposed Agreement and zero (0) objections. (Snow Decl. ¶¶12-13.)

F. Check Mailed Settlement – No Reversion

The Parties agreed to, and the Court preliminary approved, a checks-mailed settlement without the possibility of reversion of settlement funds to Defendant. Under the Agreement, every Class Member will receive a settlement check and Class Members do not need to submit a claim in order to receive a settlement check. Any funds that remain uncashed after the void date shall be turned over by the Administrator, with information for each Class Member who failed to timely cash his/her settlement check, to the State of California Controller’s Office Unclaimed Property Fund. (Ex. 1 at ¶4.43.)

**IV. THE COURT SHOULD ORDER FINAL APPROVAL OF THE SETTLEMENT**

Pursuant to California Code of Civil Procedure § 1781(f), “a class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the Class in such manner as the court directs . . . .” In deciding whether to grant final approval to a proposed class action settlement under Code of Civil Procedure § 382, the court’s overriding concern is whether the proposed settlement is “fair, adequate, and reasonable.” (*Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801.)

A. The Settlement is Entitled to a Presumption of Fairness

“A presumption of fairness exists where: (1) the settlement is reached through arm’s length bargaining; (2) investigation and discovery are sufficient to allow counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” (*Dunk, supra*, 48 Cal.App.4th at p. 1802.) The proposed Settlement in the present case meets all of the *Dunk* factors and is therefore entitled to a presumption of fairness.

As to the first *Dunk* factor, this settlement is the result of adversarial, non-collusive, and arm’s-length negotiations overseen by a mediator. All settlement discussions were made by experienced and informed counsel, who believe that this settlement represents a favorable resolution for the Class Members. (Ly Decl. ¶21.) The settlement negotiations have been, at all

1 times, adversarial and non-collusive, with the aid of a mediator, and no self-dealing or other type  
2 of misconduct by either side has taken place. (Ly Decl. ¶22.)

3 Second, the Parties engaged in informal discovery that permitted Class Counsel to fairly  
4 evaluate the strength of the case and the risks associated with ongoing litigation. Defendant  
5 produced data and documents informally for purposes of mediation. Receipt of appropriate  
6 discovery allowed Class Counsel to fairly evaluate the exposure and risks associated with each  
7 claim alleged in the lawsuit. (Ly Decl. ¶23.)

8 Third, Class Counsel have significant experience in cases of this type, including several  
9 years prosecuting wage, hour, and working condition violations. (Ly Decl. ¶24.) Class Counsel is  
10 thus qualified to evaluate the class claims and viability of the defenses. Class Counsel believes that  
11 the settlement is fair, reasonable, adequate, and in the best interests of the class and that the average  
12 recovery for each Class Member of over \$218.88 is substantial, given the risks inherent in litigation  
13 and the defenses asserted. (Ly Decl. ¶25.)

14 Finally, the fourth *Dunk* factor considers the percentage of objectors. Here, there were zero  
15 (0) request to be excluded and no objectors. (Snow Decl. ¶¶12-13.) As all of the *Dunk* factors are  
16 satisfied, this settlement is entitled to a presumption of fairness.

17 B. The Court Should Approve This Class Action Settlement Because it Satisfies Each  
18 of the *Kullar* Factors

19 The case of *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128, set forth  
20 several factors that the Court should analyze in determining whether to approve a class action  
21 settlement. These factors include: (1) the strength of plaintiff's case; (2) the risk, expense,  
22 complexity and likely duration of further litigation; (3) the risk of maintaining class action status  
23 through trial; (4) the amount offered in settlement; (5) the extent of discovery completed and stage  
24 of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental  
25 participant; and (8) the reaction of the class members to the proposed settlement.

26 In *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010) 186 Cal. App. 4th 399,  
27 409, the court clarified that a *Kullar* showing does not require the parties to submit the outer  
28 reaches of maximum possible recovery without taking into account the actual risks of certification,

1 decertification, dispositive motions, and trial, so long as there is a record which allows “an  
2 understanding of the amount that is in controversy and the realistic range of outcomes of the  
3 litigation.” *Munoz*, 186 Cal. App. 4th at 409.

4 The proposed settlement satisfies each of these factors. (Ly Decl. ¶26.) Class Counsel  
5 conducted extensive informal discovery before entering into meaningful settlement negotiations  
6 in this matter. (*Id* at Ly Decl. ¶¶7-9.) This discovery permitted Class Counsel to fairly evaluate the  
7 strength of the case and the risks associated with ongoing litigation. (Ly Decl. ¶28.) Class Counsel  
8 is experienced in handling wage and hour class actions and, after weighing all of the following  
9 factors, supports this Agreement. (Ly Decl. ¶29.)

10 1. The Strength of Plaintiffs’ Case

11 a) Defendant Failed to Reimburse Necessary Business Expenses

12 Labor Code section 2802 provides that an employer must “indemnify his or her employee  
13 for all necessary expenditures or losses incurred by the employee in direct consequence of the  
14 discharge of his or her duties . . . .” (Lab. Code, § 2802, subd. (a).) Plaintiff brings a class claim  
15 on behalf of the Proposed Class for Defendant’s failure to reimburse necessary business  
16 expenses, as well as a representative action claim on behalf of the State of California under  
17 PAGA.

18 Here, Plaintiff alleges that Defendant failed to reimburse Plaintiff and the Proposed Class  
19 for the cost of using their personal cell phones that were not provided by Defendant but were  
20 necessary for the performance of Plaintiff and the Proposed Class’s job duties. (Ly Decl. ¶39.)  
21 Plaintiff contends that Defendant required Plaintiff and all Proposed Class members to use their  
22 own cellphones to perform and complete their job duties, including communicating with  
23 supervisors and coworkers. (Ly Decl. ¶40.) These cell phones were not provided by Defendant  
24 and it is Plaintiff’s position that Defendant failed to reimburse Plaintiff and the Proposed Class  
25 for the costs of regular and consistent cellular phone usage despite the fact that these  
26 expenditures were necessary for business related purposes. (Ly Decl. ¶41.)

27 b) Defendant Violated Labor Code Section 432.5

28 Labor Code §432.5 provides that no employer shall require any employee to agree, in

1 writing, to any term or condition which is known by the employer to be prohibited by law. PAGA  
2 permits Plaintiff and the Aggrieved Employees to collect civil penalties on behalf of the State of  
3 California for this violation.

4 Here, Plaintiff alleges that Defendant requires, as a condition of employment, that Plaintiff  
5 and other aggrieved employees sign a “Nondisclosure, Inventions and Noncompetition  
6 Agreement” which includes an unlawful noncompete provision:

7 Employees agree that when they are employed by the Company and for  
8 18 months after their employment terminates for any reason, employees  
9 will not, directly or indirectly, solicit or endeavor to entice away from  
10 the Company, or otherwise interfere with the business relationship of  
11 the Company with any person who is, or was within the prior year,  
12 employed by or working for the Company.

13 (Ly Decl. ¶33.)

14 Provisions of Defendant’s Agreement, as described above, explicitly violate several  
15 provisions of California law and public policy. (See Cal. Bus. & Prof. Code, § 16600 “[E]very  
16 contract by which anyone is restrained from engaging in a lawful profession, trade, or business of  
17 any kind is to that extent void.”]; *Edwards v. Arthur Andersen LLP* (2008) 44 Cal.4th 937, 945  
18 [discussing that noncompete agreements are generally void in California]; *D’sa v. Playhut, Inc.*  
19 (2000) 85 Cal.App.4th 927, 933 [“...there exists a clear legislative declaration of public policy  
20 against covenants not to compete.”].)

21 Plaintiff and the aggrieved employees were required to agree to an unlawful non-compete  
22 provision. (Ly Decl. ¶34.) As such, Defendant has violated Labor Code §432.5 with respect to  
23 Plaintiff and all aggrieved employees, and liable for penalties under PAGA.

24 c) Defendant is Liable for Penalties Pursuant to PAGA

25 PAGA’s statutory penalties are available for violations of Labor Code section 2802, as  
26 stated in Labor Code §2699.5. Labor Code section 2699(f) provides, in relevant part, “[f]or all  
27 provisions of this code except those for which a civil penalty is specifically provided, there is  
28 established a civil penalty for a violation of these provisions, as follows: one hundred dollars  
(\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars  
(\$200) for each aggrieved employee per pay period for each subsequent violation.” In addition,  
the statute provides that “[a]ny employee who prevails in any action shall be entitled to an award

of reasonable attorney’s fees and costs.” (Labor Code § 2699(g)(1).)

As each penalty corresponds to an independent Labor Code violation, the penalties are aggregated consistent with PAGA’s purpose. (See *Gonzalez v. CoreCivic of Tennessee, LLC* (E.D. Cal., Sept. 13, 2018, No. 116CV01891DADJLT) 2018 WL 4388425, at \*8 [PAGA penalties may be “stacked” when multiple violations are at issue, and “there is no obvious reason to use ‘unstacked’ calculations to estimate the value of the case” when determining whether to approve a PAGA settlement.].) As such, Defendant is liable for penalties for each Labor Code violation per pay period.

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

There is significant expense associated with the class certification process, which the Parties can avoid by entering into the contemplated Agreement now. (Ly Decl. ¶35.) If the Court did eventually certify a reimbursement class, trial of a case involving approximately 79 Class Members would require the retention of expensive expert witnesses, the accrual of extensive litigation costs, and a significant time overlay by the parties. (Ly Decl. ¶36.) Moreover, given the complexity and unsettled nature of the issues in this case it is likely that any outcome at trial would have resulted in a lengthy and costly appeal. (Ly Decl. ¶37.) An appeal would result in further delay for the Class Members who are waiting for a resolution in this matter. (*Id.*)

3. The Risk of Maintaining Class Action Status through Trial

This case has not been certified to be tried as a class action. (Ly Decl. ¶38.) While Plaintiff believes there is strong evidence to support certification, certification is always hard fought and subject to judicial discretion. Moreover, in class actions, decertification is always a possibility. (*Id.*) In attempting to certify a class, the parties would need to conduct depositions, including of the Class Representative and of several person(s) most knowledgeable regarding Defendant’s reimbursement policies. (*Id.*) There is a risk for both sides as to what these depositions will reveal and whether they will support class certification to the extent expected. (*Id.*)

4. The Amount Offered in Settlement

It was very difficult for the Parties to reach this Settlement of \$70,000.00. (Ly Decl. ¶39.) This Settlement is the result of adversarial, non-collusive, and arms-length negotiations. (Ly Decl.

¶40.) The Parties arrived at it after extensive investigation and discovery, careful evaluation of the law, risks, and all information substantiating the amount of penalties reasonably likely to be awarded to the class were the trier of fact to find Defendant liable, and the assistance of an experienced mediator, Kevin T. Barnes, Esq. (*Id.*)

a) Plaintiff's Assessment of Defendant's Maximum Exposure

With regard to the Reimbursement Claim analysis, Plaintiff believed that it was reasonable to value the potential reimbursement at \$15 per month, per employee, for reimbursement of personal cell phone usage. There are approximately 1,647 months in the Class Period. If each Class Member is owed \$15 a month for reimbursement, the full value of this claim is \$24,705.00. (Ly Decl. ¶41.)

There are 55 aggrieved employees and 1,398 pay periods in the PAGA Period. The Labor Code §432.5 claim is assessed as one pay period per aggrieved employee. (Ly Decl. ¶42.) As such, the value of this claim is \$5,500.00 (55 aggrieved employees multiplied by \$100). (*Id.*) The Labor Code §2802 claim is valued at approximately \$32,300.00. (Ly Decl. ¶43.) This is based on 323 months in the PAGA Period (323 multiplied by \$100). As such, with stacking, the full value of the PAGA claim is \$37,800.00. (Ly Decl. ¶44.) The main risk taken into account with PAGA is the discretionary nature of the penalty award. (Ly Decl. ¶45.) A judge can award the statutory maximum of \$100 for the initial violation and \$200 thereafter or – in theory – one cent per wage statement. (Ly Decl. ¶46.) While there is a dearth of available authority, in Plaintiff's view, were he to succeed on any of the underlying Labor Code violations, it is not likely that a Judge would also award a large amount of penalties of top of any damages recovered. (Ly Decl. ¶47.)

Per Plaintiff's assessment, the maximum potential value of all of Plaintiff's and the Class Members' claims was approximately \$62,505. (Ly Decl. ¶48.) As a result of the forgoing risks on the merits, Class Counsel believes the Gross Settlement Amount of \$70,000.00 is fair and reasonable. (Ly Decl. ¶49.)

5. The Extent of Discovery Completed and Stage of the proceedings

As outlined above, Class Counsel conducted a thorough investigation into the facts of the claims alleged. (Ly Decl. ¶50.) The agreement to settle did not occur until Class Counsel

1 exchanged and possessed sufficient information to make an informed judgement regarding the  
2 likelihood of success on the merits and the results that could be obtained through further litigation.  
3 (*Id.*)

4 6. The Experience and Views of Counsel

5 Kingsley Szamet & Ly is very experienced in prosecuting employment litigation, and the  
6 firm has focused its practice since 2000 on wage, hour, and working condition violations. (Ly  
7 Decl. ¶¶51-53.) The firm is well versed in class action litigation and has diligently and aggressively  
8 pursued this action. (*Ibid.*) Kingsley Szamet & Ly currently serves as Class Counsel for dozens  
9 of pending class action lawsuits in Northern, Central, and Southern California. (*Ibid.*) A list of  
10 representative cases that Kingsley Szamet & Ly has handled is included in the accompanying  
11 declaration of Liane Katzenstein Ly. (Ly Decl. ¶¶51-52.) After factoring in the risks explained  
12 above, Class Counsel believes that the proposed settlement is fair and reasonable. (Ly Decl. ¶53.)

13 7. The Presence of a Governmental Participant

14 There is no governmental participant in this action. (Ly Decl. ¶54.)

15 8. The Proposed Plan of Allocation Is Fair and Reasonable

16 Plans of allocation are subject to the same standard of review as class action settlements;  
17 they must be “fair, adequate and reasonable.” (See, e.g., *Officers for Justice v. Civil Service*  
18 *Comm’n* (9<sup>th</sup> Cir. 1982) 688 F.2d 615, 624–625, 629–630.) Here, the proposed plan of allocation  
19 compensates Class Members pro rata based on the share of the Net Settlement Amount calculated  
20 according to the number of Class Workweeks worked during the Class Period. (Ly Decl. ¶55.) The  
21 lump sum payment to each member of the Class not excluding himself will be determined by  
22 dividing the Net Settlement Amount by the total number of Class Workweeks worked by all  
23 Participating Class Members during the Class Period and (b) multiplying the result by each  
24 Participating Class Member’s Class Workweeks. This allocation distributes Settlement funds  
25 proportionally to each class member’s damages, and should therefore be approved as fair,  
26 adequate, and reasonable. (Ex. 1 at ¶3.2.4.)

27 9. The Reaction of the Class Members to the Proposed Settlement

28 To date, there are zero (0) request to be excluded from the proposed Agreement and zero

(0) objections. (Snow Decl. ¶¶12-13.) Such indicates that the reaction of Class Members on the whole is positive and weighs in favor of approval.

## **V. ENHANCEMENT TO PLAINTIFF**

Plaintiff's Counsel request an enhancement of \$5,000.00 to the Class Representative Johnathan Satele for his work on behalf of the Class. (Ly Decl. ¶94.) "Courts routinely approve incentive awards to compensate named plaintiffs for the services they provide and the risks they incurred during the course of the class action litigation." *Ingram v. The Coca-Cola Company*, 200 F.R.D. 685, 694 (N.D. Ga 2001) (internal quotations and citations omitted); *see also Van Vranken v. Atlantic Richfield Co.*, 901 F. Supp. 294, 299 (N.D. Cal. 1995). In *Coca-Cola*, the Court approved service awards of \$300,000 to each named plaintiff in recognition of the services they provided to the class by responding to discovery, participating in the mediation process, and taking the risk of stepping forward on behalf of the class. *Coca-Cola*, 200 F.R.D. at 694; *see also, e.g. Van Vranken*, 901 F. Supp. at 299 (approving \$50,000 participation award to plaintiffs); *Glass v. UBS Financial Services, Inc.*, Case No. C-06-4068 MMC, 2007 WL 227862, at \*17 (N.D. Cal. Jan. 26, 2007) (approving \$25,00 enhancement to each named plaintiff).

Mr. Satele is an adequate class representative because he has diligently, adequately and fairly represented the Class and has not placed his interests above any member of the Class. (*see* Declaration of Johnathan Satele ("Satele Decl.") ¶¶6-12.)

Here, Class Counsel requests an enhancement for Mr. Satele's valiant effort and time expended in this matter. The time spent by Plaintiff is significant and includes researching and retaining competent counsel; providing information to Class Counsel regarding the nature of the work at Defendant; compiling relevant documents; working closely with Class Counsel to develop the theories of liability and material relevant evidence; regularly discussing the status of the case with Class Counsel; discussing the case via telephone with many Class Members; providing informal discovery responses; attending a full-day of mediation; and responding promptly to Class Counsel's communications regarding settlement. (Ly Decl. ¶95; Satele Decl. ¶¶6-9.) As set forth in the Agreement, Plaintiff will also be entering into a general release of liability pursuant to Civil Code Section 1542. (Ly Decl. ¶96; Ex. 1 at ¶5.1.1.)

1 Class Counsel considers this to be a fair and reasonable enhancement. (Ly Decl. ¶97.) The  
2 enhancement takes into consideration the time, effort, and expense incurred by Mr. Satele in  
3 coming forward to litigate this matter on behalf of all Class Members. (Ly Decl. ¶98.)  
4 Additionally, the Class Representative was at risk for paying for Defendant’s legal fees and costs  
5 in the event that Defendant prevailed at trial. (Ly Decl. ¶99.)

6 **VI. SUBMISSION TO THE LABOR AND WORKFORCE DEVELOPMENT AGENCY**

7 As indicated on the Proof of Service, Plaintiff’s Motion for Final Approval of Class Action  
8 Settlement (“Motion”) will be concurrently uploaded to the Labor and Workforce Development  
9 Agency’s (“LWDA”) website on the date this Motion is filed as required by statute. Proof of  
10 submission of Plaintiff’s Motion, all related documents, and copy of the email from the LWDA  
11 confirming receipt is attached to the Declaration of Liane Katzenstein Ly as Exhibit “6.” (Ly Decl.  
12 ¶104.)

13 **VII. CONCLUSION**

14 Plaintiff respectfully submits that the proposed Agreement is fair, adequate, reasonable,  
15 and in the best interest of the Class Members. Therefore, Plaintiff respectfully requests that the  
16 Court (1) grant Final Approval of the Agreement and all of its terms; (2) award attorneys’ fees and  
17 costs in the amount detailed in the concurrently filed Motion for Attorneys’ Fees and Costs; (3)  
18 award ILYM Group, Inc. claims administration fees of \$10,000.00; and (4) award the Class  
19 Representative an enhancement of \$5,000.00; and (5) enter judgment.

20  
21 DATED: December 9, 2024

KINGSLEY SZAMET & LY

22  
23 By: 

24 Liane Katzenstein Ly  
25 Attorneys for Plaintiff JOHNATHAN SATELE and  
26 the proposed class  
27  
28

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On December 9, 2024, I served all interested parties in this action the following documents described as: **NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

EPSTEIN BECKER & GREEN, P.C.  
Chelsea Hadaway  
Emily T. Patajo  
1925 Century Park East, Suite 500  
Los Angeles, CA 90067-2506  
CHadaway@ebglaw.com  
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Attorneys for Defendant

ABRAMSON LABOR GROUP  
Willian Zev Abramson  
wza@abramsonlabor.com  
11846 Ventura Blvd., Suite 100  
Studio City, CA 91604

Attorneys for Plaintiff

**[XX] BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

**[XX] BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

**[XX] (STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 9, 2024, at Woodland Hills, California.

  
\_\_\_\_\_  
Michelle Tanzer