

1 DAVID G. SPIVAK (SBN 179684)
david@spivaklaw.com

2 LAUREN R. DAVIS (SBN 294115)
lauren@spivaklaw.com

3 THE SPIVAK LAW FIRM

4 8605 Santa Monica Bl

PMB 42554

5 West Hollywood, CA 90069

Telephone: (213) 725-9094

6 Facsimile: (213) 634-2485

7 Attorneys for Plaintiff(s),
8 HEATHER RODRIGUEZ, and all others similarly situated
(Additional attorneys for parties on following page)

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **FOR THE COUNTY OF VENTURA**

11 **(UNLIMITED JURISDICTION)**

12
13 HEATHER RODRIGUEZ, on behalf of herself
14 and all others similarly situated, and as an
15 “aggrieved employee” on behalf of other
“aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18
19 SCJM2, LLC, a California limited liability
company; and DOES 1–50, inclusive,

20 *Defendant(s).*
21

Case No. 2023CUOE008247

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Action filed: April 27, 2023

Dept: 42, The Honorable Henry J.
Walsh

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ADDITIONAL ATTORNEYS FOR PLAINTIFF(S)

WALTER L. HAINES (SBN 71075)
walter@uelglaw.com
UNITED EMPLOYEES LAW GROUP
8605 Santa Monica Bl.
PMB 63354
West Hollywood, CA 90069
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

Attorneys for Plaintiff(s),
HEATHER RODRIGUEZ, and all others similarly situated

ATTORNEYS FOR DEFENDANT(S)

IAN B. WIELAND (SBN 285721)
ian@sw2law.com
DAVID G. LITMAN (SBN285768)
david@sw2law.com
SAGASER, WATKINS & WIELAND PC
5260 N. Palm Ave.
Ste. 400
Fresno CA 93704
Telephone: (559) 421-7000 Work
Facsimile: (559) 473-1483

Attorneys for Defendant(s),
SCJM2, LLC

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Heather Rodriguez (“Plaintiff”) and defendant SCJM2, LLC (“SCJM2, LLC”).
3 The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as
4 “Party.”

5 **1. DEFINITIONS.**

6 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
7 SCJM2, LLC captioned “Heather Rodriguez, on behalf of herself, and all others similarly situated,
8 and as an ‘aggrieved employee’ on behalf of other ‘aggrieved employees’ under the Labor Code
9 Private Attorneys General Act of 2004, *Plaintiff(s)*, vs. SCJM2, LLC, a California limited liability
10 company; and DOES 1 through 50, inclusive, *Defendant(s)*,” Case No. 2023CUOE008247
11 initiated on April 27, 2023 and pending in Superior Court of the State of California, County of
12 Ventura, and Case No. 2023CUOE012116 initiated on July 31, 2023, and pending in Superior
13 Court of the State of California, County of Ventura.

14 1.2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have
15 agreed to appoint to administer the Settlement.

16 1.3. “Administration Expenses Payment” means the amount the Administrator will be
17 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
18 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection
19 with Preliminary Approval of the Settlement.

20 1.4. “Aggrieved Employee” means a person employed by Defendant in California and
21 classified as a hourly, non-exempt who worked for Defendant during the PAGA Period.

22 1.5. “Class” means All hourly, non-exempt employees of Defendant in California
23 during the Class Period.

24 1.6. “Class Counsel” means David Glenn Spivak of The Spivak Law Firm and Walter
25 L. Haines of United Employees Law Group.

26 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
27 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees (of
28 not more than 33.33% of the Gross Settlement Amount) and expenses (not more than \$17,500.00),
respectively, incurred to prosecute the Action.

1.8. “Class Data” means Class Member identifying information in Defendant’s

possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Work Weeks and PAGA Pay Periods.

1.9. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-Participating Class Member who qualifies as an Aggrieved Employee).

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member 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 Class Members.

1.11. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12. "Class Period" means the period from April 28, 2019 to the date of preliminary approval of this class action settlement.

1.13. "Class Representative" means the named Plaintiff in the operative complaints in the Action seeking Court approval to serve as a Class Representative.

1.14. "Class Representative Service Payment" means the payment of not more than \$10,000.00 to the Class Representative for initiating the Action and providing services in support of the Action.

1.15. "Court" means the Superior Court of California, County of Ventura.

1.16. "Defendant" means named Defendant SCJM2, LLC.

1.17. "Defense Counsel" means Ian B. Wieland and David G. Litman of Sagaser, Watkins & Wieland PC.

1.18. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21. “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement. A proposed Final Judgment form is attached as Exhibit F.

1.22. “Gross Settlement Amount” means \$275,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator’s Expenses.

1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Work Weeks worked during the Class Period.

1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Work Weeks worked during the PAGA Period.

1.25. “Judgment” means the judgment entered by the Court based upon the Final Approval.

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

1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.29. “Non-Participating Class Member” means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.30. “Notice Packet” means the Class Notice (Exhibit A), the Election Not to

1 Participate in Settlement form (Exhibit B), the Work Week Dispute form (Exhibit C), and the
2 Objection form (Exhibit D) in English with Spanish translations.

3 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
4 worked for Defendant for at least one day during the PAGA Period.

5 1.32. “PAGA Period” means the period from April 27, 2022 to the date of preliminary
6 approval of this class action settlement.

7 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

8 1.34. “PAGA Notice” means Plaintiff’s April 27, 2023 letter to Defendant and the
9 LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

10 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from
11 the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$2,500.00) and the
12 75% to LWDA (\$7,500.00) in settlement of PAGA claims.

13 1.36. “Participating Class Member” means a Class Member who does not submit a valid
14 and timely Request for Exclusion from the Settlement.

15 1.37. “Plaintiff” means Heather Rodriguez, the named plaintiff in the Action.

16 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval
17 of the Settlement.

18 1.39. “Preliminary Approval Order” means the proposed Order Granting Preliminary
19 Approval and Approval of PAGA Settlement. A proposed Preliminary Approval Order form is
20 attached as Exhibit E.

21 1.40. “Released Class Claims” means the claims being released as described in
22 Paragraph 6.2 below.

23 1.41. “Released PAGA Claims” means the claims being released as described in
24 Paragraph 6.3 below.

25 1.42. “Released Parties” means: Defendant and each of its officers, directors, employees
26 and agents.

27 1.43. “Request for Exclusion” means a Class Member’s submission of a written request
28 to be excluded from the Class Settlement signed by the Class Member. An Election Not to
Participate in Settlement form is attached as Exhibit B.

1.44. “Response Deadline” means 60 days after the Administrator mails Notice to Class
Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a)

1 fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or
2 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having
3 been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond
4 the Response Deadline has expired.

5 1.45. “Settlement” means the disposition of the Action effected by this Agreement and
6 the Judgment.

7 1.46. “Workweek” means any week during which a Class Member worked for
8 Defendant for at least one day, during the Class Period.

9 1.47. A Work Week Dispute form is attached as Exhibit C.

10 **2. RECITALS.**

11 2.1. On April 27, 2023, Plaintiff commenced this Action by filing a Complaint
12 alleging causes of action against Defendant for failure to pay wages, unauthorized and unlawful
13 wage deductions, failure to provide meal periods, failure to authorize and permit rest periods,
14 failure to indemnify for business expenses, failure to issue proper wage statements, failure to
15 timely pay wages, failure to maintain required payroll records, and related claims. On July 31,
16 2023, Plaintiff filed a First Amended Complaint alleging causes of action against Defendant for
17 failure to pay wages, unauthorized and unlawful wage deductions, failure to provide meal periods,
18 failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to
19 issue proper wage statements, failure to timely pay wages, failure to maintain required payroll
20 records, and related allegations. The First Amended Complaint is the operative complaint in the
21 Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative
22 Complaint, denies any failure to comply with the laws identified in in the Operative Complaint
23 and denies any and all liability for the causes of action alleged.

24 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written
25 notice to Defendant and the LWDA by sending the PAGA Notice.

26 2.3. On June 11, 2024, the Parties participated in an all-day mediation presided over
27 by Mr. Scott Radovich which led to this Agreement to settle the Action.

28 2.4. Prior to negotiating the Settlement, Plaintiff obtained, through informal
discovery, the number of comparable employees, the number of workweeks, the number of pay
periods, average rates of pay, sample time records, sample payroll records, sample schedules,

1 written policies, financial records, and related information. Plaintiff's investigation was sufficient
2 to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48
3 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-
4 130 ("*Dunk/Kullar*").

5 2.5. The Court has not granted class certification.

6 2.6. Other than *Josephine Pascua v. SCJM2, LLC*, et al., San Diego Superior Court
7 Case No. 37-2024-00025089-CU-OE-NC, the Parties, Class Counsel and Defense Counsel
8 represent that they are not aware of any other pending matter or action asserting claims that will
9 be extinguished or affected by the Settlement.

10 **3. MONETARY TERMS.**

11 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
12 Defendant promises to pay \$275,000.00 and no more as the Gross Settlement Amount and to
13 separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual
14 Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll
15 taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Gross Settlement
16 Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA
17 PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service
18 Payment and the Administrator's Expenses. None of the Gross Settlement Amount will revert to
19 Defendant.

20 3.2. Payments from the Gross Settlement Amount. The Administrator will make and
21 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
22 the Court in the Final Approval:

23 3.2.1. To Plaintiff: Class Representative Service Payment to the Class
24 Representative of not more than \$10,000.00 (in addition to any Individual Class Payment and any
25 Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class
26 Member). Defendant will not oppose Plaintiff's request for a Class Representative Service
27 Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment
28 and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
Representative Service Payments no later than 16 court days prior to the Final Approval Hearing.
If the Court approves a Class Representative Service Payment less than the amount requested, the

1 Administrator will retain the remainder in the Net Settlement Amount. The Administrator will
2 pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full
3 responsibility and liability for employee taxes owed on the Class Representative Service Payment.

4 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than
5 33.33%, which is currently estimated to be \$91,666.67 and a Class Counsel Litigation Expenses
6 Payment of not more than \$17,500.00. Defendant will not oppose requests for these payments
7 provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for
8 Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days
9 prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or
10 a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator
11 will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability
12 to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class
13 Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator
14 will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more
15 IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the
16 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds
17 Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any
18 division or sharing of any of these Payments.

19 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
20 \$17,000.00 except for a showing of good cause and as approved by the Court. To the extent the
21 Administration Expenses are less or the Court approves payment less than \$17,000.00, the
22 Administrator will retain the remainder in the Net Settlement Amount.

23 3.2.4. To Each Participating Class Member: An Individual Class Payment
24 calculated by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
25 by all Participating Class Members during the Class Period and (b) multiplying the result by each
26 Participating Class Member's Work Weeks.

27 3.2.4.1. Tax Allocation of Individual Class Payments. 10.00% of
28 each Participating Class Member's Individual Class Payment will be allocated to settlement of
wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be
reported on an IRS W-2 Form. The 90.00% of each Participating Class Member's Individual
Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage

1 Portion”). The Non-Wage Portions are not subject to wage withholdings and will be reported on
2 IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any
3 employee taxes owed on their Individual Class Payment.

4 3.2.4.2. Effect of Non-Participating Class Members on Calculation
5 of Individual Class Payments. Non-Participating Class Members will not receive any Individual
6 Class Payments. The Administrator will retain amounts equal to their Individual Class Payments
7 in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

8 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the
9 amount of \$10,000.00 to be paid from the Gross Settlement Amount, with 75% (\$7,500.00)
10 allocated to the LWDA PAGA Payment and 25% (\$2,500.00) allocated to the Individual PAGA
11 Payments.

12 3.2.5.1. The Administrator will calculate each Individual PAGA Payment
13 by (a) dividing the amount of the Aggrieved Employees’ 25% share of PAGA Penalties \$2,500.00
14 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the
15 PAGA Period and (b) multiplying the result by each Aggrieved Employee’s PAGA Period Pay
16 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their
17 Individual PAGA Payment.

18 3.2.5.2. If the Court approves PAGA Penalties of less than the amount
19 requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
20 Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

21 **4. SETTLEMENT FUNDING AND PAYMENTS.**

22 4.1. Class Work Weeks and Aggrieved Employee Pay Periods. Based on a review of
23 its records to date, Defendant estimates there are 1,225 Class Members who collectively worked
24 a total of 79,402 Work Weeks, and 788 of Aggrieved Employees who worked a total 26,219 of
25 PAGA Pay Periods.

26 4.2. Class Data. Not later than 21 days after the Court grants Preliminary Approval
27 of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a
28 Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the Administrator must
maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement
and for no other purpose, and restrict access to the Class Data to Administrator employees who

1 need access to the Class Data to effect and perform under this Agreement. Defendant has a
2 continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted
3 class member identifying information and to provide corrected or updated Class Data as soon as
4 reasonably feasible. Without any extension of the deadline by which Defendant must send the
5 Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
6 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class
Data.

7 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross
8 Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll
9 taxes by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

10 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant
11 funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
12 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
13 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
14 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
15 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
16 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
Payments.

17 4.4.1. The Administrator will issue checks for the Individual Class Payments
18 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail,
19 postage prepaid. The face of each check shall prominently state the date (not less than 180 days
20 after the date of mailing) when the check will be voided. The Administrator will cancel all checks
21 not cashed by the void date. The Administrator will send checks for Individual Settlement
22 Payments to all Participating Class Members (including those for whom Notice Packet was
23 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
24 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
25 Employees (including those for whom Notice Packet was returned undelivered). The
26 Administrator may send Participating Class Members a single check combining the Individual
Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator
must update the recipients' mailing addresses using the National Change of Address Database.

27 4.4.2. The Administrator must conduct a Class Member Address Search for all

1 other Class Members whose checks are returned undelivered without USPS forwarding address.
2 Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS
3 forwarding address provided or to an address ascertained through the Class Member Address
4 Search. The Administrator need not take further steps to deliver checks to Class Members whose
5 re-mailed checks are returned as undelivered. The Administrator shall promptly send a
6 replacement check to any Class Member whose original check was lost or misplaced, requested
by the Class Member prior to the void date.

7 4.4.3. For any Class Member whose Individual Class Payment check or
8 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
9 shall transmit the funds represented by such checks to the Boys and Girls Club of Carlsbad thereby
10 leaving no “unpaid residue” subject to the requirements of California Code of Civil Procedure
11 Section 384, subd. (b). If the Court does not approve the Boys and Girls Club of Carlsbad, the
12 Administrator shall transmit the funds represented by such checks to the State of California
13 Unclaimed Property Fund in the name of the Class Members concerned thereby leaving no
14 “unpaid residue” subject to the requirements of California Code of Civil Procedure Section 384,
subd. (b).

15 4.4.4. The payment of Individual Class Payments and Individual PAGA
16 Payments shall not obligate Defendant to confer any additional benefits or make any additional
17 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
this Agreement.

18 **5. [OMITTED]**

19 **6. RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire
20 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the
21 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
22 against all Released Parties as follows:

23 6.1 Plaintiff’s Release. Plaintiff and her respective former and present spouses,
24 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
25 and discharge Released Parties from all claims, transactions, or occurrences that occurred during
26 the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have
27 been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims
that were, or reasonably could have been, alleged based on facts contained in the Operative

1 Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.3,
2 below. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to
3 enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability
4 benefits, social security benefits, workers' compensation benefits that arose at any time, or based
5 on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts
6 or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be
7 true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects,
8 notwithstanding such different or additional facts or Plaintiff's discovery of them.

9 6.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. In
10 addition to the releases set forth herein, Plaintiff agrees to a general release with a waiver of any
11 and all individual claims she has or may have against Defendant under California Civil Code
12 Section 1542. For purposes of Plaintiff's General Release, Plaintiff expressly waives and
13 relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil
14 Code, which reads:

15 **A general release does not extend to claims that the creditor or releasing party does**
16 **not know or suspect to exist in his or her favor at the time of executing the release,**
17 **and that if known by him or her would have materially affected his or her settlement**
18 **with the debtor or Released Party.**

19 6.2 Release by Participating Class Members Who Are Not Aggrieved Employees:
20 All Participating Class Members, on behalf of themselves and their respective former and present
21 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
22 Parties from all claims stated in the Operative Complaint and those based solely upon the facts
23 alleged in the Operative Complaint. Except as set forth in Section 6.3 of this Agreement,
24 Participating Class Members do not release any other claims, including individual claims for
25 vested benefits, wrongful termination, violation of the Fair Employment and Housing Act¹,
26 unemployment insurance, disability, social security, workers' compensation, or claims based on

27 ¹ Plaintiff, on her own behalf, and pursuant to her California Civil Code Section 1542 release, releases all individual
28 claims against Defendant, including, but not limited to any claims that could be brought under the Fair Employment
and Housing Act.

1 facts occurring outside the Class Period.

2 6.3 Release of PAGA Claim. Plaintiff releases all claims for civil penalties that
3 could have been sought by the Labor Commissioner for the violations identified in Plaintiff's
4 pre-filing letter to the LWDA; Plaintiff does not release the claim for wages or damages of any
5 Aggrieved Employee unless such Aggrieved Employee is a Participating Class Member.

6 **7. MOTION FOR PRELIMINARY APPROVAL.** Plaintiff's counsel will prepare (subject to
7 Defense Counsel's approval) and file a motion for preliminary approval ("Motion for Preliminary
8 Approval") that complies with the Court's current checklist for Preliminary Approvals. A
9 Preliminary Approval Order form is attached as Exhibit E.

10 7.1 Defendant's Declaration in Support of Preliminary Approval. Within ten (10)
11 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel
12 a signed Declaration from Defendant and Defense Counsel disclosing all facts relevant to any
13 actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. Said
14 Declarations shall be signed and delivered to Class Counsel. In their
15 Declarations, Defense Counsel and Defendant shall aver that they are not aware of any other
16 pending matter or action asserting claims that will be extinguished or adversely affected by the
17 Settlement, other than the *Pascua* matter described above.

18 7.2 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel
19 all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
20 and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
21 of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under
22 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval
23 and Approval of PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration
24 from the Administrator attaching its "not to exceed" bid for administering the Settlement and
25 attesting to its willingness to serve; competency; operative procedures for protecting the security
26 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
27 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
28 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,

1 and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its
2 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
3 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
4 Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699,
5 subd. (1)(2)); (vi) a redlined version of the parties' Agreement showing all modifications made to
6 the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or
7 potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient.
8 In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware
9 of any other pending matter or action asserting claims that will be extinguished or adversely
10 affected by the Settlement, other than the *Pascua* matter described above.

11 7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
12 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval after the
13 full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
14 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval.
15 Class Counsel is responsible for delivering the Court's Preliminary Approval to the
16 Administrator.

17 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
18 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
19 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
20 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
21 Preliminary Approval or conditions Preliminary Approval on any material change to this
22 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
23 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
24 otherwise satisfy the Court's concerns.

25 **8. SETTLEMENT ADMINISTRATION.**

26 8.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc.
27 to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc.
28 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

1 other than a professional relationship arising out of prior experiences administering settlements.

2 8.2 Employer Identification Number. The Administrator shall have and use its own
3 Employer Identification Number for purposes of calculating payroll tax withholdings and
4 providing reports state and federal tax authorities.

5 8.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund
6 that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury
7 Regulation section 468B-1.

8 8.4 Notice to Class Members.

9 8.4.1 No later than five (5) business days after receipt of the Class Data, the
10 Administrator shall notify Class Counsel that the list has been received and state the number of
11 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.

12 8.4.2 Using best efforts to perform as soon as possible, and in no event later than
13 14 days after receiving the Class Data, the Administrator will send to all Class Members identified
14 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet
15 with Spanish translation, if applicable substantially in the forms attached to this Agreement as
16 **Exhibits A, B, C, and D**. The first page of the Class Notice shall prominently estimate the dollar
17 amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class
18 Member, and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate
19 these amounts. Before mailing Notice Packets, the Administrator shall update Class Member
20 addresses using the National Change of Address database.

21 8.4.3 Not later than five (5) business days after the Administrator’s receipt of
22 any Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
23 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
24 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
25 the Notice Packet to the most current address obtained. The Administrator has no obligation to
26 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
27 returned by the USPS a second time.

28 8.4.4 The deadlines for Class Members’ written objections, Challenges to Work
Weeks and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional
14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
notice is re-mailed. The Administrator will inform the Class Member of the extended deadline

1 with the re-mailed Notice Packet.

2 8.4.5 If the Administrator, Defendant or Class Counsel is contacted by or
3 otherwise discovers any persons who believe they should have been included in the Class Data
4 and should have received Notice Packet, the Parties will expeditiously meet and confer in good
5 faith in an effort to agree on whether to include them as Class Members. If the Parties agree, such
6 persons will be Class Members entitled to the same rights as other Class Members, and the
7 Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise
8 options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline
9 dates in the Class Notice, which ever are later.

9 8.5 Requests for Exclusion (Opt-Outs).

10 8.5.1 Class Members who wish to exclude themselves (opt-out of) the Class
11 Settlement must send the Administrator, by fax, email, or mail, a signed written Request for
12 Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus an
13 additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
14 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
15 the Class Member's election to be excluded from the Settlement and includes the Class Member's
16 name, address and email address or telephone number. To be valid, a Request for Exclusion must
17 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
18 in Settlement form, attached as Exhibit B, may be used for this purpose but is not required.

19 8.5.2 The Administrator may not reject a Request for Exclusion as invalid
20 because it fails to contain all the information specified in the Class Notice. The Administrator
21 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
22 identity of the person as a Class Member and the Class Member's desire to be excluded. The
23 Administrator's determination shall be final and not appealable or otherwise susceptible to
24 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
25 the Administrator may demand additional proof of the Class Member's identity. The
26 Administrator's determination of authenticity shall be final and not appealable or otherwise
27 susceptible to challenge.

28 8.5.3 Every Class Member who does not submit a timely and valid Request for
Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
benefits and bound by all terms and conditions of the Settlement, including the Participating Class

Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

8.5.4 Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Aggrieved Employees are eligible for an Individual PAGA Payment.

8.6 Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute. A Work Week Dispute form, attached as Exhibit C, may be used for this purpose but is not required. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Work Weeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Work Weeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Work Weeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

8.7 Objections to Settlement.

8.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

8.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet was re-mailed). An

1 The Objection form attached as Exhibit D may be used for this purpose but is not required.

2 8.7.3 Non-Participating Class Members have no right to object to any of the class
3 action components of the Settlement.

4 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
5 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

6 8.8.1 Website, Email Address and Toll-Free Number. The Administrator will
7 establish and maintain and use an internet website to post information of interest to Class
8 Members including the date, time and location for the Final Approval Hearing and copies of the
9 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Notice
10 Packet, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
11 Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final
12 Approval and the Judgment. The Administrator will also maintain and monitor an email address
13 and a toll-free telephone number to receive Class Member calls, faxes and emails.

14 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
15 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
16 later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the
17 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
18 and other identifying information of Class Members who have timely submitted valid Requests
19 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
20 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
21 Exclusion from Settlement submitted (whether valid or invalid).

22 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
23 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
24 of: Notice Packets mailed or re-mailed, Notice Packets returned undelivered, Requests for
25 Exclusion (whether valid or invalid) received, objections received, challenges to Work Weeks
26 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments
27 and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include provide
28 the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all
Requests for Exclusion and objections received.

8.8.4 Workweek and/or Pay Period Challenges. The Administrator has the
authority to address and make final decisions consistent with the terms of this Agreement on all

1 Class Member challenges over the calculation of Work Weeks and/or Pay Periods. The
2 Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

3 8.8.5 Administrator's Declaration. Not later than 14 days before the date by
4 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
5 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
6 for filing in Court attesting to its due diligence and compliance with all of its obligations under
7 this Agreement, including, but not limited to, its mailing of the Notice Packets, the Notice Packets
8 returned as undelivered, the re-mailing of Notice Packets, attempts to locate Class Members, the
9 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
10 number of written objections and attach the Exclusion List. The Administrator will supplement
11 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
12 for filing the Administrator's declaration(s) in Court.

13 8.8.6 Final Report by Administrator. Within 10 days after the Administrator
14 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel
15 and Defense Counsel with a final report detailing its disbursements by employee identification
16 number only of all payments made under this Agreement. At least 15 days before any deadline
17 set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense
18 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all
19 payments required under this Agreement. Class Counsel is responsible for filing the
20 Administrator's declaration in Court.

21 **9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on a review of its
22 records to date, Defendant estimates there are 1,225 Class Members who collectively worked a
23 total of 79,402 Workweeks, and 788 of Aggrieved Employees who worked a total 26,219 of
24 PAGA Pay Periods. If the Workweeks as of the date the Court approves the settlement exceed the
25 Class Workweeks by more than 15.00% (e.g. 11,910 more Workweeks than 79,402 [above 91,312
26 Workweeks]), the Gross Settlement Amount will increase pro rata per additional Workweek
27 above 91,312, but only to the extent Defendant does not choose a date earlier than the date of the
28 end of the Class Release Period to avoid any pro rata increase. If the Pro Rata Increase Threshold
is triggered, Defendant shall have the exclusive right to elect for the Class Release Period to end
on the date that the increase was triggered, so the number is not escalated and there is no pro-rata

1 increase. If the Pro Rata Increase Threshold is triggered and if Defendant elects for the Class
2 Release Period to end after the date the increase is triggered, then the Gross Settlement Amount,
3 including the Class Counsel Fees Payment, the Class Representative Service Payment, and the
4 PAGA Penalties, will increase proportionately according to the number of additional Workweeks.

5 **10. DEFENDANT’S RIGHT TO WITHDRAW.** If the number of valid Requests for
6 Exclusion identified in the Exclusion List exceeds 10.00% of the total of all Class Members,
7 Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree
8 that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect
9 whatsoever, and that neither Party will have any further obligation to perform under this
10 Agreement; provided, however, Defendant will remain responsible for paying all Settlement
11 Administration Expenses incurred to that point. Defendant must notify Class Counsel and the
12 Court of its election to withdraw not later than 7 days after the Administrator sends the final
13 Exclusion List to Defense Counsel; late elections will have no effect.

14 **11. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared
15 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement
16 that includes a request for approval of the PAGA settlement under Labor Code section 2699,
17 subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively “Motion for
18 Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel not later
19 than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel
20 will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any
21 disagreements concerning the Motion for Final Approval.

22 11.1 Response to Objections. Each Party retains the right to respond to any objection
23 raised by a Participating Class Member, including the right to file responsive documents in Court
24 no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
25 by the Court.

26 11.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
27 Approval on any material change to the Settlement (including, but not limited to, the scope of
28 release to be granted by Class Members), the Parties will expeditiously work together in good
faith to address the Court’s concerns by revising the Agreement as necessary to obtain Final

1 Approval. The Court's decision to award less than the amounts requested for the Class
2 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
3 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
4 modification to the Agreement within the meaning of this paragraph.

5 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
6 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
7 purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement
8 administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
10 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
11 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
12 respective counsel, and all Participating Class Members who did not object to the Settlement as
13 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
14 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
15 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
16 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
17 Parties' obligations to perform under this Agreement will be suspended until such time as the
18 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
19 the amount of the Net Settlement Amount.

20 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
21 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
22 material modification of this Agreement (including, but not limited to, the scope of release to be
23 granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
24 expeditiously work together in good faith to address the appellate court's concerns and to obtain
25 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
26 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
27 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
28 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
as long as the Gross Settlement Amount remains unchanged.

12. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil

1 Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed
2 amended judgment.

3
4 **13. ADDITIONAL PROVISIONS.**

5 13.1 No Admission of Liability, Class Certification or Representative Manageability
6 for Other Purposes. This Agreement represents a compromise and settlement of highly disputed
7 claims. Nothing in this Agreement is intended or should be construed as an admission by
8 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant
9 has any liability for any claims asserted; nor should it be intended or construed as an admission
10 by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class
11 certification and representative treatment is for purposes of this Settlement only. If, for any reason
12 the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendant
13 reserves the right to contest certification of any class for any reasons, and Defendant reserves all
14 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
15 certification on any grounds available and to contest Defendant's defenses. The Settlement, this
16 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
17 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
18 Settlement and this Agreement).

19 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
20 Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval
21 of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
22 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
23 Agreement directly or indirectly, specifically or generally, to any person, corporation, association,
24 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
25 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
26 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a
27 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
28 government agency.

Each Party agrees to immediately notify each other Party of any judicial or agency
order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and
Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other

1 communication, before the filing of the Motion for Preliminary Approval, any with third party
2 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
3 “the matter was resolved,” or words to that effect. This paragraph does not restrict Class Counsel’s
4 communications with Class Members in accordance with Class Counsel’s ethical obligations
owed to Class Members.

5 13.3 No Solicitation. The Parties separately agree that they and their respective
6 counsel and employees will not solicit any Class Member to opt out of or object to the Settlement,
7 or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
8 Counsel’s ability to communicate with Class Members in accordance with Class Counsel’s ethical
9 obligations owed to Class Members.

10 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
11 Agreement together with its attached exhibits shall constitute the entire agreement between the
12 Parties relating to the Settlement, superseding any and all oral representations, warranties,
covenants, or inducements made to or by any Party.

13 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
14 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all
15 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
16 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.

17 13.6 Cooperation. The Parties and their counsel will cooperate with each other and
18 use their best efforts, in good faith, to implement the Settlement by, among other things,
19 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
20 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
21 the form or content of any document necessary to implement the Settlement, or on any
22 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.

23 13.7 No Prior Assignments. The Parties separately represent and warrant that they
24 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
25 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
26 action, or right released and discharged by the Party in this Settlement.

27 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense
28

1 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
2 Settlement be relied upon as such within the meaning of United States Treasury Department
3 Circular 230 (31 CFR Part 10, as amended) or otherwise.

4 13.9 Modification of Agreement. This Agreement, and all parts of it, may be
5 amended, modified, changed, or waived only by an express written instrument signed by all
6 Parties or their representatives, and approved by the Court.

7 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and
8 inure to the benefit of, the successors of each of the Parties.

9 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
10 be governed by and interpreted according to the internal laws of the state of California, without
11 regard to conflict of law principles.

12 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
13 preparation of this Agreement. This Agreement will not be construed against any Party on the
14 basis that the Party was the drafter or participated in the drafting.

15 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
16 entered during Action and in this Agreement relating to the confidentiality of information shall
17 survive the execution of this Agreement.

18 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant
19 to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
20 Counsel by Defendant in connection with the mediation, other settlement negotiations, or in
21 connection with the Settlement, may be used only with respect to this Settlement, and no other
22 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
23 or rule of court. Not later than 90 days after the date when the Court discharges the
24 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
25 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
26 Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant
27 makes a written request to Class Counsel for the return, rather than the destructions, of Class
28 Data.

///

///

///

1 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement
2 is inserted for convenience of reference only and does not constitute a part of this Agreement.

3 13.16 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement
4 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
5 weekend or federal legal holiday, such date or deadline shall be on the first business day
6 thereafter.

7 13.17 Notice. All notices, demands or other communications between the Parties in
8 connection with this Agreement will be in writing and deemed to have been duly given as of the
9 third business day after mailing by United States mail, or the day sent by email or messenger,
10 addressed as follows:

11 To Plaintiff:
12 David Glenn Spivak, Esq.
13 The Spivak Law Firm
14 8605 Santa Monica Bl
15 PMB 42554
16 West Hollywood, CA 90069
17 david@spivaklaw.com

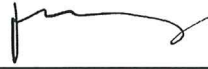
18 To Defendant:
19 David G. Litman, Esq.
20 Sagaser, Watkins & Wieland PC
21 5260 N. Palm Ave.
22 Ste. 400
23 Fresno, CA 93704
24 ian@sw2law.com

25 13.18 Execution in Counterparts. This Agreement may be executed in one or more
26 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
27 Agreement shall be accepted as an original. All executed counterparts and each of them will be
28 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.

 13.19 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

1 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
2 process.

3
4 Dated: January 09, 2025

By: 
HEATHER RODRIGUEZ

6
7 Dated: January 11, 2025

By: Ron Chamberlain
RONALD CHAMBERLAIN
President
SCJM2, LLC

10

11

THE SPIVAK LAW FIRM

12

13 Dated: January 09, 2025

By: 
DAVID GLENN SPIVAK, Attorneys
for Plaintiff, HEATHER RODRIGUEZ,
and all others similarly situated

14

15

16

17

UNITED EMPLOYEES LAW GROUP

18

19 Dated: January __, 2025

By: _____
WALTER L. HAINES, Attorneys for
Plaintiff, HEATHER RODRIGUEZ,
and all others similarly situated

20

21

22

SAGASER, WATKINS & WIELAND PC

23

24 Dated: January 13, 2025

By: David B. Wieland
IAN B. WIELAND, Attorneys for
Defendant, SCJM2, LLC

25

26

27

28

1 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
2 process.

3
4 Dated: January __, 2025

By: _____
HEATHER RODRIGUEZ

6
7 Dated: January __, 2025

By: _____
RONALD CHAMBERLAIN
President
SCJM2, LLC

10

11

THE SPIVAK LAW FIRM

12

13 Dated: January __, 2025

By: _____
DAVID GLENN SPIVAK, Attorneys
for Plaintiff, HEATHER RODRIGUEZ,
and all others similarly situated

14

15

16

17

UNITED EMPLOYEES LAW GROUP

18

19 Dated: January 09, 2025

By: 
WALTER L. HAINES, Attorneys for
Plaintiff, HEATHER RODRIGUEZ,
and all others similarly situated

20

21

22

SAGASER, WATKINS & WIELAND PC

23

24 Dated: January __, 2025

By: _____
IAN B. WIELAND, Attorneys for
Defendant, SCJM2, LLC

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

(case name: Heather Rodriguez v. SCJM2, LLC and number 2023CUOE008247)

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against SCJM2, LLC (abbreviate name; “Defendant” is used herein as a placeholder) for alleged violations of California’s labor laws. The Action was filed by one of Defendant’s employees Heather Rodriguez (“Plaintiff”) and seeks payment of (1) wages and other relief for a class of all hourly, non-exempt employees of Defendant in California during the Class Period (April 28, 2019 to <<the date of preliminary approval of this class action settlement>>); and (2) penalties under the California Private Attorney General Act (“PAGA”) for hourly, non-exempt employees who worked for Defendant during the PAGA Period (April 27, 2022 to <<the date of preliminary approval of this class action settlement>>) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendant to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$<<IndividualClassPaymentAmount>> (less withholding) and your Individual PAGA Payment is estimated to be \$<<IndividualPAGAPaymentAmount>>.** The estimated dollar value of a Work Week is <<\$increment type value>> and a Pay Period is <<@PayPeriodValue>>. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.) The individual payments amounts will vary. However, the average Individual Class Payment to a Class Member is estimated to be <<\$Average Individual Class Payment Amount>>. The average Individual PAGA Payment to a Class Member is estimated to be <<\$Average Individual PAGA Payment Amount>>. The highest Individual Class Payment to a Class Member is estimated to be <<\$Highest Individual Class Payment Amount>> and the lowest is estimated to be <<\$Lowest Individual Class Payment Amount>>. The highest Individual PAGA Payment to a Class Member is estimated to be <<\$Highest Individual PAGA Payment Amount>> and the lowest is estimated to be <<\$Lowest Individual PAGA Payment Amount>>.

The above estimates are based on Defendant’s records showing that **you worked <<__>> Work Weeks** during the Class Period and **you worked <<__>> Pay Periods** during the PAGA Period. If you believe that you worked more Work Weeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the Final Approval Hearing. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

(1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against Defendant.

(2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period claims for California labor law violations against Defendant, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is <<RESPONSE DEADLINE>>	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. You can use the enclosed Election Not To Participate In Settlement form for this purpose. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

		You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and Plaintiff releases Defendant from civil penalties it may owe to the Aggrieved Employees.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement		All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. You can use the enclosed Objection form for this purpose. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.
Written Objections Must be Submitted by <<RESPONSE DEADLINE>>		
You Can Participate in the <<FinalApprovalHearingDate>> Final Approval Hearing		The Court’s Final Approval Hearing is scheduled to take place on <<FinalApprovalHearingDate>>. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing whether or not they submitted a written objection. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Work Week / Pay Periods		The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Work Weeks and number of PAGA Period Pay Periods you worked according to Defendant’s records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice. You can use the enclosed Work Weeks Dispute form for this purpose.
Written Challenges Must be Submitted by <<RESPONSE DEADLINE>>		

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action accuses Defendant of violating California labor laws by failure to pay wages, unauthorized and unlawful wage deductions, failure to provide meal periods, failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to issue proper wage statements, failure to timely pay wages, failure to maintain required payroll records, and related violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA (Labor Code section 2698 and sections that follow) (“PAGA”). Plaintiff is represented by attorneys in the Action: David Glenn Spivak of The Spivak Law Firm and Walter L. Haines of United Employees Law Group (“Class Counsel.”)

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendant hired ☐ an experienced, neutral mediator ☐ a retired judge ☐ (describe alternative means of negotiation) in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Defendant have negotiated a proposed Settlement that is subject to the Court’s Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Defendant has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

A. Gross Settlement Amount. Defendant Will Pay \$275,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel’s attorney’s fees and expenses, the Administrator’s expenses, and penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 30 days after the Effective Date. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

B. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

1. Attorney Fees and Costs. Up to \$91,666.67 (33.33% of the Gross Settlement to Class Counsel for attorneys’ fees and up to \$17,500.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

2. Class Representative Service Award. Up to \$10,000.00 as a Class Representative Service Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

3. Administration Expenses. Up to \$17,000.00 to the Administrator for services administering the Settlement.

4. PAGA Penalties. Up to \$10,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

Based on a review of its records to date, Defendant estimates there are 1,225 Class Members who collectively worked a total of 79,402 Workweeks, and 788 of Aggrieved Employees who worked a total 26,219 of PAGA Pay Periods. If the Workweeks as of the date the Court approves the settlement exceed the Class Workweeks by more than 15.00% (e.g. 11,910 more Workweeks than 79,402 [above 91,312 Workweeks]), the Gross Settlement Amount will increase pro rata per additional Workweek above 91,312, but only to the extent Defendant does not choose a date earlier than the date of the end of the Class Release Period to avoid any pro rata increase. If the Pro Rata Increase Threshold is triggered, Defendant shall have the exclusive right to elect for the Class Release Period to end on the date that the increase was triggered, so the number is not escalated and there is no pro-rata increase. If the Pro Rata Increase Threshold is triggered and if Defendant elects for the Class Release Period to end after the date the increase is triggered, then the Gross Settlement Amount, including the Class Counsel Fees Payment, the Class Representative Service Payment, and the PAGA Penalties, will increase proportionately according to the number of additional Workweeks.

C. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the “Net Settlement”) by making Individual Class Payments to Participating Class Members based on their Class Period Work Weeks.

D. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 10.00% of each Individual Class Payment to taxable wages (“Wage Portion”) and 90.00% to interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You

1 are responsible for paying all taxes (including penalties and interest on back taxes) on any
2 Payments received from the proposed Settlement. You should consult a tax advisor if you have
3 any questions about the tax consequences of the proposed Settlement.

4 ☐ Need to Promptly Cash Payment Checks. The front of every check issued
5 for Individual Class Payments and Individual PAGA Payments will show the date when the check
6 expires (the void date). If you don't cash it by the void date, your check will be automatically
7 cancelled, will irrevocably be lost to you because they will be paid to Boys and Girls Club of Carlsbad
8 ("Cy Pres"). If the Court does not approve the Boys and Girls Club of Carlsbad as the Cy Pres
9 and you don't cash your check by the void date, your check will be automatically cancelled, and
10 the monies will be deposited with the California Controller's Unclaimed Property Fund
11 (https://www.sco.ca.gov/search_upd.html) in your name.

12 If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you
13 should consult the rules of the Fund for instructions on how to retrieve your money. You can
14 contact the Unclaimed Property Fund at (800) 992-4647.

15 E. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
16 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
17 Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out.
18 The easiest way to notify the Administrator is to email, fax, or mail a written and signed Request
19 for Exclusion by the <<RESPONSE DEADLINE>> Response Deadline. The Request for
20 Exclusion should be a letter from a Class Member or his/her representative setting forth a Class
21 Member's name, present address, telephone number, and a simple statement electing to be
22 excluded from the Settlement. You may use the enclosed Election Not To Participate In
23 Settlement form for this purpose. Excluded Class Members (i.e., Non-Participating Class
24 Members) will not receive Individual Class Payments, but will preserve their rights to personally
25 pursue claims against Defendant for violations of California's labor laws.

26 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
27 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
28 Individual PAGA Payments and Plaintiff releases Defendant from civil penalties it may owe to
the Aggrieved Employees.

F. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
possible the Court will decline to grant Final Approval of the Settlement or decline enter a
Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not
pay any money and Class Members will not release any claims against Defendant.

G. Administrator. The Court has appointed a neutral company, ILYM Group, Inc.
(the "Administrator") to send this Notice, calculate and make payments, and process Class
Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges
over Work Weeks, mail and re-mail settlement checks and tax forms, and perform other tasks
necessary to administer the Settlement. The Administrator's contact information is contained in
Section 9 of this Notice.

1 H. Participating Class Members' Release. After the Judgment is final and Defendant
2 has fully funded the Gross Settlement (and separately paid all employer payroll taxes),
3 Participating Class Members will be legally barred from asserting any of the claims released under
4 the Settlement. This means that unless you opted out by validly excluding yourself from the Class
5 Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or
its officers, directors, employees, and agents for wages based on the Class Period facts and PAGA
penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

6 The Participating Class Members will be bound by the following release:

7 All Participating Class Members, on behalf of themselves and their respective
8 former and present representatives, agents, attorneys, heirs, administrators,
9 successors, and assigns, release Released Parties from all claims stated in the
10 Operative Complaint and those based solely upon the facts alleged in the Operative
11 Complaint. Except as set forth in Section 6.3 of the Settlement Agreement,
12 Participating Class Members do not release any other claims, including claims for
vested benefits, wrongful termination, violation of the Fair Employment and
Housing Act, unemployment insurance, disability, social security, workers'
compensation, or claims based on facts occurring outside the Class Period.

13 I. The PAGA Release. After the Court's judgment is final, and Defendant has paid
14 the Gross Settlement (and separately paid the employer-side payroll taxes), Plaintiff releases all
15 claims for civil penalties that could have been sought by the Labor Commissioner for the
16 violations identified in Plaintiff's pre-filing letter to the LWDA; Plaintiff does not release the
claim for wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a
Participating Class Member.

17 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

18 A. Individual Class Payments. The Administrator will calculate Individual Class
19 Payments by (a) dividing the Net Settlement Amount by the total number of Work Week worked
20 by all Participating Class Members, and (b) multiplying the result by the number of Work Week
worked by each individual Participating Class Member.

21 B. Individual PAGA Payments. The Administrator will calculate Individual PAGA
22 Payments by (a) dividing \$2,500.00 by the total number of PAGA Pay Periods worked by all
23 Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods
worked by each individual Aggrieved Employee.

24 C. Workweek/Pay Period Challenges. The number of Class Work Weeks you worked
25 during the Class Period and the number of PAGA Pay Periods you worked during the PAGA
26 Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have
27 until <<RESPONSE DEADLINE>> to challenge the number of Work Weeks and/or Pay Periods
credited to you. You can submit your challenge by signing and sending a letter to the
Administrator by email, fax or regular U.S. mail. You can use the enclosed Dispute form for this

1 purpose. Section 9 of this Notice has the Administrator’s contact information.

2 You need to support your challenge by submitting copies of pay stubs or other records.
3 The Administrator will accept Defendant’s calculation of Work Weeks and/or Pay Periods based
4 on Defendant’s records as accurate unless you send copies of records containing contrary
5 information. You should send copies rather than originals because the documents will not be
6 returned to you. The Administrator will resolve Work Week and/or Pay Period challenges based
7 on your submission and on input from Class Counsel (who will advocate on behalf of
8 Participating Class Members) and Defendant’s Counsel. The Administrator’s decision is final.
9 You can’t appeal or otherwise challenge its final decision.

10 **5. HOW WILL I GET PAID?**

11 A. Participating Class Members. The Administrator will send, by U.S. mail, a single
12 check to every Participating Class Member (i.e., every Class Member who doesn’t opt-out)
13 including those who also qualify as Aggrieved Employees. The single check will combine the
14 Individual Class Payment and the Individual PAGA Payment.

15 B. Non-Participating Class Members. The Administrator will send, by U.S. mail, a
16 single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class
17 Settlement (i.e., every Non-Participating Class Member).

18 **Your check will be sent to the same address as this Notice. If you change your
19 address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has
20 the Administrator’s contact information.**

21 **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

22 Email, fax, or mail a written and signed letter with your name, present address, telephone
23 number, and a simple statement that you do not want to participate in the Settlement. You may
24 use the enclosed Election Not To Participate In Settlement form for this purpose. The
25 Administrator will exclude you based on any writing communicating your request be excluded.
26 Be sure to personally sign your request, identify the Action as *Heather Rodriguez vs. SCJM2,*
27 *LLC*, Case No. 2023CUOE008247, and include your identifying information (full name, address,
28 telephone number, approximate dates of employment, and social security number for verification
purposes). You must make the request yourself. If someone else makes the request for you, it
will not be valid. You should send your Request for Exclusion to the Administrator by email, fax,
or send by regular U.S. mail. **The Administrator must be sent your request to be excluded by
<<RESPONSE DEADLINE>>, or it will be invalid.** Section 9 of the Notice has the
Administrator’s contact information. If you are an Aggrieved Employee, you will still receive an
Individual PAGA Payment.

29 **7. HOW DO I OBJECT TO THE SETTLEMENT?**

30 Only Participating Class Members have the right to object to the Settlement. Before deciding
31 whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to

1 approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Plaintiff will
2 file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why
3 the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award
4 stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and
5 (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable
6 request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you
7 copies of these documents at no cost to you. You can also view them and the Settlement
8 Agreement on the Administrator's Website <<ADMINISTRATOR WEBSITE>> or the Court's
9 website <<COURT WEBSITE>>.

10 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for
11 Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
12 object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class
13 Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the
14 Administrator is <<RESPONSE DEADLINE>>.** Be sure to tell the Administrator what you
15 object to, why you object, and any facts that support your objection. Make sure you identify the
16 Action, *Heather Rodriguez vs. SCJM2, LLC*, case no. 2023CUOE008247, and include your name,
17 current address, telephone number, and approximate dates of employment for Defendant and sign
18 the objection. Section 9 of this Notice has the Administrator's contact information. You may use
19 the enclosed Objection form for this purpose. You should send your objection to the
20 Administrator by email, fax, or send by regular U.S. mail.

21 Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at
22 your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready
23 to tell the Court what you object to, why you object, and any facts that support your objection.
24 See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval
25 Hearing.

26 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

27 You can, but don't have to, attend the Final Approval Hearing on <<FINAL APPROVAL
28 HEARING DATE>> at <<FINAL APPROVAL HEARING TIME>> in Department 42 of the Ventura
Superior Court, located at Ventura Courthouse (Hall of Justice), 800 South Victoria Avenue,
Ventura, CA 93009. At the Hearing, the judge will decide whether to grant Final Approval of the
Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and
the Administrator. The Court will invite comment from objectors, Class Counsel and Defense
Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally
or virtually by <<CourtConnect/CourtCall/MicrosoftTeams>>
(https://www.<<CourtVirtualAppearanceLink>>). Check the Court's website for the most current
information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the
Administrator's website <<ADMINISTRATOR WEBSITE>> beforehand or contact Class Counsel
to verify the date and time of the Final Approval Hearing.

1 **9. HOW CAN I GET MORE INFORMATION?**

2 The Agreement sets forth everything Defendant and Plaintiff have promised to do under the
3 proposed Settlement. The easiest way to read the Agreement, the Judgment or any other
4 Settlement documents is to go to the Administrator's website at <<CLERK OF COURT'S PHONE
5 NUMBER>>. You can also telephone or send an email to Class Counsel or the Administrator
6 using the contact information listed below, or consult the Superior Court website by going to
7 (<http://www.<<COURT'S WEBSITE>>.aspx>) and entering the Case Number for the Action, Case
8 No. 2023CUOE008247. You can also make an appointment to personally review court
9 documents in the Clerk's Office at the Ventura Courthouse (Hall of Justice) by calling <<CLERK
10 OF COURT'S PHONE NUMBER>>.

11 **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION**
12 **ABOUT THE SETTLEMENT.**

13 Class Counsel:

14 Name of Attorney: David Glenn Spivak
15 Email Address: david@spivaklaw.com
16 Name of Firm: The Spivak Law Firm
17 Mailing Address: 8605 Santa Monica Bl
18 PMB 42554
19 West Hollywood, CA 90069
20 Telephone: (213) 725-9094

21 Administrator:

22 Name of Company: ILYM Group, Inc.
23 Email Address: _____
24 Mailing Address: _____
25 Telephone: _____
26 Fax Number: _____

27 **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

28 If you lose or misplace your settlement check before cashing it, the Administrator will replace it
as long as you request a replacement before the void date on the face of the original check. If
your check is already void

☐ you should consult the Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) for
instructions on how to retrieve the funds. You can contact the Unclaimedx Property Fund at (800)
992-4647.

☐ you will have no way to recover the money.

29 **11. WHAT IF I CHANGE MY ADDRESS?**

1 To receive your check, you should immediately notify the Administrator if you move or otherwise
2 change your mailing address.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT B

Rodriguez v. SCJM2, LLC
Superior Court of the State of California, County of Ventura
Case No. 2023CUOE008247

ELECTION NOT TO PARTICIPATE IN SETTLEMENT FORM

**IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND BE ELIGIBLE FOR
A SHARE OF THE SETTLEMENT PROCEEDS,
DO NOT FILL OUT THIS FORM.**

**IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST COMPLETE AND
SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS BELOW, EMAILED, FAXED, OR
POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:**

Rodriguez v. SCJM2, LLC Class Action Administrator
c/o _____

I declare as follows: I have received notice of the proposed settlement in this action and I wish to be excluded from the class and ***not*** to participate in the proposed settlement. I understand this means that I will not be bound by the Settlement and also will not share in the settlement proceeds. I understand that exclusion from the Class Settlement will not result in exclusion from the PAGA portion of the Settlement. If I am an Aggrieved Employee under the Settlement, I will still receive an Individual PAGA Payment.

(Typed or Printed Name)

(Address)

(City, State, Zip Code)

(Telephone Number, Including Area Code)

(Identification Number)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and was executed on ____.

Dated: ____.
(Signature)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT C

1 **WORK WEEK DISPUTE FORM**

2 Superior Court of The State of California
3 For The County of Ventura
4 *Heather Rodriguez v. SCJM2, LLC*, Case No. 2023CUOE008247

5 <<Name>> Indicate Name/Address Changes, if any:
6 <<Address>> _____
7 <<City>>, <<State>> <<Zip Code>> _____
8 XX – XX - ____

9 TO ALL HOURLY, NON-EXEMPT EMPLOYEES OF DEFENDANT SCJM2, LLC IN
10 CALIFORNIA DURING THE CLASS PERIOD OF APRIL 28, 2019 THROUGH <<THE
11 DATE OF PRELIMINARY APPROVAL OF THIS CLASS ACTION SETTLEMENT>>.

12 The amount of your estimated Settlement Award is based upon the number of Eligible Work
13 Weeks you worked between April 28, 2019 and <<the date of preliminary approval of this class
14 action settlement>> and Eligible Work Weeks you worked between April 27, 2022 and <<the
15 date of preliminary approval of this class action settlement>>. “Individual Class Work Weeks”
16 are defined as any Work Week in which you worked at least one (1) day as an hourly, non-exempt
17 of SCJM2, LLC (“Defendant”) in California during the calendar week. “Individual PAGA Work
18 Weeks” are defined as any Work Week in which you worked at least one (1) day as an hourly,
19 non-exempt of SCJM2, LLC (“Defendant”) in California during the calendar week during the
20 period of April 27, 2022 through <<the date of preliminary approval of this class action
21 settlement>>. The number of Class and PAGA Work Weeks applicable to your claim are set
22 forth below.

23 **YOUR ELIGIBLE WORK WEEKS**

24 Defendant’s records indicate that you worked <<number of Work Weeks>> Work Weeks
25 between April 28, 2019 and <<the date of preliminary approval of this class action settlement>>
26 and <<number of Work Weeks>> Work Weeks between April 27, 2022 through <<the date of
27 preliminary approval of this class action settlement>>.

28 **YOUR ESTIMATED SETTLEMENT AWARD AND DISPUTE PROCEDURE**

Under the terms of the Class Action Settlement, you are entitled to receive a settlement payment
in the approximate estimated amount of <<\$Settlement Share Amount>>, minus all applicable
payroll and tax deductions, after the Court approves the Settlement and it goes into effect. This
process may take six months or more. You will receive a Form W-2 reflecting the payment to
you. Your Settlement Share reflected on this Notice is only an estimate. The exact amount of the
payment could vary, up or down.

1 If you wish to dispute the number of April 28, 2019 credited to you, or anything else about your
2 employment status, you must complete and return this form by indicating what you believe is
3 incorrect on the blank lines below and return it on or before <<RESPONSE DEADLINE>> to
4 the Administrator by email, fax, or regular U.S. Mail with proof of the submission date (such as
5 a postmark or delivery service date stamp). You may use this Work Weeks Dispute form for this
6 purpose. You must also send any documents or other information that you contend supports your
7 belief that the information set forth above is incorrect. The Administrator will resolve any dispute
8 based upon Defendant's records and any information you provide. Please be advised that the
9 information on this Work Weeks Dispute Form is presumed to be correct unless the documents
10 you submit are company records from Defendant.

11 _____
12 _____
13 _____
14 _____
15 _____

16 **UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF WORK**
17 **WEEKS, RECEIPT OF A SETTLEMENT PAYMENT, OR YOUR EMPLOYMENT**
18 **STATUS, YOU DO NOT NEED TO TAKE ANY ACTION**
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT D

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

OBJECTION FORM

Heather Rodriguez v. SCJM2, LLC
Superior Court of the State California, County of Ventura
Case No. 2023CUOE008247

Please verify and/or complete any missing identifying information:

CPT ID: <<CPT ID>>

<<Name>>

<<Address1>>

<<Address2>>

<<City>>, <<State>> <<Zip>>

CORRECT NAME AND ADDRESS HERE:

Telephone Number: (____) ____ - ____

THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF YOU OBJECT TO THE SETTLEMENT, YOU SHOULD SIGN AND COMPLETE THIS FORM ACCURATELY AND IN ITS ENTIRETY (OR ONE LIKE IT), AND YOU SHOULD EMAIL IT TO <<____@____.COM>>, FAX IT TO <<XXX-XXX-XXXX>>, OR MAIL IT BY FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR SO THAT IT IS POSTMARKED ON OR BEFORE <<RESPONSE DEADLINE>>. THE ADDRESS FOR THE ADMINISTRATOR IS NOTED ON PAGE TWO OF THIS FORM.

IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM. THE ADMINISTRATOR WILL SEND THIS OBJECTION AND ANY SUPPORTING DOCUMENTS TO THE ATTORNEYS FOR THE PARTIES. THE ATTORNEYS FOR THE PARTIES WILL FILE THE OBJECTION WITH THE COURT.

The Court will consider your objection at the Final Approval Hearing if you timely submit it. Include any and all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) that you would like the Court to consider. However, you may speak to the Court at the final approval hearing whether or not you submit a timely objection.

[] I OBJECT to the *Heather Rodriguez v. SCJM2, LLC* Settlement on the following grounds (if additional space necessary, please include additional sheets of paper):

[] I am or will be represented by an attorney (provide name and address of attorney on lines below if applicable):

Executed on _____, 2025

(Signature)

<<Name>>

(Printed Name)

EMAIL TO THE ADMINISTRATOR: <<_____.@_____.COM>>

FAX TO THE ADMINITRATOR: <<(XXX) XXX-XXXX>>

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL
POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:

Heather Rodriguez v. SCJM2, LLC Administrator

[ADDRESS]

<<____>>

<<____>>

<<____>>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT E

1
2
3
4
5
6
7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF VENTURA**
10 **(UNLIMITED JURISDICTION)**

11 HEATHER RODRIGUEZ, on behalf of herself
12 and all others similarly situated, and as an
13 “aggrieved employee” on behalf of other
14 “aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

15 *Plaintiff(s),*

16 vs.

17 SCJM2, LLC, a California limited liability
18 company; and DOES 1–50, inclusive,

19 *Defendant(s).*

Case No. 2023CUOE008247

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

Action filed: April 27, 2023
Dept: 42, The Honorable Henry J.
Walsh

20
21
22 The Motion of Plaintiff Heather Rodriguez (hereafter referred to as “Plaintiff”) for
23 Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court,
24 The Honorable Henry J. Walsh presiding. The Court having considered the Motion, the Class
25 Action and PAGA Settlement Agreement and Class Notice (“Settlement” or “Settlement
26 Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:
27

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing. The Court will make a determination at the hearing on the motion for final approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and reasonable to the Settlement Class.

2. For purposes of this Preliminary Approval Order, the “Settlement Class” means all hourly, non-exempt employees of Defendant in California (collectively “Class Members”), who worked anytime during the Class Period. The “Class Period” shall mean the period of time from April 28, 2019, through <<the date of preliminary approval of this class action settlement>>.

3. Based on a review of its records to date, Defendant estimates there are 1,225 Class Members who collectively worked a total of 79,402 Workweeks, and 788 of Aggrieved Employees who worked a total 26,219 of PAGA Pay Periods. If the Workweeks as of the date the Court approves the settlement exceed the Class Workweeks by more than 15.00% (e.g. 11,910 more Workweeks than 79,402 [above 91,312 Workweeks]), the Gross Settlement Amount will increase pro rata per additional Workweek above 91,312, but only to the extent Defendant does not choose a date earlier than the date of the end of the Class Release Period to avoid any pro rata increase. If the Pro Rata Increase Threshold is triggered, Defendant shall have the exclusive right to elect for the Class Release Period to end on the date that the increase was triggered, so the number is not escalated and there is no pro-rata increase. If the Pro Rata Increase Threshold is triggered and if Defendant elects for the Class Release Period to end after the date the increase is

1 triggered, then the Gross Settlement Amount, including the Class Counsel Fees Payment, the
2 Class Representative Service Payment, and the PAGA Penalties, will increase proportionately
3 according to the number of additional Workweeks.

4 4. “Effective Date” means the date by when both of the following have occurred: (a)
5 the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the
6 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no
7 Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if
8 one or more Participating Class Members objects to the Settlement, the day after the deadline for
9 filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the
10 day after the appellate court affirms the Judgment and issues a remittitur.

11 5. This action is provisionally certified pursuant to section 382 of the California Code
12 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
13 purposes of settlement only with respect to the proposed Settlement Class.

14 6. Not later than 15 days after the Court grants Preliminary Approval of the
15 Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form
16 of a Microsoft Excel spreadsheet. To protect Class Members’ privacy rights, the Administrator
17 must maintain the Class Data in confidence, use the Class Data only for purposes of the Settlement
18 and for no other purpose, and restrict access to the Class Data to Administrator employees who
19 need access to the Class Data to effect and perform under the Settlement Agreement. Defendant
20 has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data
21 omitted class member identifying information and to provide corrected or updated Class Data as
22 soon as reasonably feasible. Without any extension of the deadline by which Defendant must send
23 the Class Data to the Administrator, the Parties and their counsel will expeditiously use best
24
25
26
27
28

1 efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted
2 Class Data.

3 7. No later than three (3) business days after receipt of the Class Data, the
4 Administrator shall notify Class Counsel that the list has been received and state the number of
5 Class Members, PAGA Members, Work Weeks, and Pay Periods in the Class Data.

6 8. Using best efforts to perform as soon as possible, and in no event later than 14
7 days after receiving the Class Data, the Administrator will send to all Class Members identified
8 in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Notice Packet
9 with Spanish translation, if applicable substantially in the forms attached to this order as **Exhibits**
10 **A, B, C, and D**. The first page of the Class Notice shall prominently estimate the dollar amounts
11 of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member,
12 and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate these
13 amounts. Before mailing Notice Packets, the Administrator shall update Class Member addresses
14 using the National Change of Address database.

15 9. Not later than 3 business days after the Administrator’s receipt of any Notice
16 Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice Packet
17 using any forwarding address provided by the USPS. If the USPS does not provide a forwarding
18 address, the Administrator shall conduct a Class Member Address Search, and re-mail the Notice
19 Packet to the most current address obtained. The Administrator has no obligation to make further
20 attempts to locate or send Notice Packet to Class Members whose Notice Packet is returned by
21 the USPS a second time.

22 10. Class Counsel’s contact information is David Glenn Spivak, Esq., The Spivak Law
23 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel’s
24

1 contact information is Ian B. Wieland, Esq., Sagaser, Watkins & Wieland PC, 5260 N. Palm Ave.,
2 Ste. 400, Fresno, CA, 93704.

3 11. The deadlines for Class Members' written objections, Challenges to Work Weeks
4 and/or Pay Periods (disputes), and Requests for Exclusion will be extended an additional 14 days
5 beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is
6 re-mailed. The Administrator will inform the Class Member of the extended deadline with the
7 re-mailed Notice Packet.
8

9 12. If the Administrator, Defendant or Class Counsel is contacted by or otherwise
10 discovers any persons who believe they should have been included in the Class Data and should
11 have received Notice Packet, the Parties will expeditiously meet and confer in person or by
12 telephone, and in good faith, in an effort to agree on whether to include them as Class Members.
13 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
14 Members, and the Administrator will send, via email or overnight delivery, a Notice Packet
15 requiring them to exercise options under the Settlement Agreement not later than 14 days after
16 receipt of Notice Packet, or the deadline dates in the Notice Packet, which ever are later.
17

18 13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out
19 of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written
20 Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus
21 an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for
22 Exclusion is a letter from a Class Member or his/her representative that reasonably communicates
23 the Class Member's election to be excluded from the Settlement and includes the Class Member's
24 name, address and email address or telephone number. To be valid, a Request for Exclusion must
25 be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate
26
27

1 in Settlement form, attached as Exhibit B, may be used for this purpose but is not required.

2 14. The Administrator may not reject a Request for Exclusion as invalid because it
3 fails to contain all the information specified in the Class Notice. The Administrator shall accept
4 any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of
5 the person as a Class Member and the Class Member's desire to be excluded. The Administrator's
6 determination shall be final and not appealable or otherwise susceptible to challenge. If the
7 Administrator has reason to question the authenticity of a Request for Exclusion, the
8 Administrator may demand additional proof of the Class Member's identity. The Administrator's
9 determination of authenticity shall be final and not appealable or otherwise susceptible to
10 challenge.
11

12 15. Every Class Member who does not submit a timely and valid Request for Exclusion
13 is deemed to be a Participating Class Member under the Settlement Agreement, entitled to all
14 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
15 Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless whether the
16 Participating Class Member actually receives the Class Notice or objects to the Settlement.
17

18 16. Every Class Member who submits a valid and timely Request for Exclusion is a
19 Non-Participating Class Member and shall not receive an Individual Class Payment or have the
20 right to object to the class action components of the Settlement. Plaintiff releases all claims for
21 civil penalties that could have been sought by the Labor Commissioner for the violations
22 identified in Plaintiffs pre-filing letter to the LWDA; Plaintiff does not release the claim for wages
23 or damages of any Aggrieved Employee unless such Aggrieved Employee is a Participating Class
24 Member.
25

26 17. Challenges to Calculation of Work Weeks. Each Class Member shall have 60 days
27
28

1 after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members
2 whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and PAGA Pay
3 Periods (if any) allocated to the Class Member in the Class Notice. This is also known as a dispute.

4 A Work Week Dispute form, attached as Exhibit C, may be used for this purpose but is not
5 required. The Class Member may challenge the allocation by communicating with the
6 Administrator via fax, email or mail. The Administrator must encourage the challenging Class
7 Member to submit supporting documentation. In the absence of any contrary documentation, the
8 Administrator is entitled to presume that the Work Weeks contained in the Class Notice are
9 correct so long as they are consistent with the Class Data. The Administrator's determination of
10 each Class Member's allocation of Work Weeks and/or Pay Periods shall be final and not
11 appealable or otherwise susceptible to challenge. The Administrator shall promptly provide
12 copies of all challenges to calculation of Work Weeks and/or Pay Periods to Defense Counsel and
13 Class Counsel and the Administrator's determination the challenges.

14
15
16 18. Objections to Settlement. Only Participating Class Members may object to the
17 class action components of the Settlement and/or this Agreement, including contesting the
18 fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
19 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

20 19. Participating Class Members may send written objections to the Administrator, by
21 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
22 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
23 Participating Class Member who elects to send a written objection to the Administrator must do
24 so not later than 60 days after the Administrator's mailing of the Notice Packet (plus an additional
25 14 days for Class Members whose Notice Packet was re-mailed). An The Objection form attached
26
27
28

1 as Exhibit D may be used for this purpose but is not required.

2 20. Non-Participating Class Members have no right to object to any of the class action
3 components of the Settlement.

4 21. Not later than 14 days before the date by which Plaintiff is required to file the
5 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
6 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and
7 compliance with all of its obligations under the Settlement Agreement, including, but not limited
8 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
9 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
10 from Settlement it received (both valid or invalid), the number of written objections and attach
11 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
12 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
13 declaration(s) in Court.
14
15

16 22. The Court approves, as to form and content, the Class Notice in substantially the
17 form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in
18 substantially the form attached as Exhibit B to this Order, the Work Weeks Dispute form in
19 substantially the form attached as Exhibit C to this Order, and the Objection form in substantially
20 the form attached as Exhibit D to this Order.
21

22 23. The Court approves, for settlement purposes only, David Glenn Spivak of The
23 Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

24 24. The Court approves, for settlement purposes only, Heather Rodriguez as the Class
25 Representative.

26 25. The Court approves ILYM Group, Inc. as the Administrator.
27
28

26. The Court preliminarily approves Class Counsel's request for attorneys' fees and costs subject to final review by the Court.

27. The Court preliminarily approves the estimated Administrator costs payable to the Administrator subject to final review by the Court.

28. The Court preliminarily approves Plaintiff's Class Representative Service Payment subject to final review by the Court.

29. A Final Approval Hearing shall be held on ____ at ____.m. in Department 42 of the Superior Court for the State of California, County of Ventura, located at the Ventura Courthouse (Hall of Justice), 800 South Victoria Avenue, Ventura, CA 93009 to consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class Representative Service Payment to the Class Representative. The notice of motion and all briefs and materials in support of the motion for final approval of class action settlement and motion for attorneys' fees and litigation costs shall be served and filed with this Court on or before _____. Plaintiff's counsel must give notice to any objecting party of any continuance of the hearing of the motion for final approval.

30. If for any reason the Court does not execute and file a Final Approval Order and judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the proposed Settlement that is the subject of this order, and all evidence and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the litigation, as more specifically set forth in the Settlement.

31. The Court expressly reserves the right to adjourn or continue the Final Approval Hearing from time to time without further notice to members of the Class. The Plaintiff shall give

1 prompt notice of any continuance to Settlement Class Members who object to the Settlement.

2 **IT IS SO ORDERED.**

3
4
5 **DATE**

THE HONORABLE HENRY J. WALSH
SUPERIOR COURT JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT F

1
2
3
4
5
6
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF VENTURA**
9 **(UNLIMITED JURISDICTION)**

10 HEATHER RODRIGUEZ, on behalf of herself
11 and all others similarly situated, and as an
12 “aggrieved employee” on behalf of other
13 “aggrieved employees” under the Labor Code
Private Attorneys General Act of 2004,

14 *Plaintiff(s),*

15 vs.

16 SCJM2, LLC, a California limited liability
17 company; and DOES 1–50, inclusive,

18 *Defendant(s).*

Case No. 2023CUOE008247

**[PROPOSED] FINAL ORDER AND
JUDGMENT APPROVING CLASS
ACTION SETTLEMENT**

Action filed: April 27, 2023
Dept: 42, The Honorable Henry J.
Walsh

19 This matter came on for hearing on ____ at ____ .m. in Department 42 of the above-captioned
20 court on Plaintiff’s Motion for Final Approval of a Class Action Settlement pursuant to California
21 Rules of Court, Rule 3.769, as set forth in the Joint Stipulation of Class Action Settlement and
22 Release of Claims (the “Settlement”) filed herewith which provides for a Gross Settlement
23 Amount (“GSA”) of up to \$275,000.00 in compromise of all disputed claims on behalf of All
24 hourly, non-exempt employees of Defendant in California during the period of April 28, 2019 to
25 <<the date of preliminary approval of this class action settlement>> (“Settlement Class Period”).
26
27
28

1 All capitalized terms used herein shall have the same meaning as defined in the Settlement.

2 In accordance with the Court's prior Order Granting Preliminary Approval of Class
3 Action Settlement, Class Members have been given notice of the terms of the Settlement and the
4 opportunity to submit a claim, request exclusion, comment upon or object to it or to any of its
5 terms. Having received and considered the Settlement, the supporting papers filed by the Parties,
6 and the evidence and argument received by the Court in conjunction with the motions for
7 preliminary and final approval of the Settlement, the Court grants final approval of the Settlement
8 and HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE FOLLOWING
9 DETERMINATIONS²:

11 1. The Court has jurisdiction over the subject matter of the Action and over all Parties
12 to the Action, including all Class Members. Pursuant to this Court's Order Granting Preliminary
13 Approval of Class Action Settlement of ___, the Notice Packet was sent to each Class Member
14 by First Class U.S. mail. The Notice Packet informed Class Members of the terms of the
15 Settlement, their right to receive their proportional share of the Settlement, their right to request
16 exclusion, their right to comment upon or object to the Settlement, and their right to appear in
17 person or by counsel at the final approval hearing and be heard regarding final approval of the
18 Settlement. Adequate periods of time were provided by each of these procedures. No member of
19 the Settlement Class presented written objections to the proposed Settlement as part of this notice
20 process, stated an intention to appear, or actually appeared at the final approval hearing.

23 2. For purposes of this Final Order and Judgment, the Class Members are all hourly,

25 _____
26 ² A true and correct copy of the Court's ruling on the Motion for Final Approval of Class Action
27 Settlement entered on ___ is attached hereto as **Exhibit A** and incorporated by reference. A true
28 and correct copy of the Court's Minute Order dated ___ is attached hereto as **Exhibit B** and
incorporated by reference.

1 non-exempt employees of Defendant in California at any time during the period of April 28, 2019
2 to <<the date of preliminary approval of this class action settlement>> (“Settlement Class
3 Period”).

4 3. The Court finds and determines that the notice procedure afforded adequate
5 protections to Class Members and provides the basis for the Court to make an informed decision
6 regarding final approval of the Settlement based on the responses of Class Members. The Court
7 finds and determines that the notice provided in this case was the best notice practicable, which
8 satisfied the requirements of law and due process as to all persons entitled to such notice.
9

10 **Release by Plaintiff and Class Members.** The Parties agree that it is their intent that the
11 resolution set forth in this Settlement will release and discharge the Released Claims by way of
12 any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action
13 of any kind by each and all of the Settlement Class Members (including participation to any extent
14 in any representative or collective action) against the Released Parties. This release will not take
15 effect until Defendant has paid the Gross Settlement Amount in full per this Settlement
16 Agreement.
17

18 **PAGA Release.** Plaintiff releases all claims for civil penalties that could have been
19 sought by the Labor Commissioner for the violations identified in Plaintiffs pre-filing letter to
20 the LWDA; Plaintiff does not release the claim for wages or damages of any Aggrieved Employee
21 unless such Aggrieved Employee is a Participating Class Member.
22

23 **“Released Claims”** shall mean all claims stated in the Operative Complaint and based
24 solely on the facts alleged in the Operative Complaint. **“Released Parties”** shall mean Defendant,
25 its officers, directors, employees and agents.

26 2. The Court further finds and determines that the terms of the Settlement are fair,
27
28

1 reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and
2 provisions of the Settlement, including the release of claims contained therein, should be and
3 hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement
4 according to its terms. As of the Effective Date of Settlement, and for the duration of the
5 Settlement Class Period, all Class Members are hereby deemed to have waived and released all
6 Released Claims and are forever barred and enjoined from prosecuting the Released Claims
7 against the Released Parties as fully set forth in the Settlement. No objections were received by
8 the Parties or the Court through the date of this Final Order and Judgment. The Court finds ____
9 Class Member(s) - ____ - submitted a request for exclusion from the Settlement as determined by
10 the Administrator and therefore is/are not in the Settlement Class.

11
12 3. The Court finds and determines that (a) the Settlement Shares to be paid to
13 Participating Class Members and (b) the LWDA payment as civil penalties under the California
14 Labor Code Private Attorneys General Act of 2004, as amended, California Labor Code sections
15 2699 *et seq.*, as provided for by the Settlement are fair and reasonable. The Court hereby grants
16 final approval to, and orders the payment of, those amounts be made to the Participating Class
17 Members and to the California Labor & Workforce Development Agency (“LWDA”), in
18 accordance with the terms of the Settlement.

19
20 4. The Court further grants final approval to and orders that the following payments
21 be made in accordance with the terms of the Settlement:

22 a. Class Counsel fees & costs of \$91,666.67 in attorneys’ fees and \$17,500.00
23 in litigation costs to Class Counsel;

24 b. \$10,000.00 as a Class Representative Service Payment award payable to
25 Plaintiff Heather Rodriguez for her service as a Class Representative;
26
27

c. \$17,000.00 in costs of the Administrator payable to ILYM Group, Inc. for its services as the Administrator; and

d. Payment of \$7,500.00 (75% of the (\$10,000.00 PAGA penalty) to the LWDA.

7. The settlement shall proceed as directed in the Settlement, and no payments pursuant to the Settlement shall be distributed until after the Effective Date of Settlement. Without affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Final Order and Judgment and the Settlement pursuant to California Rule of Court 3.769(h).

8. Within 14 calendar days of the Effective Date of Settlement, Defendant shall deposit the Settlement proceeds in an account designated by the Administrator: (i) the total amount of all Individual Class Payments to Participating Class Members, (ii) the Court approved Class Counsel fees & costs, (iii) the Court-approved Class Representative Service Payment, (iv) the Court-approved costs of the Administrator, (v) the payment to the LWDA, and (vi) (i) the total amount of all Individual PAGA Payments to Aggrieved Employees.

9. Other than its employer side payroll taxes, Defendant's payment of such sums shall be the sole financial obligation of Defendant under the Settlement, and shall be in full satisfaction of all claims released herein, including, without limitation, all claims for wages, penalties, interest, attorneys' fees, costs and expenses.

10. Pursuant to CCP 384 and the Settlement, Participating Class Members shall have one hundred and eighty (180) days from the date of the check's issuance to cash their Settlement Share check. After the expiration of the 180-day period, on Defendant's behalf, the Administrator

1 shall remit any amounts from voided settlement checks and otherwise unclaimed, plus interest on
2 the Residue at the legal rate of interest from the date of entry of the initial judgement to the
3 California Unclaimed Property Fund.

4 11. The Parties shall file a final accounting report by _____. A non-appearance case
5 review re submission of a final report is scheduled for ____ at _____.m. in **Department 42**. The
6 Parties shall also prepare and file a stipulation and proposed order and proposed Amended Final
7 Order and Judgment by _____ which includes the amount of distribution of unpaid cash Residue,
8 and unclaimed or abandoned funds to the non-party, the accrued interest on that sum. The
9 stipulation shall be signed by counsel for the class and defense counsel in accord with the
10 proposed Amended Final Order and Judgment. If there are objections by any party or non-party,
11 class counsel shall immediately notify the Court and the matter will be set for further hearing. A
12 non-appearance hearing for the lodging of the stipulation and proposed order and separate
13 amended judgment is scheduled for ____ at _____.m. in **Department 42**.

14 12. Nothing in this Final Order and Judgment shall preclude any action to enforce the
15 Parties' obligations under the Settlement or hereunder, including the requirement that Defendant
16 deposit funds for distribution by the Administrator to Participating Class Members in accordance
17 with the Settlement.

18 13. The Court hereby enters final judgment in this case in accordance with the terms
19 of the Settlement, Order Granting Preliminary Approval of Class Action Settlement, and this Final
20 Order and Judgment.

21 14. The Parties are hereby ordered to comply with the terms of the Settlement.

22 15. The Parties shall bear their own costs and attorneys' fees except as otherwise
23 provided by the Settlement and this Final Order and Judgment.

1 16. The Settlement is not an admission by Defendant nor is this Final Order and
2 Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendant.
3 Furthermore, the Settlement is not a concession by Defendant and shall not be used as an
4 admission of any fault, omission, or wrongdoing by Defendant. Neither this Final Order and
5 Judgment, the Settlement, any document referred to herein, any exhibit to any document referred
6 to herein, any action taken to carry out the Settlement, nor any negotiations or proceedings related
7 to the Settlement are to be construed as, or deemed to be evidence of, or an admission or
8 concession with regard to, the denials or defenses of Defendant, and shall not be offered in
9 evidence in any proceeding against the Parties hereto in any Court, administrative agency, or other
10 tribunal for any purpose whatsoever other than to enforce the provisions of this Final Order and
11 Judgment. This Final Order and Judgment, the Settlement and exhibits thereto, and any other
12 papers and records on file in the Action may be filed in this Court or in any other litigation as
13 evidence of the settlement by Defendant to support a defense of res judicata, collateral estoppel,
14 release, or other theory of claim or issue preclusion or similar defense as to the Released Claims.

15
16
17 17. This document shall constitute a Judgment for purposes of California Rule of
18 Court 3.769(h).

19 **IT IS SO ORDERED, ADJUDGED AND DECREED.**

20
21
22 _____
23 **DATE**

24
25
26 _____
27 **THE HONORABLE HENRY J. WALSH**
28 **SUPERIOR COURT JUDGE**