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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

CARLA OLSON individually and on behalf of all others similarly situated, Plaintiff, v. YERBAE, LLC, a Delaware limited liability company; and DOES 1 to 100, inclusive Defendants.	CASE NO. 25CU002722C Complaint Filed: January 16, 2025 CLASS ACTION **DECLARATION OF JAMES M. TREGLIO IN SUPPORT OF PLAINTIFF'S MOTION FOR ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT** Judge: Hon. Wendy M. Behan Hearing Date: April 23, 2027 Time: 10:15 A.M. Dept: C-66

DECLARATION OF JAMES M. TREGLIO

INTRODUCTION

1. I am an attorney at law duly authorized to practice law in the State of California. I am over 18 years of age. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to them.

2. I am the lead attorney of the class action division for the law firm of Potter Handy, LLP, ("PH," "Co-Class Counsel" or "Plaintiffs' Counsel"), attorney of record, for Plaintiff Carla Olson

("Plaintiff") and the proposed settlement class (the "Class") in the above-captioned matter. I have no knowledge of the existence of any conflicting interests between my firm or any of its attorneys, on the one hand, and Plaintiff or any other Class Member, on the other.

3. After engaging in productive settlement discussions at a full-day mediation, Plaintiff and Defendant Yerbae, LLC ("Defendant") entered into a Class Action Settlement Agreement (the "Settlement Agreement"). The Settlement Agreement seeks to release and discharge Defendant from the claims brought against it in the matters of *Olson v. Yerbae, LLC, et al.* In exchange, Defendant will pay the Settlement Fund ("SF") of $75,000.00. The Net Settlement Amount available for Class Members is approximately $24,750.00 (after deductions for attorneys' fees, litigation costs, settlement administration costs, Plaintiff's Service Enhancement Award, and the PAGA Penalties). A true and correct copy of the Settlement Agreement is attached hereto as **Exhibit 1**. The Notice of Class Action Settlement ("Class Notice") is attached as **Exhibit A** to the Settlement Agreement. As shown further below, the settlement is fair and reasonable to the Class based on the strength of the claims and Defendants' potential defenses, as well other comparable settlements for on-duty meal and rest breaks that have received the approval of federal courts in California.

ATTORNEY EXPERIENCE

4. I was admitted to the California Bar in 2003. I received my Bachelor of Arts degree in Government from College of William & Mary in 1998 and my Juris Doctor degree from the University of San Diego in 2003. From 2003 through 2006, I was the staff attorney for the Fair Housing Council of San Diego, where I specialized in housing discrimination enforcement. In 2007, I joined the law firm of Clark & Markham, LLP, where I specialized in consumer and wage and hour class actions, which has comprised my practice of law ever since. In 2012, the law firm of Clark & Markham, LLP into the Clark Law Firm and the Markham Law Firm. I stayed with the Clark Law Firm, and in 2015, the firm became Clark & Treglio after I was made partner. By 2013, my work with the Clark Law Firm, Clark & Markham, LLP, and Clark & Treglio resulted in nearly 5% of all recoveries made by the LWDA up to that point.

5. In 2017, I joined Keegan & Baker, LLP, which was also a class action firm. Whereas my work at Clark & Markham, LLP and the Clark Law Firm was primarily focused on wage and hour class

actions, my work at Keegan & Baker, LLP involved more consumer actions, including data breach class actions, and actions brought under the Fair Credit Reporting Act.

6. In 2018, I left Keegan & Baker, LLP and joined the Melmed Law Group, P.C. The Melmed Law Group, P.C., is an employment law firm with a focus on class and PAGA representative actions.

7. In 2019, I joined my current firm, Potter Handy, LLP, to become head of its new class action division. In that capacity, I litigate both consumer and employment class actions throughout the State of California.

8. Since 2007, I have specialized in complex wage and hour and consumer class action litigation. I have been involved in every stage of class action litigation as both a lead counsel, the lead and primary associate, and as co-counsel. A summary of my experience, including representative class action litigation is attached hereto at **Exhibit 2**.

9. In connection with these prior class actions, I have conducted discovery, argued motions, drafted pleadings, drafted class notices, drafted appellate briefs, examined witnesses, represented class members at settlement conferences and mediations, deposed defendants and third-party witnesses, defended class representative depositions and participated in final disposition hearings. I have also tried PAGA representative actions.

<u>FACTUAL AND PROCEDURAL HISTORY</u>

10. The attorneys I supervise, and I, have performed substantial work and diligently investigated and prosecuted this case to a successful conclusion. Our work resulted in the creation of a significant settlement fund for the benefit of the Class. We avoided protracted litigation by conducting considerable investigation before filing suit related to the released class claims and efficiently communicated and exchanged information with Defense counsel such that the parties could successfully settle the case after informal discovery and a full-day mediation. Because of the risks involved in litigating the case, particularly the contested legal and factual issues, Plaintiff's Counsel believe this settlement to be fair, reasonable, and adequate.

11. I took the lead role in litigating this case, in discovery and resolving this case.

12. From Plaintiff's investigation and analysis of information gathered both before and after

initiating this claim, including information provided by the Defendant through informal discovery and conversation with Plaintiff, Class Counsel learned the following information:

13. Yerbae, LLC, a Delaware-registered limited liability company headquartered in Scottsdale, Arizona, is a company that manufactures naturally caffeinated energy drinks and seltzers. It contracts with brand ambassadors, such as the Plaintiff, to sell Yerbae products in different retail locations. It operates in different cities throughout the State of California.

14. Plaintiff Carla Olson began her employment with Defendants in or about December 2022, when she, like the other Class Members, was hired as a brand ambassador, in which she, and the other Class Members were tasked to sell Yerbae products in various retail locations. Plaintiff was assigned to work at the Costco branch in Carmel Valley. Plaintiff was to be paid $30.00 per hour.

15. As brand ambassadors for Defendants, Plaintiff and the Class Members are required to comply with terms of service and provide Services to Yerbae Customers and must adhere to standards of conduct. If Plaintiff and the Class Members fail to comply with these standards of conduct, Plaintiff and the Class Members' contracts with Defendants can and will be terminated. Plaintiff and the Class Members were provided with information regarding their assignments by Defendants.

16. When Plaintiff started her employment with Defendants, she, like the other Class Members, was asked to sign an agreement with Defendants, stating that she was an independent contractor of Defendants and paid a fee for Services performed for Defendants' Customers. To perform her duties, Plaintiff used and paid for her own phone and data expenses.

17. As a consequence of being misclassified as independent contractors, Plaintiff and the Class Members were also not provided with legally compliant rest and meal periods. While there were times when Plaintiff and the Class Members were allowed to take their meal and rest periods, these were often interrupted or cut short because there was no one to relieve them from their duties or they were asked to run errands.

18. Defendants also required Plaintiff and the Class Members to purchase items that were needed to sell Yerbae products. For instance, Plaintiff was assigned to work in a Costco branch that did not sell ice. Defendants then required Plaintiff and the Class Members to buy ice from other stores using their own money during their rest or meal periods. Defendants never reimbursed Plaintiff and the Class

Members for these expenses.

19. When Plaintiff got sick after working for two days, Defendants removed Plaintiff from the group text thread. Plaintiff was not informed by Defendants if she was still working for the company and when she can expect to be paid for the days that she worked. Instead, Plaintiff was taken off jobs that were already assigned to her and were sent assignments which were unavailable and were too far from Plaintiff's residence. Defendants only paid Plaintiff two to three weeks after she was removed from the group text thread and after she was taken off jobs previously assigned to her. Defendants have yet to provide Plaintiff with her paystub despite repeated requests from Plaintiff.

20. On March 10, 2023, Plaintiff filed her PAGA Notice with the Labor Workforce Development Agency ("LWDA"), paid the $75 filing fee, and sent notice to Defendants setting forth the facts and theories of the violations supporting their allegations.

21. On January 16, 2025, Plaintiff filed her complaint before the Superior Court for the County of San Diego. The Complaint alleges causes of action for (1) misclassification of Plaintiff and the Class as independent contractors; (2) failure to pay Plaintiff and her fellow employees in California for all hours worked; (3) failure to provide Plaintiff and the Class legally compliant meal periods; (4) failure to provide Plaintiff and the Class legally compliant rest periods; (5) failure to pay all wages owed in a timely manner; (6) failure to provide complete wage statements to Plaintiff and her fellow employees within the four years prior to the filing of this Complaint; (7) failure to pay all wages due to former employees based on the foregoing; (8) failure to reimburse business expenses; (9) PAGA and other penalties based on the foregoing; and (10) unfair business practices based on the foregoing.

22. The parties agreed to engage in an informal exchange of documents and data to facilitate a productive mediation. Consequently, Defendant produced certain employment and payroll-related documents.

23. On December 15, 2025, the Parties participated in an all-day mediation presided over by Anthony F. Pantoni, Esq. which led to settle this Action.

24. The Parties were able to execute the long form Settlement Agreement now before the Court for preliminary approval.

Plaintiffs' Allegations and Estimated Damages

25. In the Complaint, Plaintiff alleged Defendant was liable for class wide damages and PAGA penalties as a result of Defendants' violations of the California Labor Code pertaining to wages, overtime, minimum wage, off-the-clock work, meal periods, and rest periods.

26. Plaintiff's estimated damages are based on the following facts and figures discussed below.

27. Based on the foregoing, Plaintiff estimated Defendant's maximum liability for on-duty rest periods as follows:

Labor Code § 226.7 provides "an employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission ("IWC"). Under IWC Wage Order 4-2001 an employer must authorize and permit all employees to take ten (10) minute duty free rest periods for every major fraction of four (4) hours worked. *See Augustus v. ABM Security Services, Inc.* (2016) 2 Cal. 5th 257, 269 (concluding that "during rest periods employers must relieve employees of all duties and relinquish control over how employees spend their time."). In *Augustus*, the court expressly rejected the employer's assertion that it could provide an on-duty rest period to employees who worked as security guards and further explained "that employers [must] relinquish any control over how employees spend their break time and relieve their employees of all duties." *Id.* at 273.

California Labor Code Section 226.7 requires an employer to pay an additional hour of compensation for each rest period the employer fails to provide in accordance with the applicable Industrial Welfare Commission Wage Order.

535 workdays x 1 hour x $30.00 per hour = $16,050.00

28. Based on the foregoing, Plaintiff estimated Defendant's maximum liability for on-duty meal periods as follows:

Labor Code § 512 requires employers to provide employees with thirty (30) minute uninterrupted and duty-free meal period within the first five hours of work. Moreover, an employee who works more than ten (10) hours per day is entitled to receive a second thirty (30) minute uninterrupted and duty-free meal period. "An on-duty meal period is permitted only when the nature of the work prevents an employee from being relieved of all duty and the parties agree in writing to an on-duty paid meal break." (*Lubin v. The Wackenhut Corp.* (2016) 5 Cal. App. 5^{th} 926, 932.) The written agreement must include a provision allowing the employee to revoke it at any time. *Id.*

California Labor Code Section 226.7 requires an employer to pay an additional hour of compensation for each meal period the employer fails to provide in accordance with the applicable statute or Industrial Welfare Commission Wage Order.

535 days x 1 hour x $30.00 per hour = $16,050.00

29. Based on Plaintiff's experience and Defendants' compensation practices, Plaintiff conservatively estimates that Brand Ambassadors incurred approximately $25.00 per workweek in unreimbursed, necessary business expenses. Defendant's produced records reflect that Brand Ambassadors worked a total of 535 workdays in 2023. Assuming a five-day workweek, this equates to approximately 107 employee-workweeks (535 workdays divided by 5 workdays/week). Accordingly, Defendants' estimated exposure for unreimbursed business expenses for 2023 is calculated as follows:

107 employee-workweeks x $25.00 per employee-workweek = $2,675.00

In addition, as a direct result of Defendants' misclassification of Plaintiff and the Class as independent contractors, Brand Ambassadors were required to pay the employer's share of payroll taxes that Defendants were legally obligated to pay. Had Brand Ambassadors been properly classified as employees, Defendants would have been responsible for the employer portion of taxes. Instead, Defendants issued Forms 1099, forcing Brand Ambassadors to pay these employer-side taxes.

Based on Defendants' representations that approximately ten Brand Ambassadors worked in 2022 and conservatively estimating that those workers performed approximately 100 workdays (roughly one-fifth of work performed in 2023), Plaintiff estimates a total of 635 workdays during 2022-2023. Assuming an eight-hour workday at $13.00 per hour, total compensation during this period was approximately $66,040.00. Applying a conservative 7% employer payroll tax rate, Defendants' unreimbursed payroll tax exposure is estimated to = $4,622.80.

30. Based on the foregoing, Plaintiff estimated Defendant's maximum liability for waiting time penalties as follows:

As a result of Defendants' failure to pay the Class for meal/rest period premiums, Defendants violated Labor Code § 203. Labor Code § 203 provides "if an employer willfully fails to pay . . . any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty. . .” for up to 30 days. Lab. Code § 203; Mamika v. Barca, (1998) 68 Cal.App.4th 487, 492.

Defendants have failed to pay all the Class for rest period premiums, and meal period premiums, whose sums were certain, at the time of termination or within seventy-two (72) hours of their resignation and have failed to pay those sums for thirty (30) days thereafter.

As noted above, there are approximately 52 Class Members. Therefore, the waiting time penalties, calculated at 30 days of pay at the regular rate, are calculated as follows:

52 Class Members x $30.00 per hour regular rate of pay x 8 hours per day x 30 days =

$374,400.00

31. Based on the foregoing, Plaintiff estimated Defendant’s maximum liability for inaccurate itemized wage statements as follows:

Labor Code Section 226 requires an employer to furnish its employees with an accurate itemized wage statement in writing, showing among other things, (1) gross wages earned, (2) total hours worked by each respective individual, (3) all deductions, (4) net wages earned and/or (5) all applicable hourly rates in effect during each respective pay period and the corresponding number of hours worked at each hourly rate by each respective individual.

Pursuant to Labor Code Section 226(e), Plaintiffs and the other current and former employees of Defendants are entitled to recover the greater of all actual damages or fifty dollars ($50) for the initial pay period in which a violation occurs and one hundred dollars ($100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars ($4,000), and are entitled to an award of costs and reasonable attorneys’ fees.

Defendants paid Brand Ambassadors on a bi-weekly basis, resulting in approximately 26 pay periods in 2023. Labor Code § 226(e) authorizes penalties for $50 for the initial pay period and $100 for each subsequent pay period, subject to an aggregate cap of $4,000 per employee. Based on 26 pay periods, the maximum recoverable wage statement penalty per employee for 2023 is therefore:

$50 (initial violation) + (25 x $100) (subsequent violations) = $2,550 per employee

As noted above, Defendants employed approximately 52 Class Members in 2023. Accordingly, Defendants’ estimated wage statement exposure for 2023 is calculated as follows:

52 Class Members x $2,550 per employee = $132,600.00.

32. Based on the information provided by Defendant, Plaintiff estimated PAGA penalties under Labor Code § 2699 as follows:

Based on Defendants' informal discovery responses and produced payroll information, Brand Ambassadors were paid on a bi-weekly basis, resulting in approximately 26 pay periods in 2023. Defendants employed approximately 52 aggrieved employees during that period.

Under California Labor Code § 2699(f) Defendant is subject to a civil penalty of $100 per pay period penalty for each employee for each initial violation of the aforementioned labor code violations, and $200 for each subsequent pay period where the violation occurred. Pursuant to *Amaral v. Cintas Cor*p. No. 2, 163 Cal. App. 4th 1157, 1209 (2008), "[u]ntil the employer has been notified that it is violating a Labor Code provision (whether or not the Commissioner or court chooses to impose penalties), the employer cannot be presumed to be aware that its continuing underpayment of employees is a "violation" subject to penalties. However, after the employer has learned its conduct violates the Labor Code, the employer is on notice that any future violations will be punished just the same as violations that are willful or intentional - i.e., they will be punished at twice the rate of penalties that could have been imposed or that were imposed for the initial violation."

Accordingly, Defendants estimated PAGA exposure for 2023 only is calculated as follows:

Initial Pay Period:

52 aggrieved employees x $100.00 = $5,200.00

Subsequent Pay Periods (25):

52 aggrieved employees x 25 pay periods x $200.00 = $260,000.00

Total Estimated PAGA Penalties (2023 only) = $265,200.00

Wage Statement Defense

33. Defendants can rely on a recent California Court of Appeal case, *Maldonado, et al. v. Epsilon Plastics, Inc.*, 22 Cal.App.5th 1308, 1334-37, 2018 Cal.App. LEXIS 413, *46-52 (April 18, 2018) where the Court reversed their award for penalties for inaccurate wage statements because the Court found that inaccurate wage statements alone based on derivative Labor Code violations do not justify penalties; the plaintiff must establish injury from the inaccuracy and independent inaccuracies

different from underpayments or derivative claims. Therefore, Plaintiffs assessed an 80% discount on their claims for inaccurate wage statements. Thus $132,600* 20% = $26,520 remaining.

Risk of Prevailing on the Merits

34. Even if Plaintiff successfully obtained certification, it was not a foregone conclusion that Plaintiff would prevail on the merits, and decertification also remained a possibility. In another recent case involving claims where punch data somewhat unusually existed for the rest periods at issue—which does not exist here—a federal jury found in favor of the defendant against 37,208 employees on a claim for failure to provide lawful rest periods despite the fact that the defendant's policy was facially invalid because it "only provides one ten-minute break for employees working between six and seven hours." *See In re Taco Bell Wage & Hour Actions* No. 1:07-cv-01314-SAB) 2016 U.S. Dist. LEXIS 32690, at *4-5 (E.D. Cal. Mar. 14, 2016); *In re Taco Bell Wage & Hour Actions*, No. 1:07cv1314 LJO DLB, 2012 U.S. Dist. LEXIS 168219, at *12 (E.D. Cal. Nov. 26, 2012). Therefore, Plaintiff assessed a 25% discount on the risk of losing on the merits. Defendant could argue, for instance, that on-premises breaks were not necessarily on-duty breaks.

Discounts on the PAGA Penalties

35. Under Labor Code section 2699(e)(2) a court may award a lesser amount than the maximum civil penalty specified under PAGA, if based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary, and oppressive or confiscatory. Courts often exercise their discretion to reduce the amount of PAGA penalties to as little as $5.00 per pay period or 18% of the available PAGA penalties.[1] Additionally, the Labor Commissioner has specifically stated that the main purpose for assessing PAGA penalties by the Labor and Workforce Development Agency is to enforce California's Labor Code and obtain compliance. Specifically, with regard to assessing the adequacy of settlements, the penalty amounts are resigned to "promote PAGA's compliance and deterrence goals." Amicus Curiae Brief submitted by the State Labor Commissioner, *Price v. Uber Technologies*, June 16, 2017. Therefore, Plaintiff assessed a 50% discount on the

[1] *See e.g., Kileigh Carrington v. Starbucks Corporation, et al.*, San Diego Superior Court Case No. 37-2014-00018637-CU-OE-CTL (Apr. 3, 2017) holding that the plaintiff was only entitled to collect the reduced penalty amount of $5.00 for each pay period in which a meal period violation occurred or 5% of the PAGA penalties at issue); *Fleming v. Covidien, Inc.* (C.D. Cal. Aug. 12, 2011) 2011 WL 7563047, at *4 (reducing PAGA penalties by 82%).

maximum liability for PAGA penalties due to the discretionary nature of PAGA penalties.

Defendants' Realistic, Risk-Adjusted Exposure

36. Therefore, considering Defendants' maximum damages as calculated and applying the discounts, Defendants' realistic exposure is as follows:

a. Defendants' maximum liability for on-duty rest and meal periods: $32,100
b. Defendants' maximum liability for unreimbursed expenses: $2,675
c. Defendants' maximum liability for waiting time penalties: $374,400
d. Defendants' liability for inaccurate itemized wage statements: $132,600* 80% discount for *Maldonado* = $26,520
e. $32,100+ $2,675+ $374,400+$26,520 = $435,695
f. $265,200 PAGA penalties * 50% discount for discretionary nature = $132,600
g. Because PAGA penalties are not subject to the same risks and discounts as the other claims the $132,600 is added on top of the realistic recovery of the other claims, $435,695 + $132,600 = **$568,295** (without attorneys' fees)

37. Therefore, the Settlement Fund obtained represents **13.2%** ($75,000/ $568,295 = 13.3%) of Defendant's realistic exposure on Plaintiff's claims and reasonable compromise of the claims.

FAIRNESS AND ADEQUACY OF THE PROPOSED SETTLEMENT

38. As described further below, I believe that the Settlement Amount is reasonable given the risk, expense, complexity, and likely duration of litigation. The Net Settlement Amount shall be divided up and paid automatically to Participating Class Members (no claim form is required) based on the pro rata number of Workdays that each Class Member worked during the Class Period divided by the total number of Workdays worked by all Participating Class Members during the Class Period. The formula relies upon objective evidence of each Class Member's employment history, which Class Members can easily review and confirm for themselves and challenge in the event they disagree with the pre-printed data. This information is readily available from Defendants' records, and the Settlement Administrator can apply the formula in a fair and transparent manner.

39. The Settlement is fair and reasonable and was negotiated at arm's length between counsel. Counsel for both parties were thoroughly familiar with the complex legal and factual questions

at issue in this litigation. The Settlement is a product of intensive negotiations, supported by investigation and direct exchanges of information through formal and informal discovery, and during the course of settlement negotiations, including a full-day mediation.

40. Another factor supporting the reasonableness and adequacy of the overall settlement amount is that settlement payments will be made much sooner than could possibly have been the case if the case were litigated through the class certification stage, much less through trial, before it is resolved. The advantage to Class Members of avoiding delay in payment justifies accepting a lower percentage of the maximum realistically likely recovery through an early settlement.

41. Given my experience as a wage and hour litigator, and based on my own investigation and evaluation, I believe the proposed Settlement addresses all the allegations of violations of California state law by Defendant and provides adequate monetary relief to Plaintiff and Class Members. The estimated 52 Class Members will enjoy substantial monetary relief from the settlement. If the Court approves this settlement, the estimated average recovery for each Class Member will be approximately $475.96 on a net basis.[2] In my experience, this amount is substantial for class members in a class action involving on duty meal and rest breaks.

42. Whereas proceeding with litigation would impose significant risk of no recovery as well as ongoing, substantial additional expenditures of time and resources, the settlement confers a benefit on Plaintiff and Class Members. If settlement were not achieved, continued litigation of the claims would take substantial time and possibly confer no benefit on Class Members. By contrast, the settlement will yield a prompt, certain, and substantial recovery for Class Members, which also benefits the parties and the Court. Counsel on both sides share the view that this is a fair and reasonable settlement in light of the complexities of the case, Given the risks inherent in litigation and the defenses asserted, this settlement is fair, adequate, and reasonable and in the best interests of Class Members and should be preliminarily approved.

FAIRNESS OF THE PROPOSED SERVICE AWARDS

43. The proposed Service Enhancement Award of $5,000.00 to the Plaintiff is fair and reasonable. Plaintiff was instrumental in prosecuting this lawsuit and was an important source of

[2] Net Settlement Amount of $24,750 / 52 Settlement Class Members = $475.96.

information during the course of litigation this. Moreover, Plaintiff has no interests antagonistic to the interests of the Class.

44. Plaintiff provided invaluable assistance to Class Counsel and the Class in this case, including providing factual background for the proposed mediation and the Class Complaint; participating in phone calls to discuss litigation and settlement strategy; and reviewing the settlement documents. Plaintiff was also available during the duration of the all-day mediation which demonstrated her commitment to the Class. Plaintiff agreed to participate in this case with no guarantee of personal benefit. Further, Plaintiff agreed to undertake the financial risk of serving as Class Representative and exposed herself to the risk of negative publicity by anyone who opposed this case. Moreover, the requested $5,000.00 Service Enhancement Award for the Plaintiff falls within the range of incentive payments typically awarded to Class Representative in similar class actions.

45. The Settlement Class would have received no benefit had it not been for the contribution of Plaintiff. Moreover, Plaintiff faced and accepted the significant risk in bringing this litigation—namely, that had she lost, Plaintiff could have been ordered to pay Defendant's costs. In contrast to the more limited class release, Plaintiff also agreed to more robust general releases of all her claims.

46. I believe the requested Service Enhancement Award of $5,000.00 for the Plaintiff is reasonable and well within precedent for Preliminary and Final Approval.

ATTORNEYS' FEES AND COSTS

47. Through my practice, I have gained significant experience regarding the obligations and burdens of representing a class. This knowledge has allowed me and my firm, Potter Handy LLP, to successfully represent plaintiffs in many class actions in the past years. As noted, numerous state and federal courts in California have found that my firm is competent and capable of representing large classes similar to the one here at issue.

48. Under the terms of the Settlement Agreement, Class Counsel is requesting $24,750 in attorneys' fees. This amount is equal to 33% of the SF agreed upon by the parties as the Settlement Amount. This fee amount is fair, reasonable and consistent with awards obtained in similar class action cases preliminary approved by courts in California. Moreover, if it becomes necessary to litigate this matter further, my firm has the financial resources and is prepared to devote whatever time and effort is

required to zealously advocate on behalf of Plaintiff and the Class. Significantly, the Retainer Agreement in this case provides fees up to 33% of the amount obtained.

49. Class Counsel Litigation Expenses Payment of up to $10,000.00 is also reasonable, as will be discussed again in detail in Plaintiff's Motion for Final Approval.

50. If the Court grants preliminary approval to the settlement here and authorizes the dissemination of the Class Notice, Plaintiff's Counsel will file a request for attorneys' fees and costs with his motion for final approval that will be heard the same date as the final fairness hearing. Our firm will need to expend additional hours and will incur additional costs preparing and filing the motion for final approval and the motion for attorneys' fees and reimbursement of litigation costs, coordinating with the settlement administrator, and answering calls and questions from Class Members.

<u>SETTLEMENT ADMINISTRATOR</u>

51. The Settlement Agreement states that ILYM Group, Inc. will be responsible for administration of the Settlement and related matters, and that it be appointed by the Court to administer the Settlement. ILYM Group, Inc. has extensive experience in the settlement administration of wage and hour class actions like this one, having administered many class action settlements, and Class counsel has retained them for the settlement administration of other cases. Other than professional relationship arising out of those prior engagements, neither I, nor, to my knowledge, Plaintiff has any interest in or relationship, financial or otherwise, with ILYM Group, Inc.

52. Contemporaneously with the filing of Plaintiff's Motion for Preliminary Approval, my office submitted the proposed Settlement, Operative Complaint, and the PAGA Notice to the Labor and Workforce Development Agency through the LWDA's online PAGA portal, as required by Labor Code section 2699, subdivision (I)(2), and paragraph 6.2 of the Settlement Agreement. A summary of my experience, including representative class action litigation is attached hereto at **Exhibit 3.**

53. Neither I, my firm, nor Plaintiff is aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on this August 12, 2026 in San Diego, California.

By: ___/s/ James M. Treglio____

James M. Treglio, Esq.