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Attorneys for Plaintiff and Putative Classes

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

MATTHEW WOOD individually, and on behalf of all others similarly situated, Plaintiff, vs. EMPIRE MARKETING STRATEGIES, INC., an Ohio Corporation; and DOES 1 through 50, inclusive, Defendants.	Case No. 30-2023-01324789-CU-OR-CXC **DECLARATION OF IAN M. SILVERS IN SUPPORT OF FOR PRELIMINARY APPROVAL OF CLASS-ACTION SETTLEMENT** Date: March 21,2025 Time: 10:00 a.m. Dept.: CX105

I, Ian M. Silvers, declare:

1. I am attorney at law duly licensed to practice before all state courts in California and have been admitted to practice before all United States District Courts of California. I'm an attorney and Partner in the Class Action Litigation Department of Bisnar | Chase LLP. My firm represents Matthew Wood ("Plaintiff") in the claims against Empire Marketing Strategies, Inc. (Defendant").

2. The matters set out herein are based upon my own personal knowledge as developed through my representation of the proposed Settlement Class, investigation, and the discovery conducted in this action. If called upon as a witness, I would and could competently testify to those matters contained in this declaration based upon my handling of this matter on behalf of Plaintiff.

QUALIFICATIONS, EXPERIENCE AND ADEQUACY OF CLASS COUNSEL

3. As set forth in the most current version of the Bisnar|Chase LLP Firm Resume (a true and correct copy of which is attached hereto as Exhibit 1 and includes my experience), my firm and I are well-regarded, highly experienced and adequate to represent the interests of Plaintiff and the proposed settlement class. This includes that my firm was appointed Co-Lead Counsel for the putative class in the *Yahoo! Inc. Private Information Disclosure Cases*, JCCP No. 4895 (Cal. Super. Ct., Orange County May 26, 2017). My firm was appointed Co-Lead Class Counsel in *Czuchaj v. Conair Corporation*, Case No. 3:13-cv-01901-BEN-RBB (S.D. Cal. Dec. 30, 2015). My firm was appointed as a member of the Plaintiff's Steering Committee ("PSC") in *Heber, et al. v. Toyota Motor Sales, U.S.A., Inc.*, Case No. 8:16-cv-01525-AG-JCG, (C.D. Cal. March 10, 2017). My firm was appointed Co-Lead Counsel for the putative class in the *Sali v. UHS-Corona, Inc.*, Case No. 14-cv-00985-PSG-JPR, (C.D. Cal. April 15, 2019). My firm was appointed Co-Lead Class Counsel in *Hartranft v. Apogee Retail, LLC, et al.*, Case No. SACV 15-01081-CJC-DFM, (C.D. Cal. April 18, 2019). Furthermore, the firm was appointed to the Plaintiff's Steering Committees in *Heber, et al. v. Toyota Motor Sales, U.S.A., Inc.*, Case No. 8:16-cv-01525-AG-JCG (C.D. Cal. March 10, 2017) and *Johnson & Johnson Talcum Powder Cases*, JCCP No. 4872 (L.A. Cal. Sup. Ct.). My firm and I were recently granted class certification in *Grant v. Car Spa, Inc.*, Case No. RIC1310176 (Cal. Super. Ct., Riverside County). Additionally, I obtained a published appellate opinion addressing an issue of

first impression in *Midwest Motor Supply Co. v. Super. Ct.*, (2020) 56 Cal. App. 5th 702, and an unpublished opinion affirming denial of a motion to compel arbitration in *Bonilla et. al. v. Riter Bery Farms, Inc.* Case No. H050268. I was also named one of the 2024 Top Labor & Employment Lawyers by the Daily Journal.

4. I graduated from the University of California, San Diego in June 2003 with a Bachelor of Arts in Economics. After undergraduate school, I attended Santa Clara University School of Law where I was a member of Phi Delta Phi International Legal Honors Fraternity. I obtained my Juris Doctorate in May 2006. While in law school, I interned at the Katharine and George Alexander Community Law Center advising low-income employees, under the supervision of other attorneys, on employment matters including discrimination, harassment, retaliation, unemployment and wage and hour matters.

5. After law school, I continued working in the field of employment law. I worked as an Associate Attorney for Jackson Lewis from May 2010 to December 2011 handling employment related matters.

6. From February 2013 to September 2018, before joining Bisnar | Chase LLP, I worked as an Associate Attorney with The Law Offices of Carlin and Buchsbaum, LLP, located in Long Beach. While at The Law Offices of Carlin and Buchsbaum, LLP, I began litigating primarily California wage-and-hour class actions and PAGA representative matters.

7. From October 2018 to the present, I have worked for Bisnar|Chase LLP as an Associate Attorney in its Class Action Litigation Department through October 2024 and thereafter as a Partner. As part of this department, I work solely on class actions, both wage-and-hour and consumer class actions. Thus, I have substantial experience in class-action litigation, know its requirements, can evaluate the probability of success, and know the manpower and costs involved in prosecuting class actions.

FACTUAL AND PROCEDURAL BACKGROUND, DISCOVERY AND INVESTIGATION

8. Defendant works exclusively with Kroger stores (so Ralphs etc.) and helps other companies plan and implement fresh marketing and promotional strategies in Kroger

stores. It does this in part by having class members each day they work go into different Kroger stores

9. On April 24, 2023, Plaintiff filed a Private Attorneys General Act ("PAGA") notice with the LWDA. On May 11, 2023, Plaintiff filed a class action complaint with claims for failing to pay for all wages owed (including overtime at all or at the correct rate), failure to reimburse business expenses, non-complaint wage statements, waiting time penalties, and violation of California's Unfair Competition Law. Plaintiff attempted to file a First Amended Complaint to add PAGA but it was rejected by the Court because Defendant had filed an Answer (despite the statutory right to do so). The Parties later stipulated to the amendment, which was filed on October 2, 2023.

10. Subsequently, the Parties agreed to mediate the matter in February 2024. While discussing the exchange for information, Plaintiff also informed Defendant it intended to amend the complaint to address meal periods and rest break violations and provided and the basis for the claims, but the parties agreed to hold off adding it at that time and to address those allegations as part of mediation. However, the mediation had to be continued to April 16, 2024 due to a medical emergency of Defendant's counsel.

11. As part of the informal exchange, Plaintiff provided requested documents to Defendant regarding his claims and Defendant provided items including a time and payroll records sample for 20 class members, employee handbooks (including one prepared after mediation was agreed to here) and a class list with start and end dates. However for the time records (except for starting in July 2023 months after the PAGA notice and complaint when there appeared to be some actual records), this was Trip Detail Reports that used GPS to show the time an employee left home and arrived and left each location. The records did not show any meal periods or rest breaks. The July 2023 and on records did show some meal periods but as addressed below had other issues. From the class list, Plaintiff's expert determined there were 125 class members, of which 63 were former employees, who worked 15,677 workweeks, and there were 92 Aggrieved Employees in the PAGA period who worked 1,782 pay periods. As part of the analysis, Plaintiff's counsel also found that Defendant, using the

records provided, was not paying daily overtime (which was consistent with handbook policies).

12. On the April 16, 2024, mediation, Hon. Joan Lewis (Ret.) helped to manage the Parties' expectations and provided a useful, neutral analysis of the issues and risks to both sides. She helped to narrow the gap between the Parties' respective positions, but they were unable to reach a resolution. Defendant requested additional time to look into some of the claims and allegations. The Parties agreed Defendant would have a month and entered into a tolling agreement on any unfiled claims (to address generally the meal and rest break claims that had not been added and other clarifications to the claims) to start at mediation and continue during the continued discussions, but at least for the month. At the end of the month, Defendant provided a supplemental (through the mediator) addressing its contention about the claims and provided a counteroffer. The parties each provided a total of 4 supplemental briefs and discussions (with the assistance of the mediator), including addressing the claims and defenses, providing documents to support them claims, and counter offers for each brief. Plaintiff was involved in the providing the responses and documents to support claims during the supplemental briefings. After the extensive negotiations and information provided through this, the mediator made a mediator's proposal that was accepted by the Parties.

13. After the proposal was accepted, the Parties negotiated a complete Settlement Agreement including the Class Notice, Request for Exclusion Form and Objection form. That included Plaintiff filing an amended PAGA notice and the Parties agreeing to stipulate to a Second Amended Complaint to address the meal period and rest break claims and other items raised during the mediation and supplemental briefing. The Amended PAGA notice was filed on August 30, 2024, and once the 65 days on it expired, a Second Amended Complaint was filed on November 4, 2024. At all times, the negotiations were adversarial and non-collusive.

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OTHER PENDING CASES

14. I am not aware of any other pending cases that may impact the settlement. I have spoken with Defendant's counsel and understand that that Defendant and counsel are not aware of any such cases either.

ANALYSIS OF CLAIMS

15. The evaluation of the settlement terms was informed by several factors, including analysis of the discovery (informal) provided. Due to his tenure at Defendant, Plaintiff was able to share his intimate familiarity with the policies and practices and how these were instituted on a daily basis. This informed Plaintiff's Counsel's initial evaluation and discovery efforts.

16. In that regard, Plaintiff's informal discovery requests led to the production of considerable evidence including a class list, trip detail reports showing when they left home, arrived and left each location for 20 class members that did not show meal periods or rest breaks (as there were no time records until July 2023 months after the PAGA notice and complaint) as well as some time records once they did exist, pay stubs, expense reimbursement amounts for those same 20 class members, as well as handbooks (including one prepared after mediation was agreed to here) and the policies at issue and the post-mediation briefing of arguments addressed above. As a result, I was able to identify the policies and procedures that would have formed the backbone of the motion for class certification. Plaintiff's expert also analyzed the trip detail reports, time and pay records and assisted me in estimating the maximum potential exposure.

17. Overall, Plaintiff's Counsel performed a thorough investigation, which included: 1) determining Plaintiff's suitability as a representative through interviews, background investigations and analyses of their employment file and records; (2) researching and investigating Plaintiff's claims (including through four rounds of post-mediation briefing with Defendant's counsel); (3) researching similar cases, and the relevant labor market; (4) analyzing time and pay records produced by Defendant; (5) reviewing the policies and practices; (6) researching settlements in similar cases; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief;

and (9) participating in the mediation and almost 3 months of post-mediation negotiations and analysis through four rounds of supplemental briefing on the claims and defenses.

18. By engaging in such a thorough investigation and evaluation, I can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendant. The terms of the Settlement are embodied in the Proposed Settlement Agreement, a true and correct copy of which is attached hereto as Exhibit 2. Exhibit 2 also includes the Proposed Notice Of Class Action Settlement And Hearing Date For Final Court Approval as Exhibit A, a Request for Exclusion Form as Exhibit B and an Objection Form as Exhibit C.

19. Defendant produced Class Member data which formed the basis of Plaintiff's Counsel's valuation of theoretical exposure. From this an appropriate range of recovery for settlement purposes was determined by offsetting this by: (i) the strength of Defendant's defenses; (ii) the risk of certification being denied; (iii) the risk of the Court finding a PAGA trial unmanageable;[1] (iv) the risk of losing on dispositive motions brought between certification and trial (e.g., to decertify the class and/or for summary judgment) that may eliminate all/some claims or bar necessary evidence; (v) the risk of losing at trial or prevailing on only some claims; (vi) the chances the Court exercises its discretion to reduce PAGA penalties; (vii) the chances of a favorable verdict being reversed on appeal; and (viii) the difficulties in collecting a judgment (collectively, the "Discount Factors").

20. <u>Unpaid Wages</u>. Plaintiff alleged that there were multiple such violations. __. One was that Defendant (as stated in its policy and confirmed by Trip Detail Reports) did not pay daily overtime and only paid weekly overtime for working over 40 hours (as they were

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[1] While there was previously a split of authority not this the California Supreme Cour has now held manageability is not a basis to strike a PAGA claim. *Estrada v Royalty Carpet Mills, Inc. Case No S.*274340 (January 18, 2024).). But Plaintiff still expects Defendant would raise the argument in related to ability to proceed.

salaried non-exempt employees), at least until July 2023 when it claimed to change its practice (after the lawsuit was filed), which Plaintiff's expert determined was on average 2.1 hours per week per employee of overtime premiums owed. Further, Defendant would deduct 30 minutes for meal periods regardless of whether they were taken (and as shown on the Trip Detail Report they have no basis to say any were taken), resulting in additional wages due. Also, employees would work weekends (Weekend Warrior Program) and not be properly paid for all such hours (including regarding payment at the overtime rate) they were salaried. This was not every weekend and that had to be accounted for in calculating damages. There were also discretionary bonuses/shift differentials provided, and Plaintiff alleged these were not properly accounted for in any overtime rate, but again these did not happen all the time. Defendant would argue that any overtime was reported, employees knew how to report it (and provided some example that included weekend ones, which were an exception according to Plaintiff) Additionally, it would argue that the handbook policy was not enforced and it compiled with California law on overtime, but either way it was revised in November 2023 (after mediation was scheduled) and now does provides for daily overtime. Regarding meal periods, it would argue employees got them and as such there was no time improperly deducted for that. Further, it argued that the Trip Detailed Reports do not show the actual hours worked (although it relied on them but at the same time claimed to not rely on them, leaving them with no records), and that employees would do things during the workday like shopping and this would reduce their hours for the day. Lastly it would argue that as all hours were properly accounted for, the overtime rate for any discretionary bonus was correct. Plaintiff disputed this. As a result of the above, the overtime owed based on not paying daily overtime shown in Trip Detail Reports was $368,376.33, the wages owed for off the clock was $794,050, and the overtime owed by not properly accounting for the bonuses/shift differentials was $20,616, totaling $1,287,399. As a result of the above argument and claimed changed practices, Plaintiff reduced the damages amount by 40% to $772,439.40.

21. Meal Period Claim. Plaintiff alleged class member are owed premiums for non-compliant meal periods, including as a result of non-compliant policies (that failed to inform

them when to take meal periods, how long they are, and when they are entitled to a second one) and practices as they unable to take them due to workloads. Defendant either had no records of meal periods or the Trip Detail Reports are their records and they do not show any meal periods. Either way it results in a rebuttable presumption of violations under *Donohue v. AMN Servs., LLC,* (2021) 11 Cal. 5th 58, 74-76. Plaintiff contends Defendant will be unable to rebut this, including it cannot show meal period premiums were paid for these. Defendant disagrees and claims it had training that informed employees of the requirements for meal periods (thus the handbook did not result in violations), that it had a revised handbook, it did not prevent them from taking them, they did actually get them (and other swill testify to that), their work load did not prevent them from being able to take any, and they were out of the office and had plenty of time during the day to do so. It also disputes that the Trip Detail Reports not showing them results in any liability, but as Plaintiff notes above, whether using those reports or not, there are no records of meal periods. Further, Defendant would argue that even if this cause of action was added, it would be at least a year shorter than the other claims, thus limiting the recovery. Plaintiffs' expert calculated damage for non-compliant meal periods as $1,547,198. Accounting for the above arguments, Plaintiffs reduced these amounts by 35% to $1,005,678.70.

22. Rest Period Claim. Plaintiff alleged class members were required to work through or did not receive compliant rest breaks. This includes they had to meet schedules and deadlines, which prevented them from getting them, and that Defendant's handbook policies simply stated there would be 15-mintiue rest breaks but not when and if they were paid or uninterrupted. Defendant disagrees and contends it provided putative class members with requisite rest breaks, provided training on them (this employees knew of their rights), and it has a compliant policy that provides for two 15-minute rest breaks per day and they were authorized and permitted to take them. Further, Defendant would argue that even if this cause of action was added, it would be at least a year shorter than the other claims, thus limiting the recovery. Additionally, there are no records of rest breaks and Defendant will make the same arguments as for meal periods that it properly complied with the law. Plaintiff estimated this portion of the claims to be $1,570,198 but based on the above reduced this 40% to $942,118.80.

23. Expense Reimbursement. Plaintiff alleged Defendant required employees to use personal vehicles for work and did not properly reimburse them. That includes when accounting for required increased insurance of $250,000 per individual and $500,000 per incident for bodily injury and $100,000 in property insurance (instead of the California minimum of $15,000 per individual and $30,000 per incident for bodily injury and $5,000 in property insurance) as well as use of the car and expenses such as gas and mileage rates well below the IRS rate (maxing out at around 29 cents/mile). Further, Defendant arbitrarily decided to not count the first 5 miles to the first locations and 5 miles back from the last one to home. Plaintiff alleged these miles are reimbursable even when commute time is not, as held in cases such as *Aguilar v, Zep, Inc.*, (N.D. Cal. August 27, 2014), 13-CV-00563-WHO, 2014 WL 4245988 and *Del Thibodeau v. ADT LLC*, , (S.D. Cal. Apr. 18, 2019) No. 316CV02680GPCAGS, 2019 WL 1746141, at *6-7. Defendant contends it has a compliant fixed and variable expense reimbursement policy, which is been an approved method to reimburse for such expenses, that covers all of these items and even may have overpaid some of them and that commute miles are not reimbursable at all so only deducting up to 5 miles overpaid employees. However when comparing to even the IRS mileage rate amounts, Plaintiff contends it fell short (separate from the improperly excluded commute miles). Taking these items into account Plaintiff's expert found total expenses owed to the class (simply using the IRS rate for the miles and comparing it to what was paid) was $600,451, but based on the above reduced this 35% to $390,293.15.

24. Wage Statements. This is independent and derivative of the above claims, which as noted have risks. For the independent claim, Defendant's wage statements prior to July 1, 2023 were twice per month and simply listed 86.67 regular time hours (including accounting for PTO/vacation) regardless of the hours worked, resulting in a violation as held in a May 17, 2002 DLSE Opinion Letter. After that it began paying weekly and the same issue arose as the regular hours (including accounting for PTO/vacation and an adjustment for "salary hours" if it was short) were always 40 hours regardless of hours actually worked, thus not properly representing the hours worked. Defendant would argue the hours were accurate

and that it properly identified the salary hours adjustment when used, that any claimed issues have been fixed and further than a technical violation was not intentional and therefore would not result in liability. Based on the above, Plaintiff estimated this portion of the claims to be $280,000 for the entire period, but based on the above (including risks on derivative claims), it reduced this 35% to $182,000. *Id.*

25. Waiting-Time Penalties. This is also derivative of the above claims and there is significant risk regarding the defenses and contentions of Defendant, showing it was willful, and the Discount factors. Plaintiff estimated this portion of the claims to be $226,441 but based on the above reduced this 40% to $135,864.60.

26. Based on information and evidence produced by Defendant, Aggrieved Employees worked a combined total of 1,782 pay periods (as of mediation) during the PAGA Period. Defendant would argue that penalties could not be stacked on top of one another (which Plaintiff disputes), thus greatly reducing the potential exposure.

27. Based on the foregoing, Defendant's maximum potential exposure for PAGA penalties using a $100 penalty is $100 x 1,782 = $178,200. However, under Labor Code Section 558, there is a penalty of $50 for initial penalties and $100 for subsequent penalties for underpayment of wages which could apply to the unpaid wage claims and arguably meal period and rest break premiums, decreasing the above to $89,100 for each of those (the business expense claim would be at the full amount). However, this assumes a violation each pay period. As noted above, Defendant claims it has fixed some of the problems (including regarding pay stubs, time records (since July 2023), its overtime policy and recording meal periods) since the PAGA notice was filed and served. It also disputes that business expenses were not fully reimbursed. The wage statement claims include derivative and non-derivative claims, and Defendant would argue against stacking for the derivative ones. So with that, there would likely be closer to 3 violations/pay period when looking at the entire time, even accounting for expense claims which Defendant would argue are once per month at best. Waiting time penalties are derivative, but they only happens in a few pay periods, so adding it would not greatly increase the total past the 3 penalties per pay period. But this attributes a

penalty to each pay period and does not take into account the significant risks addressed above with prevailing on the claims.

FEE SPLITTING AGREEMENT

28. Bisnar Chase LLP and Culver Law Firm have entered into a fee splitting agreement of which Plaintiff is aware and to which he has consented.

SUBMISSION OF SETTLEMENT TO LWDA

29. I have also submitted a copy of the Settlement to the LWDA as required by PAGA. Attached as Exhibit 3 is a true and correct copy of the confirmation of that submission.

SUBMISSION OF PAGA NOTICE

30. Attached as Exhibit 4 and 5 are is a true and correct copies of the PAGA Notice and Amended PAGA notice, respectively, submitted to the LWDA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 3, 2024 in Newport Beach, California.

Ian M. Silvers

IAN M. SILVERS

EXHIBIT 1

BISNAR | CHASE
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Our Attorneys

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Scott A. Ritsema
Steven R. Hilst•
Tom G. Antunovich

** Attorneys who are members of the firm's Class Action Litigation Department (CALD)*

• *Attorneys who are members of the American Board of Trial Advocates (ABOTA)*

Our Support Staff

In addition, Bisnar | Chase has 34 professional staff members to support our attorneys in litigation.

The Firm

Founded in 1978, today Bisnar | Chase is proud to be a firm that offers a breadth and depth of complex litigation and trial experience in multiple litigation areas: ranging from single plaintiff product defect cases to mass tort and class action cases. Bisnar | Chase is built upon advocating for the rights of workers, consumers, and families and aggressively seeks justice and accountability for people harmed by wrongdoing and negligence. Our firm is committed to obtaining the best possible outcome for clients, occasionally investing substantial resources into our clients' cases. Using the fundamentals of the U.S. civil justice system, we champion fights considered long shots. Bisnar | Chase takes on cases that others may not be able or may choose not to fight. The civil justice system compensates people injured or wronged, addresses corporate behavior and causes change to help prevent more people from being hurt. By continuing to take cutting-edge and challenging cases, by giving back to our profession and our communities, and by believing optimistically that just one person can bring about change, we are litigating today for a better tomorrow.

Attorneys at Bisnar | Chase have handled many individual, consolidated, mass tort and class action cases in state and federal courts across the country. Our practice is diverse, and over the years, Bisnar | Chase has focused their practice to these areas:

- **Consumer class actions** relating to defective products, false or misleading advertising, unwanted robo calls, and data breaches;
- **Employment class actions and representative actions** relating to unpaid minimum wages, overtime, meal-and-rest break violations, unreimbursed expenses, and pursuing claims under California's Private Attorneys General Act (the "PAGA");
- **Mass tort actions** relating to defective products, medical devices and medical drugs; and
- **Catastrophic** product defect cases.

Bisnar | Chase has the knowledge, experience and resources to not only certify a case, but take that case to trial. Because of its experienced attorneys and support staff, Bisnar | Chase has and continues to succeed, recovering over 800,000,000 for its clients.

The Attorneys

About Brian D. Chase•

Brian is the managing partner and senior trial attorney who oversees the litigation departments of the firm. In terms of leadership, Brian was appointed the President of the Consumer Attorneys of California ("CAOC") in 2015—"a professional organization that represents the interests of 39 million Californians."[1] In 2007, he served as the President of the Orange County Trial Lawyers Association ("OCTLA"). In 2016, he was named a Top Lawyer of Distinction, one of America's Best Lawyers, and a Super Lawyer recipient. He is also has the distinction of being a member of ABOTA—"a national association of experienced trial lawyers and judges[,] [who] … are dedicated to the preservation and promotion of the civil jury trial right provided by the Seventh Amendment to the U.S. Constitution."[2]

In 2004 and 2014, Brian was named Trial Lawyer of the Year in Products Liability by the OCTLA. In 2012, he was named Trial Lawyer of the Year by the CAOC and a Trial Lawyer of the Year Nominee by the Consumer Attorneys Association of Los Angeles ("CAALA").

Brian is listed as one of the Top 100 Trial Lawyers by the American Trial Lawyers Association since 2007. He has also been listed as the Nation's Top One Percent by the National Association of Distinguished Counsel. He has earned the title of Southern California Super Lawyer since 2007 and a Top 50 Orange County Super Lawyer for the past four years.

In 2009, Brian had his book "Still Unsafe at Any Speed"—dealing with the auto industry and defective vehicles—published. In September 2019, he released his updated version titled The Second Collision. He is a frequent lecturer on litigation related topics throughout the nation and

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[1] https://www.caoc.org/index.cfm?pg=history (last visited Nov. 11, 2019).

[2] https://www.abota.org/Online/About/Online/About/About_Us.aspx?hkey=41d8ebe9-9944-4fd9-8758-51d25a2308e0 (last visited Nov. 11, 2019).

has been a frequent guest on radio and television shows, including appearances on "CBS Special Reports," "Peter Jennings/World News Tonight," "Fox 11 News," and "America's Best Lawyers."

Brian was lead attorney on four important, precedent-setting appellate opinions: *Martinez v. Ford Motor Company,* (2010) 185 Cal.App.4th 9, (auto defect case involving forum non-nonveniens); *Romine v. Johnson Controls*, (2014) 224 Cal.App.4th 990 (auto defect case involving the consumer expectation test); *Schreiber v. Estate of Kiser*, (1999) 22 Cal.App4th 31 (California Supreme Court involving expert witness designations); and *Hernandez v. State of California*, (1970) 11 Cal.App.3d 895 (involving the governmental-design immunity defense).

In terms of leadership in class actions and mass torts, Bisnar | Chase was appointed co-lead counsel in the *Yahoo! Inc. Private Information Disclosure Cases*, Judicial Council Coordinated Proceedings ("JCCP") No. 4895 (O.C. Cal. Sup. Ct. May 26, 2017)—a case involving one of the largest data breaches in U.S. history comprising billions of user accounts and millions of consumers. In a contested class certification motion, Bisnar | Chase was appointed co-lead counsel in *Czuchaj v. Conair Corp.*, No. 3:13-cv-01901-BEN-RBB, Dkt. 173 (S.D. Cal. 2015)—a case involving defective hairdryers and comprised hundreds of thousands of consumers throughout the U.S. Bisnar | Chase was appointed to the Plaintiffs' Steering Committee ("PSC") in *Heber, et al. v. Toyota Motor Sales, U.S.A., Inc.*, No. 8:16-cv-01525-AG-JCG, Dkt. 31 (C.D. Cal. March 10, 2017)—a product defect class action against Toyota involving hundreds of thousands of consumers throughout the U.S. *Heber* in on appeal before Ninth Circuit (*Heber, et al. v. Toyota Motor Sales, USA Inc.*, Court of Appeals No. 18-55935). Mr. Beligan from Bisnar | Chase took lead on preparing and finalizing the opening and reply briefs and has been picked by the group to argue the appeal which will probably take place during the first week of March 2020. Bisnar | Chase was also appointed to the PSC in *Johnson & Johnson Talcum Powder Cases*, JCCP No. 4872 (L.A. Cal. Sup. Ct. April 12, 2019).

Recently, Bisnar | Chase was appointed co-lead counsel in *Hartranft v. TVI, Inc., et al.*, No. SACV 15-01081-CJC-DFM, Dkt. 101 (C.D. Cal. Apr. 18, 2019)—a case involving alleged violations of the Telephone Consumer Protection Act ("TCPA"), comprising over 700,000 class members. Bisnar | Chase was also appointed lead counsel in *Dada, et al. v. CyberCoders, Inc.*, No. SACV 18-01023JVS (JDEx), Dkt. 36 (C.D. Cal. Jul. 30, 2019)—a wage-and-hour class action involving roughly 1,000 employees who were allegedly not paid for all hours worked. In another hotly contested class certification motion, Bisnar | Chase was appointed lead counsel in *Grant, et al. v. Car Spa, Inc.*, No. RIC1310176 (Riv. Cal. Sup. Ct. Aug. 23, 2019—another wage-and-hour class action involving over 900 employees who were allegedly not paid all their wages.

Sampling of Complex Civil Trial Experience

Brian has tried *over* 30 civil jury trials to verdict in both state and federal courts across the country. A small sampling includes:

- *Romine v. Nissan Motor Co., Ltd., et al.*, No. 386031 (LASC), $24,744,764 jury verdict in seat back defect case, successfully upheld on appeal (resulting in a published opinion) and successfully opposed a petition for review to the California Supreme Court;

- *Hastings v. Ford Motor Company, et al.*, No. 34-2013-00152924-CU-PL-GDS, $16,000,000 judgment at conclusion of trial (defective seat back case with severe injury to second row minor);

- *Garcia v. Toyota Motor Corporation et. al.*, No. 37-2013-00043093 (SDSC), defective seat back case involving quadriplegic client, resulting in confidential settlement;

- *Wall v. Toyota Motor Corporation, et. al.*, No. 1470003 (SBSC), defective seat back, wrongful death case, resulting in confidential settlement;

- *Mares, et al. v. Chrysler Group, LLC*, No. 386031 (LASC), $1,264,698.49 jury verdict in gas tank design defect case, successfully upheld on appeal (unpublished opinion and successfully opposed petition for review to the California Supreme Court);

- *Levesque v. Ford Motor Company, et al.*, No. BC313548 (LASC), defective side curtain air bag, occupant restraints, handling, stability and roof crush, resulting in confidential settlement;

- *Rittenberg v. General Motors, et al.*, No. 2:04-22156-23 (U.S. Dist. Ct., Dist. of So. Car., Charleston Div.), defective occupant restraints and roof crush case, resulting in confidential settlement;

- *Obediente v. Toyota Motors Co., et al.*, No. YC 060158 (LASC), defective handling and stability case, resulting in confidential settlement;

- *Colonna v. Porsche AG, et al.*, No. RIC 449128 (RCSC), defective occupant restraints and defective sun roof case, resulting in confidential settlement;

- *Gil v. Ford Motor Company, et al.*, No. 1:06-CV-122 (U.S. Dist. Ct., No. Dist. of W. Va., defective handling, stability and occupant restraints case, resulting in confidential settlement;

- *Pheam v. Land Rover, et al.*, No. BC 329775 (LASC), defective handling, stability and occupant restraints case, resulting in confidential settlement;

- *Thayer v. Subaru, et al.*, No. 30-2008-0019807 (OCSC), defective handling, stability and occupant restraints case, resulting in confidential settlement;

- *Sleight v. Ford Motor Company, et al.*, No. C20054479 (Ariz. Sup. Ct., County of Pima), defective seat case, resulting in confidential settlement;

- *Collins v. Ford Motor Company, et al.*, No. RIC 361201 (RCSC), defective seat case, settled confidentially after third day of trial; and

- *Newton v. General Motors, et al.*, No. 341918 (RCSC), defective occupant restraints and roof crush case, resulting in confidential settlement.

Some of Brian's Other Professional Successes

Award Amount	Nature of Suit
$38,650.000.00	Tort – Motor Vehicle
$24,700.000.00	Tort – Product Liability
$23,091.000.00	Tort – Product Liability
$16,444.904.00	Tort – Product Liability
$11,694.904.00	Tort – Personal Injury
$10,591.098.00	Tort – Personal Injury
$10,030.000.00	Tort – Product Liability
$8,500.000.00	Tort – Motor Vehicle
$8,250.000.00	Tort – Motor Vehicle

*About Ian M. Silvers**

Ian graduated from the University of California, San Diego in June 2003 with a Bachelor of Arts in Economics and a minor in Law and Society. After undergraduate school, Ian attended Santa Clara University, School of Law, where he obtained his Juris Doctorate in May 2006 and was a member of the Phi Delta Phi International Legal Honors Fraternity. While in law school, Ian interned at the Katharine and George Alexander Community Law Center ("KGACLC") advising low income employees (in conjunction with his supervising attorneys) on employment matters including discrimination, harassment, retaliation, unemployment and wage and hour. He also represented employees before the Division of Labor Standards Enforcement on wage and hour matters and obtained favorable decisions for his clients. Ian passed and became a member of the California State Bar in December 2006. In addition to being licensed in California state courts, Ian is also licensed to practice in federal court before the United States District Courts for the Central and Eastern Districts of California.

After law school, Ian continued to fight for and protect the rights of employees. He has continued to represent employees on all types of employment cases including discrimination, harassment, retaliation and wage and hour matters (including class action wage and hour matters). He also continued his work assisting those who could not afford legal representation by volunteering as an attorney providing the same advising services that he helped provide as a law student at KGACLC. This time it was at the Voluntary Legal Services Program in Sacramento. As a result, he Received the Wiley W. Manuel Award for Pro Bono Legal Service in 2009.

Prior to joining Bisnar Chase, Ian worked at a well-known Long Beach employment firm, where he regularly handled wage and hour matters, including class actions and Private Attorneys General Act matters. In the class action cases, he has been able to reach significant settlements for small and large classes of employees, including multiple seven figure class action settlements.

Ian is a Partner at Bisnar Chase and leads the Class Action Litigation Department handling wage and actions. He also handles non-class action matters addressing sexual harassment, wrongful termination, retaliation and discrimination.

Bisnar|Chase's Leadership Roles and Recent Trial Court Victories

Employment Cases

Bisnar|Chase is lead counsel in a wage-and-hour action titled *Samantha Young v. Shipt, Inc.*, pending in the United States District Court for the Northern District of Illinois, Case No. 1:20-cv-05858 (*Young*). *Young* is a complex case in which plaintiff is seeking to conditionally certify a collective action under the Fair Labor Standards Act and certify an Illinois class under Federal Rule of Civil Procedure 23. In *Young*, the plaintiff alleges that Shipt misclassified her, and potentially hundreds or thousands of others, as independent contractors. As a result, plaintiff alleges Shipt has been able to shift its operating costs to its employees and has been avoiding paying its employees the minimum wage for all regular hours worked and overtime wages when they worked over 40 hours in a workweek.

Bisnar|Chas is co-lead class counsel in a wage-and-hour class action against a defendant employer that settled for $8,750,000 in California superior court. The employment class action involved claims for unpaid minimum wages, unpaid overtime, meal-and-rest break violations, and derivative claims for inaccurate wage statements and penalties for the late payment of wages due.

Bisnar|Chase was appointed lead counsel in a wage-and-hour class action involving roughly 1,000 employees in July 2019. The case is titled *Justin Dada, et al. v. CyberCoders, Inc., et al.*, Case No. SACV 18-01023JVS (JDEx) (*Dada*), and was pending in the United States District Court for the Central District of California. *Dada* involved claims for unpaid minimum wages, unpaid overtime, meal-and-rest break violations, and derivative claims for inaccurate wage statements and penalties for the late payment of wages due.

Consumer Cases

Bisnar|Chase is co-lead counsel in a consumer class action pending against Toyota, the second largest car manufacturer in the world. The case is titled *Albert Heber, et al. v. Toyota Motor Sales, U.S.A., Inc.*, Case No. 8:16-cv-01525-CJC-JCG, pending in the United States District Court for the Central District of California. As discussed above, *Heber* involves hundreds of thousands of Toyota vehicles that allegedly contain defective soy wiring that increases the probability of rodent-inflicted damage, resulting in millions of out-of-pocket losses for consumers and creation of potential safety hazards.

In a case involving hundreds of thousands of putative class members, Bisnar | Chase defeated Icy Hot's motion to dismiss plaintiff's claim against Icy Hot for false and misleading advertising. (*See Ruthie Martin v. Chattem, Inc.*, Case No. 19STCV17036, pending in Los Angeles Superior Court.)

Bisnar | Chase was appointed co-lead counsel In a TCPA class action involving over 700,000 class members. (See *Hartranft v. TVI, Inc. et al*., Case No. 8:15-cv-01081-CJC-DFM, Dkt. 101, at 4 (C.D. Cal. Apr. 18, 2019).)

In one of the largest data breaches in U.S. history, Bisnar | Chase was appointed co-lead counsel in *Yahoo! Inc. Private Information Disclosure Cases*, JCCP No. 4895 (O.C. Cal. Sup. Ct. May 26, 2017).

In a certified class action involving defective hair dryers and hundreds of thousands of class members, Bisnar | Chase was appointed co-lead counsel in *Czuchaj v. Conair Corp.*, No. 3:13-cv-01901-BEN-RBB (S.D. Cal. Dec. 30, 2015).

Appellate Victories

Ninth Circuit Court of Appeals

BISNAR|CHASE employment lawyers has won on the appellate level, both in federal and state court. In 2018, he reversed a district court order denying a motion for class certification in an employment case. (See *Sali v. Corona Regional Medical Center* (9th Cir. 2018) 909 F.3d 996 (*amended* Nov. 27, 2018) (*Sali*).) In *Sali*, he was recognized by the Ninth Circuit Court of Appeals as “ha[ving] extensive experience litigating class-action cases in state and federal court.” (*Id*. at 1008.) For his work and remarkable win in *Sali*, he was nominated for the *2019 Trial Lawyer of the Year Award* by the American Association for Justice (AAJ). After the appeal, Bisnar | Chase settled the matter on a class basis and the district court in *Sali*—who initially denied class certification—appointed Bisnar | Chase as class counsel and eventually approved the class settlement.

In another Ninth Circuit victory, BISNAR|CHASE employment lawyers successfully revived a consumer class action against Toyota which was dismissed by a federal district court. (See *Heber, et al. v. Toyota Motor Sales, U.S.A., Inc*. (9th Cir. 2020) 823 Fed.Appx. 512 (*Heber*).) In *Heber*, the plaintiffs allege that Toyota’s switch from plastic to soy-based wiring in its engines increased the probability of rodent-inflicted damage, resulting in millions of out-of-pocket losses for consumers and the creation of a substantial safety hazard. The district court judge held the plaintiffs could not blame Toyota for the increase in damages and safety hazards, but only the rodents. The three-judge panel in *Heber* held the district court judge was off the mark when he found the proposed class could not blame Toyota for damage done by a third party—the rats—saying the alleged defect was the soy-based wiring harness, not the animals. Brian Chase of Bisnar | Chase told Law360 that the *Heber* opinion obtained by Jerusalem was a “great victory” for Toyota owners. He also told Law360 that “[n]ow that the Ninth Circuit has revived their breach of implied warranty claims, plaintiffs can continue to fight and seek reimbursement for the money and other out-of-pocket losses they and other consumers incurred in having to repair or replace their damaged soy-based wiring.”

California Court of Appeals

In 2019, BISNAR|CHASE employment lawyers won an appellate victory when he affirmed a trial court's denial of a petition to compel arbitration in an employment case. (See *Velarde v. Tricor America, Inc*., No. A153351, 2019 WL 1649314 (1st DCA, Div. 5, filed April 17, 2019) (petition for review to the California Supreme Court denied).)

In a more recent case, Jerusalem and Ian obtained a published decision clarifying what is deemed a modification of a contract for purposes of California Labor Code § 925. (See *Midwest Motor Supply Co. v. Sup. Ct.* (2020) 56 Cal.App.5th 702 (*Midwest*).) The issue in *Midwest* was whether the plaintiff could void the forum-selection clause in an employment contract under section 925, which renders such a clause in an employment contract voidable by an employee if the contract containing the clause was "entered into, modified, or extended on or after January 1, 2017." The trial court determined plaintiff could void the forum-selection clause under section 925 because Midwest modified the compensation provision of plaintiff's employment agreement in 2017 and again in 2018, even though the forum-selection clause itself was not modified. The appellate panel in *Midwest Motor Supply* agreed with the trial court and affirmed its ruling.

Sampling of Class Action Experience in Both Wage-and-Hour and Consumer Cases

A. Employment Cases

(1) *Gaitan v. Avenue StoresBrehm, et al.*, Orange County Superior Court, Case No. 30-2017-00924392-CU-OE-CJC, Private Attorneys General Act representative action;

(2) *Kirkpatrick v. Aneriucan Fireglass, Inc.* Riverside Superior Court Case No. RIC1503312, wage-and-hour class action;

(3) *Mirasol v. Emcore Corporation*, Los Angeles County Superior Court Case No. BC604058, wage-and-hour class action;

(4) *Beaver v. Roadrunner Preferrred Delivery Systems, Inc.* Los Angeles County Superior Court Case No. BC603585, wage-and-hour class action;

(5) *Benson v. Brotherhood Trucking, Inc*., Los Angeles County Superior Court Case No.BC642865, wage-and-hour class action;

(6) *Orr v. Safe Step Walk0In Tub Company, Inc. et. al., Orange County Superior Court Case No.* 30-2017-00946921-CU-OE-CXC, wage-and-hour class action;

(7) *Cambero v. TFC Manufacturing, Inc*., Los Angeles County Superior Court Case No.BC689221, wage-and-hour class action;

(8) *Holguin v. U.S. Renbal Care, Inc*., Los Angeles County Superior Court Case No, BC638347, Private Attorneys General Act representative action;

(9) *Young v. Endless Pursuit Corporation DBA 1-800-GOT-JUNK*, Los Angeles County Superior Court Case No, BC676645, wage-and-hour class action;

(10) *Andre Charles v. Airgas USA, Inc.* U.S. District Court for the Central District of California, Case No. 2:2018cv01937, wage-and-hour class action;

(11) *Eric Carr v. Ampak Chemicals, Inc*., Los Angeles County Superior Court Case No. BC701230; wage-and-hour class action;

(12) *Grant, et al. v Car Spa, Inc*., Riverside Superior Court, No. RIC1310176, wage-and-hour class action (contested class certification motion, resulting in motion for class certification being granted and Bisnar | Chase being appointed lead class counsel);

(13) *Padilla v. Anheuser-Busch, LLC* (consolidated w/ *Jose Hernandez, et al v. Anheuser-Busch, LLC*), Los Angeles Superior Court, Case No. BC646330, wage-and-hour class action;

(14) *Willner v. Axia Financial, LLC*, Los Angeles Superior Court, Case No. BC292009, wage-and-hour class action;

(15) *Brown v. Edelman Financial Services,* U.S. District Court for the Central District of California, Case No. 18-cv-00214, wage-and-hour class action;

(16) *Dada v. Cybercoders, Inc.*, Orange County Superior Court, Case No. 30-2018-00974855, wage-and-hour class action;

(17) *Jankeel v. Ballast Point Brewing Company*, Orange County Superior Court, Case No. 37-2018-00052349, wage-and-hour class action;

(18) *Orozco v. United Site Services, Inc.*, Los Angeles County Superior Court, Case No. 18STCV01830, wage-and-hour class action;

(19) *Neseth v. Dayson, Inc.*, Orange County Superior Court, Case No. 30-2018-01033597, wage-and-hour class action;

(20) *Biakanja v. Primal Elements, Inc.*, Orange County Superior Court, Case No. 30-2019-01047689, wage-and-hour class action;

(21) *Owens v. Blood Bank of San Bernardino and Riverside Counties dba Lifestream*, San Bernardino Superior Court, Case No. CIVDS 1811013, wage-and-hour class action;

(22) *Collins v. Maximus Human Services, Inc.*, Los Angeles Superior Court, Case No. 19STCV17916, wage-and-hour class action;

(23) *Rodriguez v. Lifetime Fitness, Inc.*, U.S. District Court for the Southern District of Ohio, Case No. 18-cv-01123, wage-and-hour class action;

(24) *Glass v. Bay-Valley Mortgage Group, DBA Pacific Bay Lending Group and Valley View Home Loans*, Orange County Superior Court, No. 30-2019-01091653-CU-OE-CXC, PAGA action;

(25) Talamares v. Bay-Valley Mortgage Group, DBA Pacific Bay Lending Group and Valley View Home Loans, Orange County Court, No. 30-2019-01079324-CU-OE-CXC, wage-and-hour class action;

(26) *Fleming v. Mission Linen Supply*, Sacramento Superior Court. No. 34-2019-00267357, wage-and-hour class action;

(27) *Finch v. Midwest Motor Supply Co. dba Kimball-Midwest*, Contra Costa County Superior Court, No. C19-02038;

(28) *Hernandez v. Nursery Supplies, Inc.*, Orange County Superior Court, No. 2020-01167804-CU-OE-CXC, wage-and-hour class action;

(29) *Young v. Shipt, Inc.*, Northern District of Illinois, No. 1:20-cv-05858, wage-and-hour class action;

(30) *Bolin v. Maplebear, Inc. d/b/a Instacart*, Southern District of Ohio, No. 2:20-cv-05945-SDM-CMV, wage-and-hour class action;

(31) *Velarde v. Tricor America, Inc.*, San Francisco Superior Court, Case No. CGC-17-560118, wage-and-hour class action;

(32) *Van Heel v. GCA Education Services, Inc.,* Los Angeles Superior Court, Case No. 19STCV44969, wage-and-hour class action;

(33) *Nolte v. Oasis Outsourcing III, Inc.*, Orange County Superior Court, Case No. 2019-01111809, wage-and-hour class action;

(34) *Patriquin v. IMCD US, LLC*, Central District Court of California, Case No. 8:21-cv-01127-DOC-ADS, wage-and-hour class action;

B. Consumer Cases

(35) *Czuchaj, et al. v. Conair Corporation*, U.S. District Court for the Southern District of California, No. 3:13-cv-01901-BEN-RBB, product defect class action (contested class certification, resulting in granting of class certification and Bisnar | Chase being named co-lead counsel);

(36) *Gilsleider, et al. v. EOS Products, LLC*, U.S. District Court for the Central District of California, No. 8:16-cv-00283-JAK-JEM, product defect and consumer fraud class action;

(37) *In Re Fontem US, Inc. Consumer Class Action Litigation*, U.S. District Court for the Central District of California, No. 8:15-cv-01026-JVS-RAO, consumer fraud class action;

(38) *Hartranft v. Apogee, LLC*, U.S. District Court for the Central District of California, No. 8:15-cv-01081-CJC-DFM, TCPA consumer class action;

(39) *Oda, et al. v. Wilson Sporting Goods Co*., U.S. District Court for the Central District of California, No. 8:15-cv-02131-JLS-JCG, product defect class action;

(40) *Minoletti v. Toyota Motor Sales, USA, Inc.*, Los Angeles Superior Court, No. BC636269, product defect class action;

(41) *Yahoo!, Inc. Private Information Disclosure Cases*, Orange County Superior Court, JCCP 4895, data breach class action;

(42) *Herrera v. LG Electronics USA, Inc., et al.*, U.S. District Court for the Central District of California, Case No. 2:17-cv-01039-MWF-PLA, product defect class action;

(43) *McGovern v. NJOY, Inc.,* U.S. District Court for the Central District of California, No. cv-14-00428-JFW-JEMx, consumer fraud class action;

(44) *Martin v. Chattem, Inc., et al.*, Los Angeles Superior Court, No. 19STCV17036, consumer fraud class action;

(45) *Dinh v. First American Financial Corp., et al*., U.S. District Court for the Central District of California, No. 8:19-cv-01105-DSF-E, data breach class action; and

(46) *Cox v. American Honda Motor Company, Inc., et al.*, Los Angeles Superior Court, No. 19STCV16445, product defect class action.

About Scott A. Ritsema

Scott received his bachelor's degree in psychology from UCLA in 1984 and his law degree from U.C. Davis in 1988. He was admitted to the State Bar of California that same year.

Scott is a seasoned trial attorney. He has brought over 16 trials to verdict and conducted more than 50 arbitrations to conclusion. Recently, Scott led a Bisnar | Chase legal team that obtained a $30,000,000 judgment for a plaintiff who suffered a catastrophic brain injury in a motor vehicle accident.

Scott also belongs to a number of professional organizations including the Orange County Trial Lawyers Association, American Association for Justice, and Consumer Attorneys of California. Scott was named a Best Lawyer in 2015 by the national publication, BestLawyer. In 2012, Scott and Brian were named Consumer Attorneys of the Year in all of California by the CAOC. Despite his extremely busy schedule, Scott is committed to giving back to his community. He actively supports Mothers Against Drunk Driving and participates in the Susan G. Komen Walk for the Cure to help raise awareness and generate funds for breast cancer research.

Some of Scott's Professional Successes

Award Amount	Nature of Suit
$38,650,000.00	Tort – Motor Vehicle
$24,700,000.00	Tort – Product Liability
$7,000,000.00	Tort – Personal Injury
2,000,000.00	Tort – Motor Vehicle
$1,000,000.00	Tort – Personal Injury
$1,500,000.00	Tort – Personal Injury

Award Amount	Nature of Suit
$10,030.000.00	Tort – Personal Injury
$6,850.000.00	Tort – Product Liability

About Steven R. Hilst

Steve obtained his bachelor's degree from the University of Southern California in 1984 and his juris doctorate from Santa Clara University School of Law in 1988. He also holds a post-doctorate law degree from the University of San Diego School of Law.

Since 2001, Steve has been a member of the prestigious American Board of Trial Advocates, an invitation-only bar association consisting of the most accomplished trial attorneys in the United States. He is also a life member of The Million Dollar Advocates Forum, an honor bestowed to only 5 percent of attorneys in the U.S. Steve has obtained the rank of associate with the American Inns of Court, has served on the Board of Directors of The William J. Rea/ABOTA Inn of Court, and was the first President of The Carlos Moreno Trial Practice In of Court. Steve has also served on the faculty of the LA-ABOTA trial school. He also serves on the Board of The Beach Cities Trojan Club, which raises money for student athletes.

About Tom G. Antunovich

Tom obtained his bachelor's degree in kinesiology from Cal Poly Pomona in 2010 where he also competed on the NCAA Div. II Men's Soccer Team for an athletic scholarship. Tom attended Western State College of Law and graduated with honors in May 2015. In July 2015, he passed the California Bar examination.

As a student at Western State College of Law, Tom was a member of the school's mock trial team. While a law student, he worked for a little over two years with Bisnar | Chase helping them with trial preparation. Since joining the firm as an attorney, Tom has already made significant contributions in multiple high-valued cases, and had his first jury trial victory.

EXHIBIT 2

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between plaintiff Matthew Wood ("Plaintiff") and defendant Empire Marketing Strategies, Inc. ("EMPIRE" or Defendant). The Agreement refers to Plaintiff and Empire collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means 1) the lawsuit entitled *Matthew Wood v. Empire Marketing Strategies, Inc.* filed and pending in the Superior Court of the State of California, County of Orange, Case No. 30-2023-01324789-CU-OR-CXC ("*Wood*"), (2) the operative complaint in *Wood* as of September 11, 2024, (3) the Second Amended Complaint ("SAC"), which will be the operative complaint per the approval of the Stipulation of the Parties filed with the Court for leave to file the SAC, (4) any other or predecessor complaint filed in *Wood*, (5) the letter issued by Plaintiff to the Labor Workforce Development Agency ("LWDA") on or about April 24, 2023 ("LWDA Letter") alleging Defendant committed wage and hour violations as to its non-exempt employees and seeking permission to pursue relief and/or civil recourse, including but not limited to civil penalties and attorneys' fees, in relation to same under the Private Attorneys General Act ("PAGA"), and (6) the amended letter to be issued by Plaintiff to the LWDA ("Amended LWDA Letter") that adds meal period and rest break violations to the list of wage and hour violations Defendant allegedly committed as to its non-exempt employees that Plaintiff seeks permission to pursue relief and/or civil recourse as to.

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

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

1.4. "Aggrieved Employee" means any and all current and former non-exempt employees of Defendant who worked for Defendant in California at any time from and including on April 24, 2022, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)'s mediator's proposal.

1.5 "Class" means all current and former non-exempt employees of Defendant who worked for Defendant in California at any time between and including on November 14, 2018, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)'s mediator's proposal.

1.6. "Class Counsel" means Ian M. Silvers of BISNAR CHASE LLP and Farid Masoud of Culver Law Firm.

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

1.8. "Class Data" means Class Member identifying information in Empire's possession including the Class Member's name, last-known mailing address, Social Security Number, and number of Class Period Workweeks and PAGA pay periods, as applicable.

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.

1.10. "Class Member Address Search" means the Administrator's investigation and search for Class Members' current 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 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 and including November 14, 2018, through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)'s mediator's proposal.

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

1.14. "Class Representative Service Payment" means the payment 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 Orange.

1.16. "Defendant" or "Empire" means named Defendant Empire Marketing Strategies, Inc.

1.17. "Defense Counsel" means Justin Michitsch and Scott J. Kerr from Gordon, Rees, Scully and Mansukhani, LLP.

1.18. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters an order granting Final Approval of the Settlement; and (b) the Order is final. The Final Order 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 Final Order; (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 Final Order; or if a timely appeal from the Final Order 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 (including any attorney's fees and costs, administration costs and service payment).

1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.21. "Final Order" means the determination entered by the Court upon Granting Final Approval of the Settlement. 1.22. "Gross Settlement Amount" means $1,200,000 (One Million Two Hundred Thousand Dollars), which is the total amount Empire agrees to pay under the Settlement except as provided in Paragraph 8 below besides employer-side taxes on the wage portion of the payments made to the Participating Class Members, which it will pay outside of the Gross Settlement Amount. The Gross Settlement Amount will be used to pay Individual Class Payments (which includes employee-side taxes on the wage portion of the payments made to Participating Class Members), Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and the Administrator's Expenses.

1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks he/she worked during the Class Period.

1.23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of pay periods he/she worked during the PAGA Period.

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

1.25. "LWDA PAGA Payment" means the 75% of the amount in the Settlement allocated for PAGA Penalties, which is paid to the LWDA under Labor Code section 2699, subd. (i).

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

1.27. "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.

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

1.29. "PAGA Period" means the period from April 24, 2022 (or one year prior to the date of Plaintiff's LWDA Letter), through November 7, 2024, which is 90 days after August 9, 2024, the date the Parties accepted Hon. Joan Lewis (Ret.)'s mediator's proposal.

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

1.31. "PAGA Notice" means Plaintiff's April 24, 2023 letter to Empire and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a) as well as Plaintiff's August 30, 2024 amended letter to Empire and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a), that included additional alleged wage and hour violations committed by Empire during the PAGA Period.

1.32. "PAGA Penalties" means the total amount of money ($75,000) of the Settlement allocated to be paid out of the Gross Settlement Amount for resolution of the PAGA claim , allocated 25% to the Aggrieved Employees ($18,750) and the 75% to the LWDA ($56,250).

1.33. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.34. "Plaintiff" means Matthew Wood, the named plaintiff in the Action.

1.35. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.36. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval of the Class and PAGA Settlement.

1.37. "Released Class Claims" means the claims being released as described in Paragraph 5.2 below.

1.38. "Released PAGA Claims" means the claims being released as described in Paragraph 5.2 below.

1.39. "Released Parties" means: Defendant Empire Marketing Strategies, Inc., and any of its former and/or current parents, subsidiaries, and affiliates (which includes entities that could be considered to have jointly employed the Class Members or PAGA Members during those Class Members' or PAGA Members' respective period(s) of employment by Defendant), as well as each of the entities listed above's (including Defendant's) officers, directors, managers, owners, executives, partners, employees, shareholders, agents, attorneys, and any other predecessors, successors, or assigns.

1.40. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member, in the form attached as Exhibit B or a document substantially similar.

1.41. "Response Deadline" means 45 days after the Administrator mails Notice to Class Members and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 10 days beyond the Response Deadline has expired.

1.42. "Settlement" means the disposition of the Action effected by this Agreement and the Final Order.

1.43. "Workweek" means any week during which a Class Member worked for Empire for at least one day, during the Class Period.

2. RECITALS.

2.1. On May 11, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Empire for (1) failure to pay overtime wages under Labor Code Sec. 204, 210, 218, 510, 1194; (2) failure to reimburse business expenses under Labor Code Sec. 2802; (3) failure to provide accurate wage statements under Labor Code Sec. 226, 1174, 1174.5; (4) waiting time penalties under Labor Code Sec. 201, et seq.; (5) unfair competition under Bus. & Prof. Code Sec. 17200, et seq. On October 2, 2023 (after the 65 days required by PAGA expired and the Parties submitted a stipulation regarding PAGA), Plaintiff filed a First Amended Complaint alleging an additional cause of action against Empire for PAGA civil penalties.

Empire denies the allegations in the Operative Complaint or any other amended complaint filed in the Action (as noted below), denies any failure to comply with the laws identified in the Operative Complaint or otherwise, and denies any and all liability for the causes of action alleged.

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

2.3. On April 16, 2024, the Parties participated in an all-day mediation presided over by Hon. Joan Lewis (Ret.), at the end of which the case did not resolve. However, over the course of the following months and further discussions and briefing, the Parties resolved the Action via acceptance of a mediator's proposal on August 9, 2024. The agreement reached and this Settlement is intended to fully and finally release the Released Parties from the Class Released Claims and PAGA Released Claims.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, a sample of time and pay records, policies, and datapoints including regarding the class and PAGA size and workweeks. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

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

2.7 On August 30, 2024, Plaintiff submitted an amended PAGA Notice to Empire and the LWDA addressing additional claims that had been discussed as part of the mediation and which the Parties agreed to resolve. Subsequently, on September 26, 2024 the Parties filed a Stipulation and Order seeking leave to file the Second Amended Complaint. that (1) adds causes of action for failure to provide meal periods and/or pay meal period premiums/wages and failure to provide rest breaks and/or pay rest break premiums/wages and (2) amends Plaintiff's PAGA cause of action to include violation of California meal period and rest break laws, requirements, and/or regulations as additional bases for civil penalties and other relief pursued under and/or available through the PAGA, as these claims were addressed as part of the mediation and were always intended to be included in the Settlement since their assertion in the case and 3) clarified other items in the already pleaded claims.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Empire promises to pay $1,200,000 (subject to the escalator clause in Section 8) and no more as the Gross Settlement Amount for resolution of the Action and as consideration for this Settlement, and to pay employer-side taxes on the wage portion of the payments made to the Participating Class Members outside of the Gross Settlement Amount. Empire has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 5.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Empire.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than $10,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Empire will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment 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 Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099, with no taxes withheld on this portion. Plaintiff assumes full responsibility and liability for any taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which is currently estimated to be $420,000 (prior to any escalator clause) and a Class Counsel Litigation Expenses Payment of not more than $35,000 as approved by the Court. Empire will not oppose requests for these payments provided that they do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Empire harmless, and indemnifies Empire, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $8,000 except for on a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $8,000, any excess will revert to the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. 10% of 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% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, expenses and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members, unless otherwise stated, assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of $75,000 to be paid from the Gross Settlement Amount, with 75% ($56,250) allocated to the LWDA PAGA Payment and 25% ($18,750) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties ($18,750) by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4.SETTLEMENT FUNDING AND PAYMENTS.

4.1. *Class Workweeks*. Based on a review of its records to date, Empire estimates there are 125 Class Members who collectively worked a total of approximately 15,677 Workweeks as of August 9, 2024.

4.2. Class Data. Not later than 10 court days after the Court grants Preliminary Approval of the Settlement, Empire will deliver the Class Data to the Administrator, in the form of a 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 need access to the Class Data to effect and perform under this Agreement. Empire has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Empire must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. Funding of Gross Settlement Amount. Empire shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Empire's share of employer-side taxes on the Wage Portion by transmitting the funds to the Administrator no later than 15 court days after the Effective Date.

4.4. Payments from the Gross Settlement Amount. Within 10 days after Empire funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment, as applicable, and pay itself the approved Administration Expense Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

4.4.3. For any Class Member whose Individual Class Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

5.RELEASES OF CLAIMS. Effective on the date when Empire fully funds the entire Gross Settlement Amount and funds all employer-side taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all known and unknown claims, causes of action, disputes, transactions, or occurrences as of the date he signs this Agreement, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. Overall, as a result of the Agreement and payment of the amounts addressed herein (as approved by the Court including any reducitons), Plaintiff will release all claims he has, may have, or may claim to have against the Released Parties, collectively or individually, as of the date he signs this Agreement except as noted above.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

> A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE

MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

5.2 Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from (1) all claims alleged in the Action, (2) all claims under state, federal, or local law, that could be asserted in the Action based on the facts alleged in the SAC, and (3) all claims under the California Labor Code, Wage Orders, wage and hour regulations, and/or other provisions of law, that could have been asserted, alleged, or brought in the Action based on the facts and/or allegations pled in the Action. The claims alleged in the Action that are being released by the Settlement are: (1) failure to pay overtime wages under Labor Code Sec. 204, 210, 218, 510, 1194; (2) failure to reimburse business expenses under Labor Code Sec. 2802; (3) failure to provide accurate wage statements under Labor Code Sec. 226, 1174, 1174.5; (4) waiting time penalties under Labor Code Sec. 201, et seq.; (5) unfair competition under Bus. & Prof. Code Sec. 17200, et seq.; (6) failure to provide meal periods in accordance with California law and/or pay meal period premiums/wages; and (7) failure to provide rest breaks in accordance with California law and/or pay rest break premiums/wages. All claims set forth above/in this paragraph are referred to herein as the "Class Released Claims." Note, 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.

5.3 Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from (1) all claims alleged in or that could have been alleged in the LWDA Letter and/or Amended LWDA Letter based on the facts alleged therein, (2) all claims that could have been alleged or brought in civil court for civil penalties or otherwise based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, (3) all claims for civil penalties and other relief under PAGA based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, and (4) the PAGA cause of action as set forth in the SAC. All claims set forth above/in this paragraph are referred to herein as the "PAGA Released Claims."

6.MOTION FOR PRELIMINARY APPROVAL. Plaintiff agrees to prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

6.1 Empire's Confirmation Regarding Pending Matters. Within 5 court days of the full execution of this Agreement, Empire will confirm in writing to Plaintiff's Counsel that Defendant is not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*;

(ii) a draft proposed Order Granting Preliminary Approval; (iii) a draft proposed Class Notice, Request for Exclusion Form and Objection Form; (iv) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; 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, and/or the Administrator; and (vi) a signed declaration from each Class Counsel firm attesting to its competency to represent the Class Members; and all facts relevant to any actual or potential conflict of interest with Class Members, and/or the Administrator.

6.3 Responsibilities of Counsel. Class Counsel is responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement (to the extent reasonably possible); obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.

6.4 Duty to Cooperate. Class Counsel can, but is not obligated to, provide Defense Counsel a copy of Plaintiff's draft Motion for Preliminary Approval, in whole or part, before filing it for Defense Counsel's review and comment. But, if Class Counsel does so, Defense Counsel is not obligated to review or provide comments and/or input. Regardless, if the Parties disagree on any aspect of the proposed Motion for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

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

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

7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.4 Notice to Class Members.

7.4.1 No later than three (3) court days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members and Workweeks in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 10 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice, Request for Exclusion Form and Objection Form substantially in the form attached to this Agreement as Exhibits A-C. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment payable to the Class Member, and the number of Workweeks used to calculate these amounts. Before mailing Class Notices, Request for Exclusion Forms, and Objection Forms, the Administrator shall update Class Member addresses using the National Change of Address database.

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

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 10 days beyond the 45 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 with the re-mailed Class Notice.

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

7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 10 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge (absent good cause as found by the Court). If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3 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 Paragraph 5.2 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 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.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks/PAGA Pay Periods allocated to the Class Member in the Class Notice. 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 Workweeks 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 Workweeks shall be final and not appealable or otherwise susceptible to challenge (absent good cause as found by the Court). The Administrator shall promptly provide copies of all challenges to calculation of Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

7.7 Objections to Settlement.

7.7.1 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.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail, in the form attached as Exhibit C or a document substantially similar. 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 45 days after the Administrator's mailing of the Class Notice (plus an additional 10 days for Class Members whose Class Notice was re-mailed).

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

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

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

7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid). Class Counsel shall be notified of the number and name of Class Members who timely submitted valid Requests for Exclusion, the number of those who submitted invalid Requests for Exclusion, and the number of workweeks attributed to those Class Members who submitted valid Requests for Exclusion.

7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks received and/or resolved, and checks mailed for Individual Class Payments ("Weekly Report"). The Weekly Reports must include the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

7.8.4 Workweek Challenges. Class Members and PAGA Members will have an opportunity to dispute the number of Qualified Workweeks and/or Qualified PAGA Workweeks to which they have been credited, as reflected in their respective Class Notices. In order to dispute Qualified

Workweeks and/or Qualified PAGA Workweeks, Class Members and/or PAGA Members must submit a written letter to the Settlement Administrator that: (a) contains the case; (b) is signed by the Class Member and/or PAGA Member; (c) states the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class Member and/or PAGA Member; (d) states that the Class Member and/or PAGA Member disputes the number of Qualified Workweeks and/or Qualified PAGA Workweeks credited to him or her and what he or she contends is the correct number that should be credited to him or her; (e) includes information and/or attaches documentation demonstrating that the number of Qualified Workweeks and/or Qualified PAGA Workweeks that he or she contends should be credited to him or her is correct; and (f) is returned by mail to the Settlement Administrator at the specified address, postmarked or faxed on or before the Response Deadline. The date of the postmark on the mailing envelope or fax on the submission will be the exclusive means to determine whether a dispute has been timely submitted. Absent evidence rebutting the accuracy of Defendant's records and data as they pertain to the number of Qualified Workweeks and/or Qualified PAGA Workweeks to be credited to a disputing Class Member and/or PAGA Member, Defendant's records will be presumed correct and determinative of the dispute. However, if a Class Member and/or PAGA Member produces information and/or documents to the contrary, the Settlement Administrator will evaluate the materials submitted by the Class Member and/or PAGA Member and the Settlement Administrator will resolve and determine the number of eligible Qualified Workweeks and/or Qualified PAGA Workweeks that the disputing Class Member and/or PAGA Member should be credited with under the Settlement. The Settlement Administrator shall notify Class Counsel and Defendant's Counsel of the fact that a Class Member and/or PAGA Member has made a dispute and advise them of the outcome.

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

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, as of the date of mediation, there were approximately 125 Class Members and 15,677 Workweeks worked by Class Members. From November 14, 2018 to August 9, 2024, Defendant estimates there were approximately 17,130 Workweeks worked by Class Members. If the number of Workweeks for the Participating Class Members is more than 107% of 17,130 (i.e., more than 18,329 Workweeks in total), then the Gross Settlement Amount shall proportionally increase by the percentage increase in total Workweeks beyond 107%. So, for example, if the total number of Workweeks for the Participating Class Members is determined to be 112% of 17,130 (or 19,185 Workweeks), then the Gross Settlement Amount shall increase by 5% (which is the percentage increase in total Workweeks beyond 107%). Note, the Gross Settlement Amount shall not increase if the total Workweeks for the Participating Class Members is determined to be 18,329 or less.

9. EMPIRE'S RIGHT TO WITHDRAW. If 8% or more of Class Members opt out of the Settlement via submission of timely and valid Requests for Exclusion, Empire may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Empire withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Empire will remain responsible for paying all Settlement Administration Expenses incurred to that point. Empire must notify Class Counsel and the Court of its selection to withdraw not later than seven court days after the Administrator sends the final Exclusion List to Defense Counsel.

10. MOTION FOR FINAL APPROVAL. Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a Proposed Final Approval Order and a proposed Final Order (collectively "Motion for Final Approval") and Motion for Class Counsel Fee and Costs, Administration Costs and Class Representative Service Payment. Plaintiff shall provide drafts of these documents to Defense Counsel not later than five days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

10.2 Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of 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 Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

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

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

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

11.AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.

12.ADDITIONAL PROVISIONS.

12.1 No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Empire that any of the allegations in the Operative Complaint or any complaint filed prior thereto and/or any contention, allegation, or assertion in any LWDA letter issued by Plaintiff in relation to the Action have merit or that Empire has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Empire's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Final Order Empire reserves the right to contest certification of any class for any reasons, and Empire reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Empire's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Empire and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal 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, Empire and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

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

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

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

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

Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

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

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

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

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

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

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

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

12.14 Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class Counsel by Empire in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court.

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

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

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

To Plaintiff:

Ian M. Silvers, Esq.
BISNAR|CHASE LLP
1301 Dove Street, Suite 120
Newport Beach, California 92660
Telephone: (949) 752-2999
Facsimile: (949) 752-2777

Farid Masoud
Culver Law Firm
440 N. Barranca Avenue, #7217
Covina, CA 91723
Telephone: (949) 822-8244

To Empire:

Justin M. Michitsch , Esq.
Scott J. Kerr, Esq.
GORDON REES SCULLY MANSUKHANI, LLP
101 W. Broadway, Suite 200,
San Diego, CA 92101
Telephone: (619) 696-6700
Facsimile: (619) 696-7124

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

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

12.20 Enforceable Under 664.6. This is a binding and enforceable agreement. Notwithstanding anything else contained herein, this Agreement shall be enforceable under California Code of Civil Procedure section 664.6 and admissible under California Evidence Code section 1123(a). Regardless of any settlement privilege or other rules of evidence, this Agreement may be admitted in Court and is enforceable even if a finalized settlement document cannot be agreed upon.

Date: 10 / 23 / 2024

Matthew Wood

Plaintiff Matthew Wood

Date: 11/11/2024

Robert C. Halpin

By: Robert C. Halpin

For Defendant Empire Marketing Strategies, Inc.

Date: 10/24/2024

Ian M. Silvers

Ian Silvers
Counsel for Plaintiff

Date: 11/11/2024

APPROVED AS TO FORM

Justin M. Michitsch
Scott Kerr
Counsel for Empire Marketing Strategies, Inc.

EXHIBIT A

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

Matthew Wood v. Empire Marketing Strategies, Inc., et al., Orange County Superior Court Case No. 30-2023-01324789-CU-OR-CXC

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 Empire for alleged wage and hour violations. The Action was filed by former Empire employee Matthew Wood ("Plaintiff") and seeks payment of (1) back wages and other relief for a class of non-exempt employees ("Class Members") who worked for Empire during the Class Period (November 14, 2018 to November 7, 2024); and (2) penalties under the California Private Attorney General Act ("PAGA") for all non-exempt employees who worked for EMPIRE during the PAGA Period (April 24, 2022 to November 7, 2024) ("Aggrieved Employees").

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

Based on EMPIRE's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $______ (less withholding) and your Individual PAGA Payment is estimated to be $______.** 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 EMPIRE's records you are not eligible for an Individual PAGA Payment under the Settlement because you didn't work during the PAGA Period.)

The above estimates are based on EMPIRE's records showing that **you worked ______** workweeks during the Class Period and **you worked ______ pay periods** during the PAGA Period. If you believe that you worked more workweeks 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. 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 EMPIRE to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against EMPIRE.

If you worked for EMPIRE 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. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Penalty claims against EMPIRE.

(2) **Opt-Out of the Class Settlement**. You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion, using the Request for Exclusion Form provided with this notice or a substantially similar document, 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 wage claims against EMPIRE. 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.

EMPIRE 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 wage claims against EMPIRE that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement **The Opt-out Deadline is [30 days after mailing]**	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, using the Request for Exclusion Form provided with this notice or a substantially similar document. 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. EMPIRE must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).
Participating Class Members Can Object to the Class Settlement **Written Objections Must be Submitted by [30 days after mailing]**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement by submitting the Objection Form provided with this notice, a substantially similar document or explaining your objections in person at the Settlement Hearing. 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.
You Can Participate in the [date of hearing]Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on **[date of hearing]**. 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. See Section **8** of this Notice.
You Can Challenge the Calculation of Your Workweeks **Written Challenges Must be Submitted by [30 days after mailing]**	The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks 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 of Class Period Workweeks and number of PAGA Period Pay Periods you worked according to EMPIRE's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by __________. See Section **4** of this Notice.

1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former EMPIRE employee. The Action accuses EMPIRE of violating California labor laws by failing to pay all wages, including overtime wages, to provide compliant meal periods and rest breaks, to reimburse for business expenses, to provide compliant wage statements, and to pay all wages due upon termination. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (California Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Ian M. Silvers from Bisnar Chase LLP and Farid Masoud of Culver Law Firm ("Class Counsel.") EMPIRE 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 EMPIRE or Plaintiff is correct on the merits.

In the meantime, Plaintiff and EMPIRE hired an experienced, neutral mediator 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 Final Order ending the Action and enforcing the Agreement, Plaintiff and EMPIRE 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, EMPIRE 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) EMPIRE 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. 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?

1. EMPIRE will Pay $1,200,000 as the Gross Settlement Amount (Gross Settlement) (prior to any escalator clause). EMPIRE 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, EMPIRE will fund the Gross Settlement not more than 21 days after the Final Order entered by the Court becomes final. The Final Order will be final on the date the Court enters its decision, or a later date if Participating Class Members object to the proposed Settlement or the Final Order is appealed.

2. 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:

> A. Up to $420,000 (35% of the Gross Settlement) to Class Counsel for attorneys' fees and up to $35,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
>
> B. Up to $10,000 as a Class Representative Service Payment for filing the Action, working with Class Counsel and representing the Class. A Class Representative Service Payment will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
>
> C. Up to $8,000 to the Administrator for services administering the Settlement.
>
> D. Up to $75,000 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.

3. 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 Workweeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and EMPIRE are asking the Court to approve an allocation of 10% of each Individual Class Payment to taxable wages ("Wage Portion")

All Participating and Non-Participating Class Members who are Aggrieved Employees are deemed to release on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from: (1) all claims alleged in or that could have been alleged in the LWDA Letter and/or Amended LWDA Letter based on the facts alleged therein, (2) all claims that could have been alleged or brought in civil court for civil penalties or otherwise based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, (3) all claims for civil penalties and other relief under PAGA based on the facts alleged in the LWDA Letter and/or Amended LWDA Letter, and (4) the PAGA cause of action as set forth in the SAC. All claims set forth above/in this paragraph are referred to herein as the "PAGA Released Claims."

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2.Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $18,750.00

by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in EMPIRE's records, are stated in the first page of this Notice. You have until [30 days after mailing] to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept 's calculation of Workweeks and/or Pay Periods based on EMPIRE's records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and EMPIRE's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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

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

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

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

Submit a written and signed document , using the Request for Exclusion Form provided with this notice or a substantially similar document, with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as Matthew Wood v. Empire Marketing Strategies, Inc., and include your identifying information (full name, address, 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. **The Administrator must be sent your request to be excluded by** [30 days after mailing], **or it will be invalid** absent good cause found by the court). Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and EMPIRE are asking the Court to approve. At least 16 court days before the [date of hearing] Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Class Representative Service Payment stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Payment. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website [ILYM Group website address for Action] or the Court's website [https://civilwebshopping.occourts.org/Home.do#searchAnchor].

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Class Representative Service Payment may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator, using the Objection Form provided with this notice or a substantially similar document, is** [30 days after mailing]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you and 90% to interest, expenses and penalties ("Non-Wage Portion.). The Wage Portion is subject to withholding and will be reported on IRS W-2 Forms. EMPIRE 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 EMPIRE 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 are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. <u>Need to Promptly Cash Payment Checks.</u> The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name.

6.<u>Requests for Exclusion from the Class Settlement (Opt-Outs)</u>. You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than [30 days after mailing], that you wish to opt-out. The easiest way to notify the Administrator is to send the written and signed Request for Exclusion Form provided with this notice or a substantially similar document by the [30 days after mailing] Response Deadline. The Request for Exclusion should be from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against EMPIRE.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against EMPIRE based on the PAGA Period facts alleged in the Action.

7.<u>The Proposed Settlement Will be Void if the Court Denies Final Approval.</u> It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Final Order. It is also possible the Court will enter a deteremination that is reversed on appeal. Plaintiff's and EMS have agreed that, in either case, the Settlement will be void: EMPIRE will not pay any money and Class Members will not release any claims against EMPIRE.

8.<u>Administrator.</u> The Court has appointed a neutral company ILYM Group (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 Workweeks, 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.

9. Participating Class Members' Release. After the Final Order is approved and EMPIRE has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against EMPIRE or related entities 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.

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

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from : (1) all claims alleged in the Action, (2) all claims under state, federal, or local law, that could be asserted in the Action based on the facts alleged in the operative complaint at the time of preliminary approval of the Settlement (i.e., SAC), and (3) all claims under the California Labor Code, Wage Orders, wage and hour regulations, and/or other provisions of law, that could have been asserted, alleged, or brought in the Action based on the facts and/or allegations pled in the Action. The claims alleged in the Action that are being released by the Settlement are: (1) failure to pay overtime wages under Labor Code Sec. 204, 210, 218, 510, 1194; (2) failure to reimburse business expenses under Labor Code Sec. 2802; (3) failure to provide accurate wage statements under Labor Code Sec. 226, 1174, 1174.5; (4) waiting time penalties under Labor Code Sec. 201, et seq.; (5) unfair competition under Bus. & Prof. Code Sec. 17200, et seq.; (6) failure to provide meal periods in accordance with California law and/or pay meal period premiums/wages; and (7) failure to provide rest breaks in accordance with California law and/or pay rest break premiums/wages. All claims set forth above/in this paragraph are referred to herein as the "Class Released Claims." Note, 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.

10. Aggrieved Employees' PAGA Release. After the Court's decision is final, and EMPIRE has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against EMPIRE, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against EMPIRE or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

Settlement Administrator:
ILYM Group:
P.O. Box 2031
Tustin, CA 92781 Telephone: (888) 250-6810
Fax Number: (888) 845-6185

10.WHAT IF I LOSE MY SETTLEMENT CHECK?

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 for instructions on how to retrieve the funds.

11.WHAT IF I CHANGE MY ADDRESS?

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

identify the Action Matthew Wood v. Empire Marketing Strategies, Inc and include your name, current address, telephone number, and approximate dates of employment for EMPIRE and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on ______________ at ________ in Department CX105 of the Orange Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701. 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 comments from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend). 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 [ILYM website address for Action] beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Empire and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Final Order or any other Settlement documents is to go to ILYM Group's website at [ILYM Group website address for Action]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to [https://civilwebshopping.occourts.org/Home.do#searchAncho and entering the Case Number for the Action, Case No. 30-2023-01324789-CU-OR-CXC.

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

Class Counsel:
Ian M. Silvers, Esq.
BISNAR|CHASE LLP
1301 Dove Street, Suite 120
Newport Beach, California 92660
Telephone: (949) 752-2999
Facsimile: (949) 752-2777
Farid Masoud
Culver Law Firm
440 N. Barranca Avenue, #7217
Covina, CA 91723
Telephone: (949) 822-8244

EXHIBIT B

OBJECTION FORM

Wood v. Empire Marketing Strategies, Inc.
Case No. 30-2023-01324789-CU-OR-CXC

IF YOU WISH TO OBJECT TO THE SETTLEMENT OR DISPUTE THE AMOUNT LISTED ON THE NOTICE OF CLASS ACTION SETTLEMENT YOU RECEIVED, YOU MUST SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS BELOW, POSTMARKED NO LATER THAN [insert date 30 days after mailing of notice] **OR FAXED TO THE FAX TELEPHONE NUMBER LISTED BELOW BY** [insert date 30 days after mailing of notice]**. IF YOU NEED ADDITIONAL SPACE TO EXPLAIN THE BASIS FOR YOUR DISPUTE, YOU MAY ATTACH ADDITIONAL PAGES TO THIS FORM.**

Wood v. Empire Marketing Strategies, Inc.
c/o ILYM Group
P.O. Box 2031
Tustin, CA 92781
Telephone: (888) 250-6810
Fax Number: (888) 845-618

I declare as follows:

I have received notice of the proposed class action settlement in this action and wish to **object to the notice of class action settlement regarding the Final Approval Hearing scheduled for** [Final Approval Hearing date] **at 10:00 a.m. in Department CX-105 of the Orange County Superior Court, located at 751 West Santa Ana Blvd., Santa Ana, CA 92701.** The basis of my dispute is as follows:

____
____
____
____

(You may attach additional pages if necessary to explain the basis of your objection)

Dated:_____, 2025.

____
(Signature)

____
(Typed or Printed Name)

____
(Address)

____
(City, State, Zip Code)

____
(Telephone Number, Including Area Code)

____
(Last four digits of Social Security Number)

EXHIBIT C

REQUEST FOR EXCLUSION FROM THE CLASS SETTLEMENT FORM

I wish to exclude myself from the settlement of class claims reached in the matter of *Wood v. Empire Marketing Strategies, Inc.* in the Orange County Superior Court, Case No. 30-2023-01324789-CU-OR-CXC. I understand that by excluding myself, I will **not** receive any money from the settlement reached in this matter for claims brought as a putative class action.

I understand that if I was employed with *Empire Marketing Strategies, Inc* from April 24, 2022, through November 7, 2024, I will receive a payment from the portion of the settlement allocated to claims for civil penalties under the California Labor Code Private Attorneys General Act ("PAGA") regardless of whether I submit this Request for Exclusion form, and I will be bound by the release of claims under PAGA.

PLEASE PRINT CLEARLY

____
Name

____
Street Address

____
City, State ZIP

____
Telephone number

____
Last 4 of Social Security Number (for ID purposes)

____
Signature

____
Date

You must include all of the information above and sign this form for it to be effective. This Request for Exclusion Form must be postmarked by [Opt Out Deadline], and mailed to the following address, First Class postage prepaid or faxed to the fax telephone number listed below by [Opt Out Deadline]:

Wood v. Empire Marketing Strategies, Inc.
c/o ILYM Group
P.O. Box 2031
Tustin, CA 92781
Telephone: (888) 250-6810
Fax Number: (888) 845-618

EXHIBIT 3

Javier R. Ruiz

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Monday, November 25, 2024 10:53 AM
To: Javier R. Ruiz
Subject: Thank you for your Proposed Settlement Submission

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Use caution when receiving email from external sources and any email mentioning a password change, reset, banking, ACH, wires, etc. If you are in doubt please contact Infinite Cloud Systems for support.

11/25/2024 10:52:23 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement
If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:
https://nam11.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7Cjruiz%40bisnarchase.com%7Cb16ebe00ede54ed7a09d08dd0d82560a%7C95bc336b66ae4b87a6c79ac8ec15b9ec%7C0%7C0%7C638681575697525294%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiIwLjAuMDAwMCIsIlAiOiJXaW4zMiIsIkFOIjoiTWFpbCIsIldUIjoyfQ%3D%3D%7C0%7C%7C%7C&sdata=ihmHX6UGk7Rk7iebLf3CE6gEHH%2FATPcR0OVPmobVQU0%3D&reserved=0

EXHIBIT 4

BISNAR | CHASE
CLASS ACTION ATTORNEYS, LLP

April 24, 2023

Via Online Filing

Labor & Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

Via Certified Mail (Return Receipt Requested)
Empire Marketing Strategies
C/o C T Corporation System
330 N Brand Blvd Ste 700
Glendale, CA 91203

Re: Notice Pursuant to the Private Attorneys General Act, California Labor Code § 2699.3 (the "PAGA") Re: Alta Vista Farms, LP

Dear Sir or Madam:

We represent Matthew Wood ("Plaintiff"). Pursuant to Labor Code § 2699.3(a), we are providing written notice that Plaintiff's former employer, Empire Marketing Strategies, including any related entities, and their managers, agents, officers and directors, ("Defendant"), is in violation of various provisions of the California Labor Code (including under California Labor Code §558.1). Plaintiff intends on filing a complaint against Defendant in Superior Court pursuant to California Labor Code §2699 on behalf of himself and all non-exempt employees who work/worked for Defendant within the relevant time period ("Aggrieved Employees").

Plaintiff worked for Defendant as a non-exempt employee from approximately February 2020 through approximately October 2022. Defendant regularly required Plaintiff and Aggrieved Employees to incur business expenses, but did not reimburse them for these. This includes that Plaintiff and Aggrieved Employees were required to use their personal vehicles for work and were not reimbursed for mileage or otherwise for this use, including that they were required to obtain higher insurance on their vehicles for which they were not reimbursed by Defendant. As a result, Defendant has violated California Labor Code § 2802.

Additionally, Plaintiff and Aggrieved Employees were paid non-discretionary bonuses based on meeting specific goals. Despite Plaintiff and Aggrieved Employees working overtime for the periods they earned these bonuses, Defendant did not properly include these bonus amounts in calculating the regular rate of pay for overtime pay, resulting in violations of, among other things, Labor Code §§204, 210, 558, 510 and 1194.

1301 Dove Street, Suite 120 | Newport Beach | California 92660 |Tel: 949-752-2999 |Fax: 949-752-2777

Further, Defendant would simply list 86.67 hours as the regular hours worked (including any PTO) per pay period, regardless of the actual hours worked. As a result, Defendant has violated California Labor Code §§ 226 and 226.3 by failing to list the actual hours worked. This is separate from the fact that, due to the above items, Defendant failed to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3 including, among other things, that they did not list the accurate gross and net wages earned, hours worked and applicable rates. Due to the above actions, Defendant also failed to record hours in violation of, among others, Labor Code § 1174 and the Industrial Wage Order, and failed to maintain accurate payroll records as required by California Labor Code §§ 226, 226.3 and 1198, as well as the Industrial Wage Order.

Lastly, due to the above violations, Aggrieved Employees who are no longer employed by Defendant were not paid all wages owed at the end of their employment in violation of, among other things, Labor Code §§201-203, 204 and 558.

Therefore, Defendant is in violation of California Labor Code § 2699.5 including but not limited to the following[1]:

1. California Labor Code § 226(a) and 226.3 (Non-compliant Wage Statements);

2. California Labor Code §§ 1198 (Standard Conditions of Labor);

3. California Labor Code §§ 1174, Industrial Wage Order (Failure to Maintain Records);

[1] Without limitation, Plaintiff, if permitted, will seek any and all penalties otherwise capable of being collected by the Labor & Workforce Development Agency ("LWDA"). This includes each of the following, as is set forth in Labor Code Section 2699.5, which states:

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.

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4. California Labor Code §§ 201, 202, and 203 (Wages Not Timely Paid Upon Termination);

5. California Labor Code §§ 510, 1194 and 1198 (Unpaid Overtime);

6. California Labor Code §§ 2802 (Failure to Reimburse Business Expenses);

7. California Labor Code §§ 204, 210, and 558 (Failure to Pay All Wages).

Pursuant to Labor Code § 2699.3(a)(1), Plaintiff will serve the same written notice to Defendant's agent for service and Defendant by certified mail.

Should you have any questions or comments regarding the foregoing, or any aspect of this matter, please do not hesitate to contact my office.

Sincerely,

BISNAR | CHASE LLP

Ian M. Silvers

Ian M. Silvers, Esq.

1301 Dove Street, Suite 120 | Newport Beach | California 92660 |Tel: 949-752-2999 |Fax: 949-752-2777

EXHIBIT 5

BISNAR | CHASE
CLASS ACTION ATTORNEYS, LLP

August 30, 2024

<u>Via Online Filing</u>

Labor & Workforce Development Agency
801 K Street, Suite 2101
Sacramento, CA 95814

<u>Via Certified Mail (Return Receipt Requested)</u>
Empire Marketing Strategies
C/o C T Corporation System
330 N Brand Blvd Ste 700
Glendale, CA 91203

Re: <u>Notice Pursuant to the Private Attorneys General Act, California Labor Code § 2699.3 (the "PAGA") Re: Alta Vista Farms, LP</u>

Dear Sir or Madam:

We represent Matthew Wood ("Plaintiff"). Pursuant to Labor Code § 2699.3(a), we are providing written notice that Plaintiff's former employer, Empire Marketing Strategies, including any related entities, and their managers, agents, officers and directors, ("Defendant"), is in violation of various provisions of the California Labor Code (including under California Labor Code §558.1). Plaintiff intends on filing a complaint against Defendant in Superior Court pursuant to California Labor Code §2699 on behalf of himself and all non-exempt employees who work/worked for Defendant within the relevant time period ("Aggrieved Employees").

Plaintiff worked for Defendant as a non-exempt employee from approximately February 2020 through approximately October 2022. Defendant regularly required Plaintiff and Aggrieved Employees to incur business expenses, but did not reimburse them for these. This includes that Plaintiff and Aggrieved Employees were required to use their personal vehicles for work and were not properly reimbursed for mileage or otherwise for this use, including that they were required to obtain higher insurance on their vehicles for which they were not reimbursed by Defendant. As a result, Defendant has violated California Labor Code § 2802.

Additionally, Plaintiff and Aggrieved Employees were paid non-discretionary bonuses based on meeting specific goals. Despite Plaintiff and Aggrieved Employees working overtime for the periods they earned these bonuses, Defendant did not properly include these bonus amounts in calculating the regular rate of pay for overtime pay, resulting in violations of, among other things, Labor Code §§204, 210, 558, 510 and 1194. Defendant also failed to pay daily overtime for at least part of the PAGA period and instead only paid weekly overtime, and also required work

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off the clock which was not paid, in violation of, among other things Labor Code §§204, 210, 558, 510 and 1194

Additionally, during the relevant time period, Defendant did not provide compliant meal periods and did not authorize and permit lawful rest breaks for Plaintiffs and Aggrieved Employees. Plaintiffs and Aggrieved Employees regularly worked in excess of five (5) hours a day without being provided at least half hour meal periods prior to the start of the fifth hour in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and the Wage Order. This was done by, among other things, Defendant exercising control over meal periods or causing meal periods to be late, interrupted, cut short or missed altogether. In fact, they were regularly required to work through all or part of their meal periods. The above items include not being provided a compliant second meal period for shifts worked over 10 hours as well. Defendant also failed to keep records of meal periods for at least part of the PAGA period. Moreover, Defendant failed to pay the Aggrieved Employees one hour of pay at their correct regular rate of pay for instances where Defendant failed to provide the Aggrieved Employees the opportunity to take a compliant first and/or second meal period.

Plaintiffs and other Aggrieved Employees also regularly worked in excess of four (4) hours or major fraction thereof during workdays without being provided at least a ten (10) minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and the Wage Order. This again includes exerting control over Aggrieved Employees during their rest breaks. Despite this, Defendant failed to pay the Aggrieved Employees one hour of pay at their regular rate of pay for the numerous instances where Defendant failed to authorize and permit the Aggrieved Employees the opportunity to take a paid 10-minute rest break, relieved of all duties, for shifts of at least 3.5 hours, a second rest break for shifts of more than 6 hours, or a third rest break for shifts in excess of 10 hours. Simply, Defendants failed to make available to the Aggrieved Employees proper rest breaks in compliance with California law and failed to pay the Aggrieved Employees one hour of pay at their correct regular rate of pay for such instances.

Further, Defendant would simply list 86.67 or 40 hours as the regular hours worked (including any PTO) per pay period, regardless of the actual hours worked. As a result, Defendant has violated California Labor Code §§ 226 and 226.3 by failing to list the actual hours worked. This is separate from the fact that, due to the above items, Defendant failed to provide accurate itemized wage statements in violation of California Labor Code §§ 226 and 226.3 including, among other things, that they did not list the accurate gross and net wages earned, hours worked and applicable rates. Due to the above actions, Defendant also failed to record hours in violation of, among others, Labor Code § 1174 and the Industrial Wage Order, and failed to maintain accurate payroll records as required by California Labor Code §§ 226, 226.3 and 1198, as well as the Industrial Wage Order.

Lastly, due to the above violations, Aggrieved Employees who are no longer employed by Defendant were not paid all wages owed at the end of their employment in violation of, among other things, Labor Code §§201-203, 204 and 558.

Therefore, Defendant is in violation of California Labor Code § 2699.5 including but not limited to the following[1]:

1. California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
2. California Labor Code §§ 226.7 (Unpaid Rest Break Premiums);
3.
4. California Labor Code § 226(a) and 226.3 (Non-compliant Wage Statements);
5. California Labor Code §§ 1198 (Standard Conditions of Labor);
6. California Labor Code §§ 1174, Industrial Wage Order (Failure to Maintain Records);
7. California Labor Code §§ 201, 202, and 203 (Wages Not Timely Paid Upon Termination);
8. California Labor Code §§ 204, 210, 218, 510, 1194 and 1198 (Unpaid Overtime);
9. California Labor Code §§ 2802 (Failure to Reimburse Business Expenses);
10. California Labor Code §§ 204, 210, and 558 (Failure to Pay All Wages).

---

[1] Without limitation, Plaintiff, if permitted, will seek any and all penalties otherwise capable of being collected by the Labor & Workforce Development Agency ("LWDA"). This includes each of the following, as is set forth in Labor Code Section 2699.5, which states:

> The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601, 602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of and subdivision (e) of Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651, and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.

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Pursuant to Labor Code § 2699.3(a)(1), Plaintiff will serve the same written notice to Defendant's agent for service and Defendant by certified mail.

Should you have any questions or comments regarding the foregoing, or any aspect of this matter, please do not hesitate to contact my office.

Sincerely,

BISNAR | CHASE LLP

Ian M. Silvers

Ian M. Silvers, Esq.

1301 Dove Street, Suite 120 | Newport Beach | California 92660 |Tel: 949-752-2999 |Fax: 949-752-2777