

**BLUMENTHAL NORDREHAUG BHOWMIK
DE BLOUW LLP**

Norman B. Blumenthal (State Bar #068687)
Kyle R. Nordrehaug (State Bar #205975)
Aparajit Bhowmik (State Bar #248066)
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858)551-1223
Facsimile: (858) 551-1232
Email: Kyle@bamlawca.com
Website: www.bamlawca.com

HAIG B. KAZANDJIAN LAWYERS, APC

Haig B. Kazandjian, Esq. Bar No. 278622
haig@hbklawyers.com
Cathy Gonzalez, Esq. Bar No. 310625
cathy@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 818-696-2306
Facsimile: 818-696-2307

Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

LILIANA GODINA, LISA HOWELL, and
BERT MERCADO, individually, and on
behalf of all persons similarly situated,

Plaintiff,

vs.

KAISER FOUNDATION HOSPITALS, a
California non-profit corporation, and DOES
1 through 50, inclusive,

Defendants.

Case No. 23STCV25366

**DECLARATION OF KYLE NORDREHAUG
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Hearing Date: May 5, 2025
Hearing Time: 9:30 a.m.

Judge: Hon. David S. Cunningham III
Dept: SS-11

Date Filed: October 17, 2023
Trial Date: Not set

1 I, Kyle Nordrehaug, declare as follows:

2 1. I am a partner of the law firm of Blumenthal Nordrehaug Bhowmik De Blouw LLP,
3 counsel of record for Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina (“Plaintiffs”) in this
4 matter. As such, I am fully familiar with the facts, pleadings and history of this matter. The
5 following facts are within my own personal knowledge, and if called as a witness, I could testify
6 competently to the matters stated herein.

7 2. This declaration is being submitted in support of the Plaintiffs’ unopposed motion by
8 for preliminary approval of the proposed class action settlement with Defendant Kaiser Foundation
9 Hospitals (“Defendant”), which motion seeks entry of an order: (1) preliminarily approving the
10 proposed settlement of this class action; (2) for settlement purposes only, conditionally certifying
11 the Class, which is comprised of “all non-exempt persons who were employed by Defendant in the
12 State of California at any time during the Class Period”, which is January 1, 2024 through
13 December 31, 2024; (3) provisionally appointing Plaintiffs as the representatives of the Class; (4)
14 provisionally appointing Blumenthal Nordrehaug Bhowmik De Blouw LLP and Haig B. Kazandjian
15 Lawyers APC as Class Counsel for the Class; (5) approving the form and method for providing
16 notice to the Class of the proposed settlement; (6) directing that notice of the proposed settlement be
17 given to the Class; (7) appointing ILYM Group, Inc. as the Administrator; and (8) scheduling a final
18 approval hearing date in approximately five months to consider the Plaintiffs’ motion for final
19 approval of the settlement and for approval of attorneys’ fees, expenses and the service awards.
20 Plaintiffs and Defendant have reached a full and final settlement of the above-captioned action,
21 which is set forth in the Class and Representative Action Settlement Agreement (the “Agreement”),
22 attached hereto as Exhibit #1. The form of the Agreement is based upon the Los Angeles County
23 Superior Court model form for a class and PAGA settlement. A redline comparison between the
24 Agreement and the Court’s model form for a class and PAGA settlement is attached hereto as
25 Exhibit #2. This Declaration incorporates by reference the definitions in the Agreement, and all
26 terms defined therein shall have the same meaning as set forth in the Agreement.

1 Fairness of Settlement

2 3. As consideration for this Settlement, the Gross Settlement Amount is Seven Million
3 Dollars (\$7,000,000) to be paid by Defendant, as set forth in the Agreement. The Gross Settlement
4 Amount will settle all issues pending in the Action between the Parties and will be made in full and
5 final settlement of the released claims. The Gross Settlement Amount includes all payments of
6 Individual Class Payments to the Participating Class Members, the Administration Expenses
7 Payment to the Administrator, the Class Counsel Fees Payment and Class Counsel Litigation
8 Expenses Payment to Class Counsel, the Class Representative Service Payments to Plaintiffs, the
9 FLSA Settlement Fund, and the PAGA Penalties payment to the California Labor and Workforce
10 Development Agency (the "LWDA") and the Aggrieved Employees. The Gross Settlement Amount
11 does not include the employer's share of payroll taxes which will be separately paid by Defendant.
12 The Settlement is all-in with no reversion to Defendant and no need for Class Members to submit
13 claim forms. The following is a table of the key financial terms of the Settlement and the proposed
14 deductions:

15 **\$7,000,000** (Gross Settlement Amount)

- 16 - \$30,000 (Plaintiffs' proposed service awards - not to exceed \$10,000 each)
17 - \$50,000 (Class Counsel Litigation Expenses Payment - not to exceed amount)
18 - \$2,333,333.33 (Class Counsel Fees Payment - not to exceed one-third)
19 - \$500,000 (PAGA Penalties - 75% to LWDA / 25% to Aggrieved Employees)
20 - \$280,000 (Administration Expenses Payment - not to exceed amount)
21 - \$200,000 (FLSA Settlement Fund)

22 **\$3,606,666.67** (Net Settlement Amount)

23 4. The relief provided in the Settlement will benefit all members of the Class. The
24 Settlement does not grant preferential treatment to Plaintiffs or segments of the Class in any way.
25 Payments to the Class Members are all determined under a neutral methodology. Each Participating
26 Class Member will receive the same opportunity to participate in and receive payment through a
27 neutral formula that is based upon the Workweeks worked by that individual.
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1 5. On August 12, 2024, the Parties participated in an all-day mediation session presided
2 over by David Rotman, Esq., a respected and experienced mediator of wage and hour class actions.
3 In preparation for the mediation, Defendant provided Class Counsel with necessary information,
4 including the Class payroll and timekeeping data. Plaintiffs analyzed the data with the assistance of
5 a damages expert, Berger Consulting, and prepared and submitted a mediation brief and damage
6 valuation to the Mediator. Following the all-day mediation, the Parties agreed to the Settlement,
7 which was memorialized in the form of a Memorandum of Understanding. The final terms of the
8 Settlement were negotiated and set forth in the Agreement now presented for this Court's approval.
9 Importantly, Plaintiffs and Class Counsel believe that this Settlement is fair, reasonable and
10 adequate.

11 6. Based upon 66,426 Class Members who collectively worked 2,748,435 Workweeks,
12 the Gross Settlement Amount provides a value of \$105 per Class Member and \$2.54 per Workweek
13 and, after deductions, the Net Settlement Amount provides an average recovery of \$54.29 per Class
14 Member and \$1.31 per Workweek. Because of a prior class settlement (*Halfhill v. Kaiser*, Alameda
15 Superior Court Case No, RG21096610), this Settlement only covers one year of liability and
16 damages. One issue that was important to Class Counsel in approving the mediator's proposal was
17 the fact that this Settlement provides for a greater workweek recovery than was approved in
18 *Halfhill*. The calculations to compensate for the amount due to the Class Members at the time the
19 Settlement was negotiated were calculated by Plaintiffs' expert, Berger Consulting, in advance of
20 mediation. Class Counsel analyzed the data for putative class members and determined the potential
21 maximum damages for the class claims. For the Class, the maximum value of the claim for unpaid
22 wages due to the alleged unpaid wages due to rounding was \$29,887,684, the maximum potential
23 damages for alleged meal period violations were estimated to be \$30,878,192 based upon a 51%
24 violation rate observed in the time records and after a discount of 90% of the violation which were
25 subject to health care worker meal waivers, the maximum potential damages for alleged rest period
26 violations were estimated to be \$17,867,816 based upon an alleged 3% violation rate, and the
27 maximum potential damages for the alleged failure to reimburse business expenses were calculated
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1 to be \$389,597 based upon a 10% violation rate for when phones / ipads were not provided for
2 work. In total, the damages for the Class were calculated to have a maximum potential total value
3 of \$79,023,289. In addition, Plaintiffs calculated that the maximum value of the potential waiting
4 time penalties were between \$42,972,103 and \$61,883,906, depending on the predicate violation,
5 and the maximum value of the potential wage statement penalties were \$146,412,100.¹ Defendant
6 vigorously disputed Plaintiffs' calculations and exposure theories. Consequently, the Gross
7 Settlement Amount represents more than 8.8% of Plaintiffs' calculation of the potential maximum
8 damages at issue for the Class in this case, assuming these amounts could all be proven in full at
9 trial.² Importantly, the recent decision that good faith belief of compliance by the employer in
10 *Naranjo v. Spectrum Sec. Servs., Inc.*, 15 Cal. 5th 1056, 1065 (2024), could completely negate the
11 claims for waiting time and wage statement penalties, even if wages were owed to the class. The
12 maximum calculations should then be realistically risk rated in consideration for both the risk of
13 class certification and the risk of establishing class-wide liability on all claims. Given the amount of
14 the Settlement as compared to the potential value of the claims, the Settlement is most certainly fair
15 and reasonable. Specific details as to the calculation and valuation of the claims for purposes of
16 mediation and the negotiation of the Settlement are as follows:

17 **A. Payroll and Timekeeping Data.** Plaintiffs received and Plaintiffs' expert
18 analyzed payroll data and time punch data which covered 1,986 employees
19 and during the period 1/1/2024 - 6/24/2024, which was then extrapolated this
20 out to December 31, 2024. The payroll data and time punch data covered

21
22 ¹ While Plaintiffs alleged claims for statutory penalties pursuant to Labor Code Sections 203 and
23 226, at mediation Plaintiffs recognized that these claims were subject to additional, separate
24 defenses asserted by Defendant, including but not limited to, a good-faith dispute defense as to
25 whether any premium wages for meal or rest periods or other wages were owed given Defendant's
26 position that Plaintiffs and Class Members were properly compensated. *See Nordstrom Commission*
27 *Cases*, 186 Cal. App. 4th 576, 584 (2010) ("There is no willful failure to pay wages if the employer
28 and employee have a good faith dispute as to whether and when the wages were due.").

² Because the PAGA claim does not provide a recovery to the Class, Plaintiffs did not include
the PAGA claim in this discussion of the class claim valuation. The PAGA claim is addressed in
the Decl. Nordrehaug at ¶ 33.

131,118 shifts worked and 39,603 work weeks, which was then extrapolated and applied to the entire Class. The average rate of pay for the Class was \$64.94.

B. Alleged Unpaid Wages Due to Rounding. Plaintiffs alleged that rounding practices resulted in underpaid wages to the Class. Plaintiffs expert determined the gross underpaid hours due to rounding and subtracted the overpaid hours due to rounding, which resulting in a net number of over[paid hours of 2.7 minutes per shift, which was a total of 301,211.2 hours for the Class. Based on this analysis the alleged unpaid wages from the rounding was calculated to total \$29,887,684.

C. Alleged Meal Period Violations. The meal period claim is based upon the analysis of time punch records reflect a meal break violation rate in 51.1% of all shifts. Because the vast majority of these breaks were for health care workers which allows for legal waiver of 1 of 2 meals under *Gerard v. Orange Coast Memorial*, 6 Cal. 5th 443 (2018), Plaintiffs applied a 90% reduction to these violations. The damages for a missed period is one hour of pay under Labor Code §§266.7 and 512. As a result, the maximum potential damages for alleged meal period violations were estimated to be \$30,878,192.

D. Alleged Rest Period Violations. The rest period claim is difficult to calculate because California law does not require rest periods to be recorded. For this claim, Plaintiff used the realistic assumption of 3% violation rate for all shifts. The damages for a missed period is one hour of pay under Labor Code §§266.7 and 512. As a result, the maximum potential damages for alleged rest period violations using a 3% violation rate were estimated to be \$17,867,816.

E. Alleged Business Expenses Reimbursement. The expense reimbursement claim was based upon the personal cellphone usage for work purposes. The

1 value of this claim used was \$5 per month with a 10% violation rate for when
2 phones / ipads were not provided for work to calculate that the maximum
3 potential damages for the alleged failure to reimburse business expenses were
4 \$389,597.

5 F. **Alleged Waiting Time Penalties.** Waiting Time Penalties are calculated
6 assuming 3,642 terminated employees (calculated at 30 days per employee
7 with 8.5 hours per day x average rate of pay). An alternate Waiting Time
8 Penalty was calculated for 2,529 terminated employees with rounding issues .
9 As such, the maximum value of the potential waiting time penalties were
10 calculated to be between \$42,972,103 and \$61,883,906, depending on the
11 predicate violation.

12 G. **Alleged Wage Statement Penalties.** Wage Statement Penalties are
13 calculated at \$50 for the initial violation and \$100 for each subsequent
14 violation with a max of \$4,000 per employee (assumes 100% violation). The
15 Wage Statement claim is predicated and is derivative of the above claims, so
16 the maximum valuation assumed there was a violation in every pay period
17 within the applicable one-year statute of limitation. The maximum value of
18 the potential wage statement penalties were therefore calculated to be
19 \$146,412,100.

20 H. **Alleged PAGA Claim.** The PAGA Claim is not a class claim and the PAGA
21 penalties are paid primarily (75%) to the State of California, and do not
22 compensate for or release the individual claims of the employees. As such,
23 the PAGA claim is not included in this valuation, however, the PAGA claim
24 is addressed separately below at paragraph 33.

25
26 Procedural History of the Litigation

27 7. On June 19, 2023, Plaintiff Bert Mercado filed with the LWDA and served on
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1 Defendant a notice under Labor Code section 2699.3 identifying the alleged Labor Code violations
2 to recover civil penalties on behalf of Aggrieved Employees for various Labor Code violations. On
3 July 27, 2023, Plaintiff Liliana Godina filed with the LWDA and served on Defendant a notice
4 under Labor Code section 2699.3 identifying the alleged Labor Code violations to recover civil
5 penalties on behalf of Aggrieved Employees for various Labor Code violations. On October 3,
6 2023, Plaintiff Lisa Howell filed with the LWDA and served on Defendant a notice under Labor
7 Code section 2699.3 identifying the alleged Labor Code violations to recover civil penalties on
8 behalf of Aggrieved Employees for various Labor Code violations. On January 22, 2025, and
9 Amended PAGA Notice was filed with the LWDA and served on the Defendant. True and correct
10 copy of these PAGA Notices are attached hereto as Exhibit #4.

11 8. On August 30, 2023, Plaintiff Bert Mercado initiated the *Mercado* Action against
12 Defendant in Los Angeles County Superior Court. On October 17, 2023, Plaintiff Liliana Godina
13 initiated the *Godina* Action against Defendant in Los Angeles County Superior Court. On February
14 23, 2024, Plaintiff Godina filed a First Amended Complaint. On November 9, 2023, Plaintiff Lisa
15 Howell initiated the *Howell* Class Action against Defendant in Los Angeles Superior Court. On
16 November 19, 2023, Plaintiff Howell initiated the *Howell* PAGA Action against Defendant in
17 Alameda County Superior Court. On March 19, 2024, Plaintiff Howell filed a First Amended
18 Complaint in the *Howell* PAGA Action.

19 9. On Second Amended Complaint in the *Godina* Action to add Plaintiff Howell and
20 Plaintiff Mercado as plaintiffs to her lawsuit. The Second Amended Complaint alleges the following
21 claims against Defendant: (1) failure to pay overtime wages in violation of Cal. Labor Code § 510;
22 (2) failure to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
23 (3) failure to provide required meal periods in violation of Cal. Labor Code §§ 226.7 and 512; (4)
24 failure to provide accurate itemized wage statements in violation of California Labor Code § 226;
25 (5) failure to pay waiting time penalties in violation of California Labor Code §§ 201, 202 and 203;
26 (6) failure to timely pay earned wages in violation of Cal. Labor Code §§ 204 and 210; (7) failure to
27 provide required rest periods in violation of Cal. Labor Code §§ 226.7 and 512; (8) failure to
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1 reimburse employees for required expenses in violation of California Labor Code § 2802; (9) failure
2 to pay reporting time pay; (10) failure to pay split shift wages; (11) failure to provide notice of sick
3 pay time and accrual in violation of California Labor Code §§ 201-203, 233, 246; (12) unfair
4 competition in violation of Cal. Bus & Prof. Code §§ 17200, et seq.; (13) violation of the Fair Labor
5 Statdards Act 29 U.S.C. §201, et seq.; and (14) civil penalties pursuant to Labor Code § 2699
6 (“PAGA”). The Second Amended Complaint filed in the *Godina* Action is referred to as the
7 “Operative Complaint”. Defendant denies the allegations in the Operative Complaint, denies any
8 failure to comply with the laws identified in the Operative Complaint and denies any and all liability
9 for the causes of action alleged.

10 10. Over the course of litigation, the Parties engaged in the investigation of the claims,
11 including production of documents, class data, and other information, allowing for the full and
12 complete analysis of liabilities and defenses to the claims in the Action. Plaintiff obtained both
13 formal and informal discovery, which included the production and analysis of hundreds of pages of
14 documents. The information for mediation obtained by Plaintiff included: (1) data concerning the
15 composition of the Class; (2) payroll data for the Class and time punch data for the Class which
16 covered 131,118 shifts; (3) Defendant’s wage and hour policies and job descriptions; (4) the
17 employment file for the Plaintiffs; and, (5) samples of wage statements provided by Defendant. As
18 such, Class Counsel received the data and information for the Class, which was sufficient for
19 Plaintiffs’ expert to prepare the valuations of the claims for the Class.

20 11. Class Counsel has extensive experience in litigating wage and hour class actions in
21 California. The Parties have vigorously litigated the Action since inception. During the course of
22 litigation, the Parties each performed analysis of the merits and value of the claims. Plaintiff and
23 Defendant have engaged in substantial research and investigation in connection with the Action.
24 Class Counsel has thoroughly analyzed the value of the claims during the prosecution of this Action
25 and utilized an expert to perform an analysis of the data and valuation of the claims.

26 12. Plaintiffs and Defendant agreed to discuss resolution of the Action through a
27 mediation. Prior to mediation, the Parties engaged in the above investigation and the exchange of
28

1 documents and information in connection with the Action. On August 12, 2024, the Parties
2 participated in an all-day mediation presided over by David Rotma, a respected and experienced
3 mediator of wage and hour class actions. Following the mediation, each side, represented by its
4 respective counsel, were able to agree to settle the Action based upon a mediator's proposal which
5 was memorialized in a memorandum of understanding. The Parties then negotiated the final terms
6 of the settlement as set forth in the Agreement. At all times, the negotiations were arm's length and
7 contentious.

8 13. Although a settlement has been reached, Defendant denies any liability or
9 wrongdoing of any kind associated with the claims alleged in the Action and further deny that, for
10 any purpose other than settlement, the Action is appropriate for class and/or representative
11 treatment. Defendant contends, among other things, that it has properly compensated the Class
12 Members and complied at all times with the California Labor Code, applicable Wage Order, and all
13 other laws and regulations. Further, Defendant contends that class certification is inappropriate for
14 any reason other than for settlement. Plaintiffs contend that Defendant violated California wage and
15 hour laws. Plaintiffs further contend that the Actions are appropriate for class certification on the
16 basis that the claims meet the requisites for class certification. Without admitting that class
17 certification is proper, Defendant has stipulated that the above Class may be certified for settlement
18 purposes only. (Agreement at ¶ 12.1.) The Parties agree that certification for settlement purposes is
19 not an admission that class certification is proper. Further, the Agreement is not admissible in this
20 or any other proceeding as evidence that the Class could be certified absent a settlement. Solely for
21 purposes of settling the Action, the Parties stipulate and agree that the requisites for establishing
22 class certification with respect to the Class are satisfied.

23 14. Class Counsel has conducted a thorough investigation into the facts of the class
24 action. Over the course of more than a year, Class Counsel diligently evaluated the Class Members'
25 claims against Defendant. Prior to the settlement negotiations, counsel for Defendant provided
26 Class Counsel with access to necessary documents and information for the Class. In addition, Class
27 Counsel has previously negotiated settlements with other employers in actions involving nearly
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1 identical issues and analogous defenses. Based on the discovery obtained and their own
2 independent investigation, evaluation and experience, Class Counsel believes that the settlement
3 with Defendant on the terms set forth in the Agreement is fair, reasonable, and adequate and is in
4 the best interest of the Class in light of all known facts and circumstances, including the risk of
5 significant delay, the risk that the claims would not be allowed to proceed on a class basis, the
6 defenses asserted by Defendant, and potential appellate issues.

7
8 Settlement Terms and Plan of Allocation

9 15. The Gross Settlement Amount is Seven Million Dollars (\$7,000,000). (Agreement at
10 ¶ 1.24.) Under the Settlement, the Gross Settlement Amount consists of the following elements: (i)
11 all Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments; (ii) the
12 LWDA PAGA Payment; (iii) the Class Counsel Fees Payment and the Class Counsel Litigation
13 Expenses Payment; (iv) the Class Representative Service Payments; and (v) the Administration
14 Expenses Payment. (Agreement at ¶ 1.24.) The Gross Settlement Amount does not include
15 Defendant's share of payroll taxes. (Agreement at ¶ 3.1.) The Gross Settlement Amount shall be
16 all-in with no reversion to Defendant. (Agreement at ¶ 3.1.)

17 16. Within twenty-five (25) days of the Effective Date, Defendant shall deposit the Gross
18 Settlement Amount with the Administrator. (Agreement at ¶ 4.2.) The distribution of Individual
19 Class Payments to Participating Class Members along with the other Court-approved distributions
20 shall be made by the Administrator within fourteen (14) days after Defendant fully funds the Gross
21 Settlement Amount. (Agreement at ¶ 4.3.)

22 17. The amount remaining in the Gross Settlement Amount after the deduction of
23 Court-approved amounts for Individual FLSA Payments, Individual PAGA Payments, the LWDA
24 PAGA Payment, the Class Representative Service Payment, the Class Counsel Fees Payment, the
25 Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment (the "Net
26 Settlement Amount") shall be allocated to Participating Class Members as their Individual Class
27 Payments. (Agreement at ¶ 3.2.) The Individual Class Payment for each Participating Class
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1 Member will be calculated by (i) the number of the Participating Class Member's weeks worked in
2 a nonexempt position in California for Defendant during the Class Period, divided by (ii) the total
3 weeks worked in a nonexempt position in California for Defendant by all Participating Class
4 Members during the Class Period. Determination of the number of weeks that a Participating Class
5 Member worked shall be based on Defendant's time records. (Agreement at ¶ 3.2.4.) Workweeks
6 will be calculated based on Defendant's records; however, Class Members will have the right to
7 challenge their number of Workweeks.

8 18. Class Members may choose to opt-out of the Settlement by following the directions
9 in the Class Notice. (Agreement at ¶ 7.5, Ex. A.) All Class Members who do not "opt out" will be
10 deemed Participating Class Members and will be bound by the Settlement and will be entitled to
11 receive an Individual Class Payment. (Agreement at ¶ 7.5.3.) All Aggrieved Employees, including
12 any who submit an opt-out request, still will receive an Individual PAGA Payment and will release
13 of the Released PAGA Claims regardless of their request for exclusion. (Agreement at ¶¶ 5.4 and
14 7.5.4) Finally, the Class Notice will advise the Class Members of their right to object to the
15 Settlement and/or dispute their Workweeks. (Agreement at ¶¶ 7.6 and 7.7, Ex. A.)

16 19. A Participating Class Member must cash the check for his or her Individual Class
17 Payment (and, if applicable, Individual PAGA Payment and Individual FLSA Payment) within 180
18 days after it is mailed. (Agreement at ¶ 4.3.1.) Any settlement checks not cashed within 180 days
19 will be voided and any funds represented by such checks sent to the California State Controller's
20 Office, Unclaimed Property Division, in the name of the Class Member, thereby leaving no "unpaid
21 residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
22 (Agreement at ¶ 4.3.3.)

23 20. Subject to Court approval, the Parties have agreed on ILYM Group to administer the
24 settlement in this action (the "Administrator"). (Agreement at ¶ 1.2.) The Administrator will be
25 paid for settlement administration in an amount not to exceed \$280,000. (Agreement at ¶ 3.2.3.)
26 Decl. Nordrehaug at ¶20. A Declaration from ILYM is submitted herewith.

27 21. Subject to Court approval, the Agreement provides for Class Counsel to be awarded
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1 a sum not to exceed one-third of the Gross Settlement Amount as the Class Counsel Fees Payment.
2 (Agreement at ¶ 3.2.2.) Class Counsel will also be allowed to apply for an award of Class Counsel
3 Litigation Expenses Payment in an amount not to exceed \$50,000. (Agreement at ¶ 3.2.2.) Subject
4 to Court approval, the Agreement provides for a payment of no more than \$10,000 each to the
5 Plaintiffs as their Class Representative Service Payments. (Agreement at ¶ 3.2.1.)

6 22. Subject to Court approval, Five Hundred Thousand Dollars (\$500,000) will be paid
7 from the Gross Settlement Amount in settlement of Plaintiffs' claim for civil penalties under the
8 California Labor Code Private Attorneys General Act ("PAGA"), Cal. Labor Code Section 2698, *et*
9 *seq.* Pursuant to the express requirements of Labor Code § 2699(i), the PAGA Penalties payment
10 shall be allocated as follows: 75% (\$375,000) shall be allocated to the LWDA as its share of the
11 civil penalties and 25% (\$125,000) allocated to the Aggrieved Employees and distributed as
12 Individual PAGA Payments based on the number of their respective PAGA Pay Periods.
13 (Agreement at ¶ 3.2.6.) As set forth in the accompanying proof of service, the LWDA has been
14 served with this motion and the Agreement.

15
16 Risks of Continued Litigation and Standards for Approval

17 23. Plaintiffs and Class Counsel recognize the expense and length of continuing to
18 litigate and trying this Action against Defendant and then litigating a possible appeal that could take
19 several years. Class Counsel has also taken into account the uncertain outcome and risk of
20 litigation, especially in complex class actions such as this Action. Class Counsel is also mindful of
21 and recognizes the inherent problems of proof under, and alleged defenses to, the claims asserted in
22 the Action. Based upon their evaluation, Plaintiffs and Class Counsel have determined that the
23 Settlement set forth in the Agreement is in the best interest of the Class Members.

24 24. Here, a number of defenses asserted by Defendant present serious threats to the
25 claims of the Plaintiffs and the other Class Members. Defendant maintains that its practices
26 complied with all applicable wage and hour laws. Defendant maintains that all Class Members'
27 work time was properly recorded and compensated and that there was no miscalculation of the
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1 regular rate. Defendant contends that its meal and rest period policies and practices provide Class
2 Members with meal and rest periods and that the payment of significant meal premiums is evidence
3 of Defendant's legal compliant practices. As to expense reimbursement, Defendant maintains that it
4 did not fail to provide reimbursement for necessary business expenses because, among other things,
5 employees are not required to use their personal cell phones to perform their work. Defendant could
6 argue that the decisions in *Brinker v. Superior Court*, 53 Cal. 4th 1004 (2012), *Lockheed Martin*
7 *Corp. v. Superior Ct.*, 29 Cal. 4th 1096, 1108 (2003), and *Salazar v. See's Candy Shops Inc.*, 64
8 Cal.App.5th 85 (2021), weakened Plaintiffs' claims in terms of liability and value, and preclude
9 claims from proceeding on a class or representative basis. Defendant also maintains that a good
10 faith dispute and absence of willfulness would negate the claims for waiting time penalties and
11 failure to provide accurate itemized wage statements. See e.g. *Naranjo v. Spectrum Sec. Servs.*, 15
12 Cal. 5th 1056, 1065 (May 6, 2024) ("if an employer reasonably and in good faith believed it was
13 providing a complete and accurate wage statement in compliance with the requirements of section
14 226, then it has not knowingly and intentionally failed to comply with the wage statement law.") If
15 successful, Defendant's defenses could eliminate or substantially reduce any recovery to the Class.
16 While Plaintiffs believe that these defenses could be overcome, Defendant maintains these defenses
17 have merit and therefore present a serious risk to recovery by the Class.

18 25. There was also a significant risk that, if the Action was not settled, Plaintiffs would
19 be unable to obtain class certification and thereby not recover on behalf of any employees other than
20 themselves. Defendant argued that the individual experience of each putative class member varied
21 with respect to the claims, which would preclude the claims from proceeding on a class basis. For
22 instance, Plaintiffs' meal and rest period claims would require individualized inquiries into whether
23 each employee took a compliant meal or rest period on a given shift and, if not, why. Plaintiffs are
24 aware of other cases where class certification of similar claims was denied. See e.g. *Cacho v.*
25 *Eurostar, Inc.*, 43 Cal. App. 5th 885 (2019) (denying certification of rest break claims). Finally,
26 even if class certification was successful, as demonstrated by the California Supreme Court decision
27 in *Duran v. U.S. Bank National Association*, 59 Cal. 4th 1 (2014), there are significant hurdles to
28 overcome for a class-wide recovery even where a class has been certified. While other cases have

1 approved class certification of wage and hour claims, class certification in this Action would have
2 been hotly disputed and was by no means a foregone conclusion.

3 26. This settlement is therefore certainly entitled to preliminary approval. Were this
4 case to go to trial, the Plaintiffs and the other class members would need to prove, among other
5 things, that wages were owed on a class-wide basis. This was and is a substantial risk. This
6 Settlement provides a recovery to all non-exempt employees of the Defendant, which is a result that
7 would not be possible if liability was not imposed on a class-wide basis.

8 27. Plaintiffs will apply to the Court for Class Representative Service Payments in
9 consideration for their service and for the risks undertaken on behalf of the Class. (Agreement at ¶
10 3.2.1.) Plaintiffs performed their duties admirably by working with Class Counsel. The
11 concurrently filed declarations of the Plaintiffs are presented herewith in support of the request. For
12 purposes of this preliminary approval stage, the requested service award of is well within the
13 accepted range of awards for purposes of preliminary approval. *See, e.g., Andrews v. Plains All Am.*
14 *Pipeline L.P.*, 2022 U.S. Dist. LEXIS 172183, at *11 (C.D. Cal. 2022) (finding that the requested
15 service awards of \$15,000 each are appropriate); *Reynolds v. Direct Flow Med., Inc.*, 2019 U.S.
16 Dist. LEXIS 149865, at *19 (N.D. Cal. 2019) (granting request for \$12,500 service award); *Mathein*
17 *v. Pier 1 Imps. (U.S.), Inc.*, 2018 U.S. Dist. LEXIS 71386 (E.D. Cal. 2018) (awarding \$12,500
18 where average class member payment was \$351); *Louie v. Kaiser Foundation Health Plan, Inc.*,
19 2008 WL 4473183, *7 (S.D. Cal. Oct. 06, 2008) (awarding \$25,000 service award to each of six
20 plaintiffs in overtime class action); *Glass v. UBS Fin. Servs.*, 2007 WL 221862, *16-17 (N.D. Cal.
21 2007) (awarding \$25,000 service award in overtime class action and a pool of \$100,000 in
22 enhancements). Below, I provide a long list of similar Court-approved service awards.

23 28. The stage of the proceedings at which the Settlement was reached also militates in
24 favor of preliminary approval and, ultimately, final approval of the Settlement. Class Counsel has
25 conducted a thorough investigation into the facts of the class action. Class Counsel began
26 investigating the Class Members' claims before the Action was filed. Class Counsel engaged in an
27 investigation of the claims and conducted a review and analysis of the relevant documents and data.
28 Class Counsel was also experienced with the claims at issue here, as Class Counsel previously

1 litigated and settled similar claims in other actions. Accordingly, the agreement to settle did not
2 occur until Class Counsel possessed sufficient information to make an informed judgment regarding
3 the likelihood of success on the merits and the results that could be obtained through further
4 litigation.

5 29. Based on both formal and informal discovery of data and documents, and their own
6 independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with
7 Defendant for the consideration and on the terms set forth in the Agreement is fair, reasonable, and
8 adequate and is in the best interest of the Class in light of all known facts and circumstances,
9 including the risk of significant delay, defenses asserted by Defendant, and numerous potential
10 appellate issues. There can be no doubt that counsel for both Parties possessed sufficient
11 information to make an informed judgment regarding the likelihood of success on the merits and the
12 results that could be obtained through further litigation.

13
14 Class Certification Issues

15 30. Plaintiffs contend that the Settlement meets all of the requirements for certification
16 of a settlement class under California Code of Civil Procedure § 382 as demonstrated below, and
17 therefore, the Court may appropriately approve the Class as defined in the Agreement. This Court
18 should conditionally certify the Class, for settlement purposes only, defined as follows:

19 All non-exempt persons who were employed by Defendant in the State of California
20 at any time during the Class Period.

21 (Agreement at ¶ 1.5.)

22 The “Class Period” is from January 1, 2024 through December 31, 2024. (Agreement at ¶ 1.6.)

23 a. **Ascertainability And Numerosity** - Here, Plaintiffs assert that the 66,426
24 individuals who comprise the Class can be identified based on Defendant’s records and are
25 sufficiently numerous for class certification.

26 b. **Predominance of Common Issues Of Law and Fact** - Here, Plaintiffs
27 contend that common questions of law and fact are present, and specifically the common questions
28 of whether Defendant’s practices were lawful, whether Class members were lawfully compensated

1 for all hours worked, whether Defendant properly calculated wages, whether the Defendant failed to
2 provide all legally required meal and rest periods to Class Members, whether Defendant failed to
3 provide required expense reimbursement, and whether Class Members are entitled to damages and
4 penalties as a result of these alleged practices. Plaintiffs contend that certification of this Class is
5 appropriate because Defendant allegedly engaged in uniform practices with respect to the Class
6 Members. As a result, these common questions of liability could be answered on a class wide basis.

7 c. **Typicality** - In the Action, Plaintiffs contend that there can be little doubt
8 that the typicality requirement is satisfied. Plaintiffs worked for Defendant as non-exempt
9 employees during the Class Period. Plaintiffs contend that, like every other member of the Class,
10 they were subjected to the same practices and policies of Defendant and are subject to the same
11 defenses. Thus, Plaintiffs assert that the claims of Plaintiffs and the Class Members arise from the
12 same course of conduct by the Defendant, involve the same employment policies and practices of
13 Defendant, and are based on the same legal theories.

14 d. **Adequacy** - Plaintiffs contend that the Class Members are adequately
15 represented here because Plaintiffs and Class Counsel (a) do not have any conflicts of interest with
16 other Class members, and (b) will prosecute the case vigorously on behalf of the Class. First,
17 Plaintiffs are well aware of their duties as the representatives of the Class and have actively
18 participated in the prosecution of this case to date. Plaintiffs effectively communicated with
19 counsel, provided documents to counsel, and participated in the investigation and negotiations in the
20 Action. Second, Plaintiffs retained competent counsel who are experienced in employment class
21 actions and who have no conflicts. Third, there is no antagonism between the interests of the
22 Plaintiffs and those of the Class. Both Plaintiffs and the Class Members seek monetary relief under
23 the same set of facts and legal theories.

24 31. Class Counsel's Adequacy of Representation and Absence of Conflict: Blumenthal
25 Nordrehaug Bhowmik De Blouw LLP is experienced in prosecuting class action lawsuits and can
26 competently represent the Class. Other lawyers at my firm and I have extensive class litigation
27 experience. We have handled a number of class actions and complex cases and have acted both as
28 counsel and as lead and co-lead counsel in a variety of these matters. We have successfully

1 prosecuted and obtained significant recoveries in numerous class action lawsuits and other lawsuits
2 involving complex issues of law and fact. My firm is particularly experienced in wage and hour
3 employment law class actions, including claims for misclassification, overtime, expense
4 reimbursement, unlawful deduction of wages, and missed rest and meal periods. Blumenthal
5 Nordrehaug Bhowmik De Blouw LLP has been involved as class counsel in over hundreds of wage
6 and hour class actions. Blumenthal Nordrehaug Bhowmik De Blouw LLP has been found to be
7 adequate counsel by the courts throughout California. We have been approved as experienced class
8 counsel by both state and federal courts in California in contested class certification proceedings. A
9 true and correct copy of the resume of my firm is attached hereto as Exhibit #3. The Class in this
10 settlement is defined as “all non-exempt persons who were employed by Defendant in the State of
11 California at any time during the Class Period.” I have reviewed my firm’s cases and representation
12 of other plaintiffs and there is no conflict or representation which would prevent my firm from
13 representing the interests of the Class this case. My firm only represents employees, and not
14 employers. My firm has never represented Defendant nor any affiliate of the Defendant. My firm’s
15 only interest in the subject matter of this litigation is to ensure a recovery to the Class and to
16 maximize that recovery. Finally, our allegiance to the Class and the claims of the Class is not
17 inconsistent with our allegiance to pursue the claims on behalf of other employees and classes as the
18 claims are all against different and distinct employers. I can think of no conflict that would arise in
19 our representation of the Class and our adequate representation of the Class is evidenced by the
20 successful prosecution of the class claims to reach an excellent recovery for the Class. Moreover,
21 neither the Plaintiffs nor Class Counsel have any affiliation with the Administrator for this
22 settlement. Thus, the adequacy requirement for my firm is satisfied.

23 32. The Class Notice, drafted jointly and agreed upon by the Parties through their
24 respective counsel and to be approved by the Court, is based upon the Los Angeles County Superior
25 Court’s model form and includes all relevant information. (See Exhibit “A” to the Agreement.)
26 The Class Notice will include, among other information: (i) information regarding the Action; (ii)
27 the impact on the rights of the Class Members if they do not opt out, including a description of the
28 applicable release; (iii) information to the Class Members regarding how to opt out and how to

1 object to the Settlement; (iv) the estimated Individual Class Payment for each of the Class Members
2 and how to dispute the information used to calculate the payment; (iii) the amount of attorneys' fees
3 and expenses to be sought; (v) the amount of the Plaintiffs' service award request; and (vi) the
4 anticipated expenses of the Administrator. The Class Notice will state that the Class Members shall
5 have sixty (60) days from the date that the Class Notice is mailed to them (the "Response
6 Deadline") to request exclusion (opt-out), and that the Response Deadline shall be extended 14 days
7 in the event of a re-mailing. (Agreement at ¶¶ 1.47, 7.5.) Class Members shall be given the
8 opportunity to object to the Settlement and/or requests for attorneys' fees and expenses and to
9 appear at the Final Approval Hearing. (Agreement at ¶ 7.7.) Class Members who do not submit a
10 timely and proper request to opt out will automatically receive a payment of their Individual Class
11 Payment (and, if applicable, their Individual PAGA Payment). This notice program was designed to
12 meaningfully reach the Class Members and it advises them of all pertinent information concerning
13 the Settlement.

14
15 33. The PAGA Claim -

16 a. **Approval of PAGA Settlements.** The decision in *O'Connor v. Uber*, 201
17 F.Supp.3d 1110, 1133 (N.D. Cal. 2016), and the LWDA's Response therein is illustrative. The
18 LWDA first states that "when viewing the monetary relief allocated to PAGA claims under a
19 settlement, the LWDA recognizes that the PAGA sum need not necessarily be viewed through the
20 same lens as the relief obtained by absent class members on other claims (i.e., the percentage of
21 recovery-to-exposure on the PAGA claims need not necessarily equal the percentage of recovery on
22 the other claims)." (LWDA Response at p.3). The LWDA also indicated that the payment of
23 money to the aggrieved employees furthers the purposes of PAGA and that the Court considers that
24 primary consideration. "The LWDA recognizes that this Court does not review the PAGA
25 allocation in isolation, but rather reviews the settlement as a whole, to determine whether it is
26 fundamentally fair, reasonable and adequate, with primary consideration for the interests of absent
27 class members." (LWDA Response at p.4).

28 b. **Valuation of the PAGA Claim.** For mediation, Plaintiffs calculated the

1 value of the alleged PAGA claim as to the Aggrieved Employees for civil penalties to be between
2 \$74,866,700 and \$149,733,400 for a single violation in every one of the estimated 1,497,334 pay
3 periods at issue in the PAGA Period, depending on whether the violation was \$50 per pay period as
4 in the case of Labor Code § 558(a)(1) or the standard amount of \$100 per pay period for violation of
5 Labor Code § 1198. This valuation assumed that PAGA civil penalties would be awarded at the
6 maximum rate per pay period but without stacking.³ The PAGA allocation in the Settlement is
7 \$500,000. This allocation is justified by several important considerations. First, the PAGA claim
8 was subject to the same risks as the underlying class claims. Second, Defendant asserted additional
9 defenses to the PAGA claim, not only as to liability but also as to the amount of the penalties.
10 Defendant could also argue that no penalties prior to the PAGA notification should be awarded, and
11 I am aware of one Court which has so ruled. These additional defenses present a risk to the PAGA
12 claim and the potential that some or all of the PAGA penalties sought may not be awarded. Second,
13 in *Carrington v. Starbucks Corp.*, 30 Cal. App. 5th 504 (2018), the Court affirmed a judgment
14 which only provided for a PAGA penalty of \$5 per violation. Therefore, at trial, any PAGA
15 penalties awarded could be significantly less than Plaintiffs' calculation even where Plaintiff
16 prevailed on the PAGA claim. Even if we assume that violations for all 1,497,334 pay periods were
17 established, using the valuation from *Carrington* results in a potential recovery of only \$7,486,670
18 under PAGA. This means that the PAGA Penalties allocation in the Agreement is a reasonable
19 percentage of this potential PAGA recovery. Fourth, the interests of PAGA are also served by the
20 Class recovery under the reasoning of the LWDA in *O'Connor v. Uber*.

21 c. **Comparable PAGA Settlements.** In reaching the settlement of the PAGA
22 claim, Class Counsel was also aware of what allocations other Courts have approved for similar
23

24
25 ³ Stacking is where more than one civil penalty is imposed in a pay period for the same conduct.
26 The valuation of between \$74,866,700 and \$149,733,400 is the civil penalty amount without
27 stacking. If stacking is permitted, then the valuation increases with each additional penalty added to
28 each pay period. Plaintiff, however, are not aware of any PAGA award which permitted stacking
and in the cases cited herein, only one penalty per pay period was assessed. Moreover, the recent
amendment to PAGA, although not applicable to this case filed before June 2024, appears to cast
further doubt on the availability of stacking.

1 PAGA settlements as compared to the total settlement amount. A class settlement that allocates
2 approximately 7% of the total settlement value to resolve the PAGA claims applicable to the class is
3 also supported by what has been approved in other wage-and-hour class settlements. Indeed, Courts
4 typically approve PAGA settlement amounts in the range of between 0.27 to 2 percent of the total
5 settlement. See *Davis v. Brown Shoe Co.*, 2015 U.S. Dist. LEXIS 149010 (E.D. Cal. 2015) (PAGA
6 Payment of \$5,000 in a \$1.5 million class settlement); *Zamora v. Ryder Integrated Logistics, Inc.*,
7 2014 U.S. Dist. LEXIS 184096 (S.D. Cal. 2014) (\$7,500 payment to LWDA for PAGA on a \$1.5
8 million class settlement); *Lusby v. Gamestop Inc.*, 2015 U.S. Dist. LEXIS 42637 (N.D. Cal. 2015)
9 (PAGA Payment of \$5,000 in a \$500,000 class settlement); *Cruz v. Sky Chefs, Inc.*, 2014 U.S. Dist
10 Lexis 17693 (N.D. Cal. 2014) (approving payment of \$10,000 to the LWDA for PAGA out of
11 \$1,750,000 class settlement); *Chu v. Wells Fargo Investments, LLC*, 2011 WL 672645, *1 (N.D.
12 Cal. 2011) (approving PAGA payment of \$7,500 to the LWDA out of \$6.9 million common-fund
13 settlement); *Franco v. Ruiz Food Products, Inc.*, 2012 WL 5941801, *13 (E.D. Cal. 2012)
14 (approving PAGA payment of \$7,500 to the LWDA out of \$2.5 million common-fund settlement);
15 *Hopson v. Hanesbrands Inc.*, 2009 WL 928133, *9 (N.D. Cal. 2009) (approving PAGA allocation
16 that was .49% of \$408,420.32 gross settlement); *Garcia v. Gordon Trucking, Inc.*,
17 10-cv-00324-AWI-SKO, Dkt. 149-3, 165 (E.D. Cal.) (approving a class settlement of \$3,700,000,
18 with \$10,000 allocated to the PAGA claim); *McKenzie v. Federal Express Corp.*, CV 10-02420
19 GAF (PLAx), Dkt. 139 & 141 (C.D. Cal.) (court approved a settlement in an amount of \$8.25
20 million, with \$82,500 allotted to the PAGA claim); *DeStefan v Frito-Lay*, 8:10-cv-00112-DOC
21 (C.D. Cal.) (court approved a class settlement of \$2 million, with \$10,000 allocated to PAGA);
22 *Martino v. Ecolab Inc.*, No. 3:14CV04358 (N.D. Cal. 2017) (\$100,000 allotted as PAGA penalties
23 or 0.48% of \$21,000,000 settlement amount); *East v. Comprehensive Educational Services Inc.*,
24 Fresno Superior Court Case No. 11-CECG-04226 (2015) (\$10,000 allotted as PAGA penalties or
25 0.13% of \$7,595,846 settlement amount); *Bararsani v. Coldwell Banker Residential Brokerage*
26 *Company*, Los Angeles Superior Court Case No. BC495767 (2016) (\$10,000 allotted as PAGA
27 penalties or 0.22% of \$4,500,000 settlement amount); *Moppin v. Los Robles Medical Center*, No.
28 5:15CV01551 (C.D. Cal. 2017) (\$15,000 allotted as PAGA penalties or 0.40% of \$3,775,000

1 settlement amount); *Scott-George v. PVH Corporation*. No., 2:13CV00441 (E.D. Cal. 2017)
2 (\$15,000 allotted as PAGA penalties or 0.46% of \$3,250,000 settlement amount); *Nehrlich v. RPM*
3 *Mortgage Inc.*, Orange County Superior Court Case No. 30-2013-00666783-CU-OE-CXC (2017)
4 (\$10,000 allotted as PAGA penalties or 0.40% of \$2,500,000 settlement amount); *Rubio v. KTI*
5 *Incorporated*, San Bernardino Superior Court Case No. CIVDS-14-06132 (2015) (\$1,000 allotted as
6 PAGA penalties or 0.18% of \$550,000 settlement amount); *Gray v. Mountain View Child Care Inc.*,
7 San Bernardino Superior Court Case No. CIVDS-14-02285 (2016) (\$2,500 allotted as PAGA
8 penalties or 0.37% of \$675,000 settlement amount); *Perez v. West Coast Liquidators Inc. d/b/a Big*
9 *Lots*, San Bernardino Superior Court Case No. CIVDS-14-17863 (2016) (\$3,000 allotted as PAGA
10 penalties or 0.33% of \$900,000 settlement amount); *Penaloza vs. PPG Industries Inc.*, Los Angeles
11 Superior Court No. BC471369 (2013) (\$5,000 allotted as PAGA penalties or 0.38% of \$1,300,000
12 settlement amount); *Mejia v. DHL Express (USA) Inc.*, No. 2:15CV00890 (C.D. Cal. 2017) (\$5,000
13 allotted as PAGA penalties or 0.34% of \$1,450,000 settlement amount).

14
15 34. Attorneys' Fees - The Class Counsel Fees Payment is capped at one-third of the
16 Gross Settlement Amount. A fee award that is capped at one-third of the common fund is fair and
17 reasonable, and at the time of final approval, my firm will present lodestar to further support the
18 reasonableness of the requested fee award. My firm has been regularly awarded attorney's fees
19 equal to one-third of the common fund in Court-approved wage and hour class settlements. Some
20 of the class action awards obtained by Class Counsel in similar employment actions throughout the
21 state bear out the reasonableness of a fee and costs award equivalent to one-third (1/3) of the total
22 settlement value: On December 4, 2018, in *Panda Express Wage and Hour Cases* (Los Angeles
23 Superior Court, Case No. JCCP 4919), Judge Carolyn Kuhl awarded Class Counsel a one-third fee
24 award in a wage and hour class settlement. On February 1, 2019, in *Solarcity Wage and Hour*
25 *Cases* (San Mateo Superior Court, Case No. JCCP 4945), Judge Marie Weiner awarded Class
26 Counsel a one-third fee award in a wage and hour class settlement. On July 30, 2019, in *Erickson v.*
27 *John Muir Health*, (Contra Costa Superior Court Case No. MSC18-00307), Judge Edward Weil
28 awarded Class Counsel a one-third fee award in a wage and hour class settlement. On December

1 18, 2019, in *Velasco v. Lemonade Restaurant Group*, (Los Angeles Superior Court Case No.
2 BC672235), Judge William Highberger awarded Class Counsel a one-third fee award in a wage and
3 hour class settlement. On January 31, 2020, in *El Pollo Loco Wage and Hour Cases* (Orange
4 County Superior Court Case No. JCCP 4957), Judge William Claster awarded Class Counsel a one-
5 third award in a wage and hour class settlement. On October 23, 2020, in *Ontiveros v. Baker*
6 *Concrete*, (Santa Clara Superior Court Case No. 18CV328679), Judge Brian Walsh awarded Class
7 Counsel a one-third fee award in a wage and hour class settlement. On December 3, 2020, in
8 *Blackshear v. California Fine Wine & Spirits* (Sacramento Superior Court Case No. 34-2018-
9 00245842), Judge Christopher Krueger awarded BNBD a one-third fee award in a wage and hour
10 class settlement. On June 2, 2021, in *Pacia v. CIM Group, L.P.* (Los Angeles Superior Court Case
11 No. BC709666), Judge Amy D. Hogue awarded Class Counsel a one-third fee award in a wage and
12 hour class settlement. On September 24, 2021, in *Prologistics Wage and Hour Cases* (Los Angeles
13 Superior Court Case No. JCCP 4881), Judge William Claster awarded Class Counsel a one-third fee
14 award in a wage and hour class settlement. On November 8, 2021, in *Securitas Wage and Hour*
15 *Cases* (Los Angeles Superior Court Case No. JCCP4837), Judge David Cunningham awarded a
16 one-third fee award in a wage and hour class settlement. On March 17, 2022, in *See's Candies*
17 *Wage and Hour Cases* (Los Angeles Superior Court Case No. JCCP5004), Judge Maren Nelson
18 awarded a one-third fee award in a wage and hour class action settlement. On April 12, 2022, in
19 *O'Donnell v. Okta, Inc.*, (San Francisco Superior Court Case No. CGC-20-587665), Judge Richard
20 Ulmer awarded a one-third fee award in a wage and hour class action settlement. On May 23, 2022,
21 in *Ettedgui v. WB Studio Enterprises Inc.*, (United States District Court, Central District of
22 California Case No. 2:20-cv-08053-MCS-JDE), District Judge Mark C. Scarsi awarded a one-third
23 fee award in a wage and hour class action settlement. On June 30, 2022, in *Armstrong, et al. v.*
24 *Prometric LLC* (Los Angeles Superior Court Case No. 20STCV29967), Judge Maren E. Nelson
25 awarded a one-third fee award in a wage and hour class action. On July 13, 2022, in *Crum v. S&D*
26 *Carwash Management LLC*, (Sacramento Superior Court Case No. 2019-00251338), Judge
27 Christopher E. Krueger awarded a one-third fee award in a wage and hour class action settlement.
28 On August 10, 2022, in *Spears, et al. v. Health Net of California, Inc.*, (Sacramento Superior Court

1 Case No. 34-2017-00210560-CU-OE-GDS), Judge Christopher E. Krueger awarded a one-third fee
2 award in a wage and hour class action settlement. On September 7, 2022, in *Lucchese, et al. v.*
3 *Kone, Inc.*, (San Francisco Superior Court Case No. CGC-20-588225), Judge Richard B. Ulmer, Jr.
4 awarded a one-third fee award in a wage and hour class action settlement. On November 4, 2022, in
5 *Infinity Energy Wage and Hour Cases* (San Diego Superior Court, Case No. JCCP5139), Judge Keri
6 Katz awarded a one-third fee award in a wage and hour class action settlement. On February 1,
7 2023, in *Hogan v. AECOM Technical Services, Inc.* (Los Angeles Superior Court Case No.
8 19STCV40072), Judge Stuart Rice awarded a one-third fee award in a wage and hour class
9 settlement. On February 28, 2023, in *Farthing v. Milestone Technologies* (San Francisco Superior
10 Court Case No. CGC-21-591251), Judge Richard B. Ulmer, Jr. awarded a one-third fee award in a
11 wage and hour class action settlement. On March 2, 2023, in *Leon v. Calaveras Materials* (Kings
12 County Superior Court Case No. 21C-0105), Judge Melissa D'Morias awarded a one-third fee
13 award in a wage and hour class settlement. On June 20, 2023, in *Gonzalez v. Pacific Western Bank*
14 (San Bernardino County Superior Court Case No. CIVSB2127657) Judge David Cohn awarded a
15 one-third fee award in a wage and hour class settlement, On June 30, 2023, in *Aguirre v. Headlands*
16 *Ventures* (Sacramento County Superior Court Case No. 34-2021-00297290), Judge Jill Talley
17 approved a one-third fee award in a wage and hour class settlement. On September 15, 2023, in
18 *Moran v. Sharp Healthcare* (San Diego County Superior Court Case No. 37-2019-00050203), Judge
19 Richard Whitney awarded a one-third fee award in a wage and hour class settlement. On October
20 10, 2023, in *Arango v. Schlumberger Technology*, (Orange County Case No.
21 30-2019-01056839-CU- OE-CXC), Judge William Claster approved a one-third fee award in a
22 wage and hour class action. On October 16, 2023, in *Flores v. Walmart*, (San Bernardino County
23 Superior Court Case No. CIVDS2023061) Judge Joseph T. Ortiz awarded a one-third fee award in a
24 wage and hour class settlement. On November 17, 2023, in *Silva v. Woodward HRT* (Los Angeles
25 County Superior Court Case No. 21STCV42692), Judge Maren Nelson awarded a one-third fee
26 award in a wage and hour class settlement. On November 29, 2023, in *Ochoa-Andrade v. See's*
27 *Candies* (San Mateo County Superior Court Case no. 22-CIV-02481), Judge Marie Weiner
28 approved a one-third fee award in a wage and hour class settlement. A fee award equal to one-third

1 of the common fund is therefore reasonable in light of the fees that have been awarded in other
2 similar cases.

3
4 35. Class Representative Service Payment - The reasonableness of the requested service
5 award is also established by reference to the amounts that other California courts have found to be
6 reasonable in wage and hour class action settlements since 2010: *Zamora v. Balboa Life &*
7 *Casualty, LLC*, Case No. BC360036, Los Angeles County Superior Court (Mar. 7, 2013)(awarding
8 \$25,000 service award); *Aguiar v. Cingular Wireless, LLC*, Case No. CV 06-8197 DDP
9 (AJWx)(C.D. Cal. Mar. 17, 2011)(awarding \$14,767 service award); *Magee v. American*
10 *Residential Services, LLC*, Case No. BC423798, Los Angeles County Superior Court (Apr. 21,
11 2011)(awarding \$15,000 service award); *Mares v. BFS Retail & Commercial Operations, LLC*,
12 Case No. BC375967, Los Angeles County Superior Court (June 24, 2010)(awarding \$15,000
13 service award); *Baker v. L.A. Fitness Int'l, LLC*, Case No. BC438654, L.A. County Superior Court
14 (Dec. 12, 2012)(awarding \$10,000 service awards to three named plaintiffs); *Blue v. Coldwell*
15 *banker Residential Brokerage Co.*, Case No. BC417335, Los Angeles County Superior Court (Mar.
16 21, 2011)(awarding \$10,000 service award); *Buckmire v. Jo-Ann Stores, Inc.*, Case No. BC394795,
17 Los Angeles County Superior Court (June, 11, 2010)(awarding \$10,000 service awards); *Coleman*
18 *v. Estes Express Lines, Inc.*, Case No. BC429042, Los Angeles County Superior Court (Oct. 3,
19 2013)(awarding \$10,000 service award); *Ethridge v. Universal Health Services, Inc.*, Case No.
20 BC391958, Los Angeles County Superior Court (May 27, 2011)(awarding \$10,000 service award);
21 *Hickson v. South Coast Auto Ins. Marketing, Inc.*, Case No. BC390395, Los Angeles County
22 Superior Court (Mar. 27, 2012)(awarding \$10,000 service award); *Hill v. sunglass Hut Int'l, Inc.*,
23 Case No. BC422934, Los Angeles County Superior Court (July 2, 2012)(awarding \$10,000 service
24 award); *Kambamba v. Victoria's Secret Stores, LLC*, Case No. BC368528, Los Angeles County
25 Superior Court, (Aug. 19, 2011)(awarding \$10,000 service award together with additional
26 compensation for their general release); *Nevarez v. Trader Joe's Co.*, Case No. BC373910, Los
27 Angeles County Superior Court (Jan. 29, 2010)(awarding \$10,000 service award); *Ordaz v. Rose*
28 *Hills Mortuary, L.P.*, Case No. BC386500, Los Angeles County Superior Court, (Mar. 19,

2010)(awarding \$10,000 service award); *Sheldon v. AHMC Monterey Park Hosp. LP*, Case No. BC440282, Los Angeles County Superior Court (Feb. 22, 2013)(awarding \$10,000 service award); *Silva v. Catholic Mortuary Services, Inc.*, Case No. BC408054, Los Angeles County Superior Court (Feb. 8, 2011)(awarding \$10,000 enhancement award); *Weisbarth v. Banc West Investment Services, Inc.*, Case No. BC422202, Los Angeles County Superior Court (May 24, 2013)(awarding \$10,000 service award); *Lazar v. Kaiser Foundation Health Plan*, Case No. 14-cv-273289, Santa Clara County Superior Court (Dec. 28, 2015) (awarding \$10,000 service award); *Acheson v. Express, LLC*, Case No. 109CV135335, Santa Clara County Superior Court (Sept. 13, 2011)(awarding \$10,000 service award); *Bejarano v. Amerisave Mortgage Corp.*, Case No. EDCV 08-00599 SGL (Opx)(C.D. Cal. June 22, 2010)(awarding \$10,000 service award); *Carbajal v. Sally Beauty Supply LLC*, Case No. CIVVS 1004307, San Bernardino County Superior Court (Aug. 6, 2012)(awarding \$10,000 service award); *Contreras v. Serco Inc.*, Case No. 10-cv-04526-CAS-JEMx (C.D. Cal. Sep. 10, 2012)(awarding \$10,000 service award); *Guerro v. R.R. Donnelley & Sons Co.*, Case No. RIC 10005196, Riverside County Superior Court (July 16, 2013)(awarding \$10,000 service award); *Kisliuk v. ADT Security Services Inc.*, Case No. CV08-03241 DSF (RZx)(C.D. Cal. Jan. 10, 2011)(awarding \$10,000 service award); *Morales v. BCBG Maxazria Int'l Holdings, Inc.*, Case No. JCCP 4582, Orange County Superior Court (Jan. 24, 2013)(awarding \$10,000 service award); *Barrett v. Doyon Security Services, LLC*, Case No. BS900199, BS900517, San Bernardino County Superior Court (Apr. 23, 2010)(awarding \$10,000 service award); *Zirpolo v. UAG Stevens Creek II*, Santa Clara Superior Court Case no. 17CV313457 (July 10, 2018) (awarding \$10,000 service award); *Taylor v. TIC - The Industrial Company*, U.S.D.C. Central District of California Case No. EDCV 16-186-VAP (Aug. 1, 2018) (awarding \$10,000 service award).

36. Potentially Related Other Actions - I am unaware of any other related cases pending against Defendant which would be impacted by this settlement.

37. Administration - The estimate from ILYM Group is was selected, as it provided for an estimate of \$279,950 to perform settlement administration for a class of up to 200, with any

1 difference between the actual expenses and the budget of \$280,000 to be retained in the Net
2 Settlement Amount for distribution to the Class. Submitted herewith is a true and correct copy of
3 the Declaration of Anthony Rogers from ILYM Group, which includes their estimate for
4 administration along with the other issues required by paragraph 7.2 of the Agreement. I have used
5 ILYM Group successfully as the administrator in more than twenty class settlements in the last
6 couple years and know them to be competent and experienced. My firm has no relationship or
7 connection with ILYM Group, and thus no conflict of interest exists.

8
9 Service on the LWDA:

10 38. At the same time as the filing and service of this declaration, I am also serving the
11 LWDA with the entire motion for preliminary approval which includes the Class Action and PAGA
12 Settlement Agreement. This service is verified by the accompanying proof of service.

13
14 I declare under penalty of perjury under the laws of the State of California that the foregoing
15 is true and correct. Executed this 31st day of January, 2025, at La Jolla, California.

16 /s/ Kyle Nordrehaug
17 Kyle Nordrehaug
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EXHIBIT #1

Lisa Howell v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV27614)
Lisa Howell v. Kaiser Foundation Hospitals
(Alameda Sup. Ct. Case No.: 24CV060679)
Bert Mercado, et al. v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV20894)
Liliana Godina v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV25366)

**CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT AND CLASS NOTICE**

This Class and Representative Action Settlement Agreement (“Agreement”) is made by and between the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina (collectively, “Plaintiffs” and “Class Representatives”) on behalf of themselves and the putative class and Defendant Kaiser Foundation Hospitals (“KFH” or “Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or to one of them individually as “Party.”

1. DEFINITIONS.

- 1.1 “Actions” means *Lisa Howell v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV27614) (the “*Howell* Class Action”), *Lisa Howell v. Kaiser Foundation Hospitals* (Alameda Sup. Ct. Case No.: 24CV060679) (the “*Howell* PAGA Action”), *Bert Mercado, et al. v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV20894) (the “*Mercado* Action”), *Liliana Godina v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV25366) (the “*Godina* Action”).
- 1.2 “Administrator” or “Settlement 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. The Administration Expenses Payment is currently estimated to not exceed \$280,000.
- 1.4 “Aggrieved Employees” means all non-exempt persons who were employed by Defendant in the State of California at any time during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.5 “Class Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.
- 1.6 “Class Period” or “Settlement Period” means the period from January 1, 2024 through December 31, 2024.
- 1.7 “Class Counsel” means Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and Haig B. Kazandjian Lawyers APC (“HBK”).

- 1.8 “Class Counsel Fees Payment” means the amount allocated to Class Counsel for attorneys’ fees.
- 1.9 “Class Counsel Litigation Expenses Payment” means the amount allocated to Class Counsel for reimbursement of reasonable litigation expenses.
- 1.10 “Class Data” means personally identifying information in Defendant’s possession, including Class Member names, last-known mailing addresses, Social Security numbers, and the numbers of qualifying Workweeks and Pay Periods worked. The Class Data shall be provided to the Administrator confidentially. It shall not be provided to Plaintiffs or Class Counsel.
- 1.11 “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.
- 1.12 “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.
- 1.13 “Class Representatives” means the Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina.
- 1.14 “Class Representative Service Payments” means the payments to the Class Representatives for initiating the Actions and providing services in support of the Actions.
- 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- 1.16 “Defendant” means the named Defendant, Kaiser Foundation Hospitals.
- 1.17 “Defense Counsel” means Seyfarth Shaw LLP, acting through attorneys Christian Rowley, Kerry Friedrichs, and Par Vafaenia.
- 1.18 “Effective Date” means the date upon which both of the following have occurred: (i) final approval of the settlement is granted by the Court and (ii) the Court’s Judgment approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a petition for review filed, the date of denial of the petition, or the date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a timely objection to settlement is filed (including an objection from the LWDA), “Effective Date” shall be the later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Final Approval Order has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where

the immediately lower court affirmed the judgment) or affirming the judgment. Provided, however, if the California Labor & Workforce Development Agency (“LWDA”) has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA’s objection to the Settlement is resolved and no longer appealable.

- 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.
- 1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.
- 1.21 “FLSA Subclass Members” means all non-exempt persons who were employed by Defendant in the State of California at any time during the FLSA Subclass Period.
- 1.22 “FLSA Subclass Period” means the period from January 1, 2024 through December 31, 2024.
- 1.23 “FLSA Settlement Fund” means the amount of the Settlement allocated for payment to Participating Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000). The FLSA Settlement Fund shall be paid out of the Gross Value Fund.
- 1.24 “Gross Settlement Amount” means \$7,000,000.00, which is the total amount Defendant agrees to pay under the Settlement, except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator’s Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.
- 1.25 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by that Participating Class Member during the relevant period.
- 1.26 “Individual FLSA Payment” means the FLSA Subclass Member’s pro rata share of the FLSA Settlement Fund calculated according to the number of Workweeks worked by that FLSA Subclass Member during the FLSA Subclass Period.
- 1.27 “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 worked by that Aggrieved Employee during the PAGA Period.
- 1.28 “Judgment” means the judgment entered by the Court based upon the Final Approval.

- 1.29 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subdivision (i), to 75% of the civil penalties recovered in connection with PAGA actions filed before June 20, 2024.
- 1.30 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subdivision (i).
- 1.31 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the “Net Settlement Amount” to be paid to Participating Class Members, Participating FLSA Subclass Members, and Aggrieved Employees as Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (which may be combined into a single payment).
- 1.32 “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. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.33 “Operative Complaint” means the Amended Complaint that Plaintiff Godina shall, as part of this Settlement, file in the *Godina* Action. Plaintiff Godina agrees to amend her Complaint to add Plaintiffs Howell and Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of an Amended Complaint. Within 15 calendar days of the amendment of the Complaint, Plaintiffs Howell and Mercado will dismiss their respective lawsuits (the *Howell Class Action*, *Howell PAGA Action*, and *Mercado Action*) with prejudice as to the claims covered by the Settlement and without prejudice as to all other claims.
- 1.34 “PAGA Period” means the period from January 1, 2024 through December 31, 2024.
- 1.35 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*).
- 1.36 “PAGA Notice” means any and all letters submitted by Plaintiffs to Defendant and the LWDA in connection with the Actions, providing notice pursuant to Labor Code section 2699.3, subdivision (a). This includes the letters submitted by Plaintiffs on the following dates: June 19, 2023 for Plaintiff Bert Mercado, July 27, 2023 for Plaintiff Liliana Godina, and October 3, 2023 for Plaintiff Lisa Howell,
- 1.37 “PAGA Penalties” means the sum of \$500,000.00, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which shall allocate 25% of the total PAGA Penalties to Aggrieved Employees (\$125,000.00) on a pro rata basis according to the number of Pay Periods worked by each Aggrieved Employee, and 75% shall be allocated to the LWDA (\$375,000.00) (referred to herein as the “LWDA PAGA Payment” and defined in ¶1.30), in settlement of PAGA claims. The PAGA Penalties paid to the

Aggrieved Employees shall be made regardless of whether an Aggrieved Employee requests to be excluded from the Settlement Class.

- 1.38 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.39 “Pay Period” means any two week pay cycle during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.
- 1.40 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.41 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of the Settlement.
- 1.42 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.43 “Released FLSA Claims” means the claims being released or precluded as described in Paragraph 5.3 below.
- 1.44 “Released PAGA Claims” means the claims being released or precluded as described in Paragraph 5.4 below.
- 1.45 “Released Parties” means Defendant and its present and former affiliates and all of their officers, directors, employees, agents, servants, registered representatives, attorneys, insurers, successors and assigns, and any other persons acting by through, under or in concert with any of them.
- 1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the class portion of the Settlement signed by the Class Member. There will be no opportunity to opt out of the PAGA portion of the settlement.
- 1.47 “Response Deadline” means 60 days after the Administrator mails Notice to Class Members, FLSA Subclass Members, and Aggrieved Employees (attached hereto as Exhibit A) (“Class Notices”), 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 objections to the Settlement. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline.
- 1.48 “Settlement” means the disposition of the Actions effected by this Agreement and the Judgment.
- 1.49 “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.

2. RECITALS.

- 2.1 On August 30, 2023, Plaintiff Bert Mercado initiated the *Mercado* Action against Defendant in Los Angeles County Superior Court.
- 2.2 On October 17, 2023, Plaintiff Liliana Godina initiated the *Godina* Action against Defendant in Los Angeles County Superior Court. On February 23, 2024, Plaintiff Godina filed a First Amended Complaint.
- 2.3 On November 9, 2023, Plaintiff Lisa Howell initiated the *Howell Class Action* against Defendant in Los Angeles Superior Court. On November 19, 2023, Plaintiff Howell initiated the *Howell* PAGA Action against Defendant in Alameda County Superior Court. On March 19, 2024, Plaintiff Howell filed a First Amended Complaint in the *Howell* PAGA Action.
- 2.4 In connection with this Agreement, Plaintiff Godina agrees to file a Second Amended Complaint in the *Godina* Action to add Plaintiff Howell and Plaintiff Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of the Second Amended Complaint. Within 15 calendar days of the amendment of the Complaint, Plaintiffs Howell and Mercado will dismiss the *Howell Class Action*, *Howell* PAGA Action, and *Mercado* Action without prejudice.
- 2.5 The request for permission to file the Second Amended Complaint shall be filed on or before the date of the filing of the motion for preliminary approval. Class Counsel will share the draft Second Amended Complaint for comments by Defense Counsel with reasonable notice before filing the request with the Court to file same. Class Counsel shall seriously consider in good faith Defense Counsel's comments before filing.
- 2.6 The Parties will treat the Second Amended Complaint as the Operative Complaint. Defendant denies all material allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.7 Pursuant to Labor Code section 2699.3, subdivision (a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notices.
- 2.8 On August 12, 2024, the Parties participated in mediation with mediator David Rotman, Esq. This mediation led to this Agreement to settle the Action.
- 2.9 Prior to mediation, Plaintiffs obtained both formal and informal discovery, including summary data from Defendant regarding the number of employees and Workweeks at issue. Plaintiffs' investigation satisfies the criteria for court approval set forth in *Dunk v. Ford Motor Company*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal.App.4th 116, 129-30 (2008) ("*Dunk/Kullar*").
- 2.10 Class certification has not been adjudicated in any of the Actions.

3. MONETARY TERMS.

- 3.1 *Gross Settlement Amount.* Except as otherwise provided by Paragraph 8 below, Defendant promises to pay \$7,000,000.00 and no more as the Gross Settlement Amount. In addition to the Gross Settlement Amount, Defendant shall pay its share of any payroll taxes owed. Defendant need not pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.2 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 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 Plaintiffs:* Class Representative Service Payments to the Class Representatives of not more than \$10,000 each (in addition to any Individual Class Payment, Individual FLSA Payments, and any Individual PAGA Payment the Class Representatives are entitled to receive), for a total of \$30,000. Defendant will not oppose Plaintiffs' 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, Plaintiffs will seek Court approval for any Class Representative Service Payment 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, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will issue IRS Form 1099s for the Class Representative Service Payments. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.
- 3.2.2 *To Class Counsel:* A Class Counsel Fees Payment of not more than one-third of the Gross Settlement Amount, which is currently estimated to be \$2,333,333.33, and a Class Counsel Litigation Expenses Payment of not more than \$50,000. Class Counsel Fees Payment shall be allocated among Class Counsel as follows: 60% to HBK and 40% to BNBD. Defendant will not oppose requests for these payments, provided that they do not exceed these amounts. Class Counsel will file a motion for Class Counsel Fees Payment and for 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 or a Class Counsel Litigation Expenses Payment in less than the amounts requested, then the Administrator will retain the remainder as part of the Net Settlement Amount. The Released Parties shall have no liability to Class Counsel or any other counsel arising from any claim to any portion of any Class Counsel Fee Payment 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 any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division

or sharing of any of these Payments. Class Counsel shall inform the Administrator of the split between them regarding the Fees Payment and the Class Counsel Litigation Expenses Payment.

- 3.2.3 *To the Administrator:* An Administrator Expenses Payment will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of the amount represented by the Administrator as being the maximum costs necessary to administer the Settlement. The Administration Expenses Payment is currently estimated to not exceed \$280,000.00. To the extent actual Administration Expenses Payment is greater than \$280,000.00, such excess amount will be deducted from the Gross Settlement Amount, subject to the Court's approval. Any portion of the Administration Expenses Payment allocated but not paid to the Administrator will be distributed to the Settlement Class pro rata.
- 3.2.4 *To Each Participating Class Member:* The Individual Class Payment shall be calculated as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member's weeks worked during the Class Period, divided by (ii) the total weeks worked of all Participating Class Members during the Class Period. Determination of the number of weeks that a Participating Class Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.
- 3.2.4.1 *Tax Allocation of Individual Class Payments.* A total of one-third (1/3) 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. A total of two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated in equal portions to settlement of claims for interest and penalties (the "Interest and Penalties Portion"). The Interest and Penalties Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members 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.
- 3.2.5 *To Each Participating FLSA Subclass Member:* The Individual FLSA Payment shall be calculated as follows: Each FLSA Subclass Member will be entitled to

receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member's attributed weeks worked during the FLSA Subclass Period, divided by (ii) the total weeks worked of all FLSA Subclass Members during the FLSA Subclass Period. Determination of the number of weeks that a Participating FLSA Subclass Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.5.1 *Tax Allocation of Individual FLSA Payments.* A total of one-third (1/3) of each Participating FLSA Subclass Member's Individual FLSA 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. A total of two-thirds (2/3) of each Participating FLSA Subclass Member's Individual FLSA Payment will be allocated to settlement of claims for interest 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 FLSA Subclass Members assume full responsibility and liability for any employee taxes owed on their Individual FLSA Payment.

3.2.6 *To the LWDA and Aggrieved Employees:* PAGA Penalties in the amount of \$500,000.00 to be paid from the Gross Settlement Amount, with 75% (\$375,000) allocated to the LWDA PAGA Payment and 25% (\$125,000) allocated to the Individual PAGA Payments.

3.2.6.1 The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Settlement Class) who worked for Defendant at any time during the PAGA Period, based on their proportional number of Pay Periods worked for Defendant during the PAGA Period. The Administrator will calculate each Individual PAGA Payment as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual Pay Periods worked during the PAGA Period in relation to the total Pay Periods worked by all Aggrieved Employees during the PAGA Period. Determination of the number of Pay Periods that an Aggrieved Employee worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the Pay Periods worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.6.2 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.6.3 If the Court approves PAGA Penalties of less than the amount requested, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS

- 4.1 *Class Data.* Not later than 15 business days after Preliminary Approval or January 20, 2025, whichever is later, Defendant will deliver the Class Data to the Administrator, in the form of a spreadsheet. 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 perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data has omitted identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. 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.
- 4.2 *Funding of Gross Settlement Amount.* Within 5 business days of the Effective Date, the Administrator shall provide Defendant with the documents and information necessary in order for Defendant to fund the settlement, including the information that Defendant will need in order to pay their share of the payroll taxes owed. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay their share of payroll taxes, by transmitting the funds to the Administrator no later than 25 calendar days after the Effective Date.
- 4.3 *Payments from the Gross Settlement Amount.* Within 14 calendar of date Defendant fully funds the Gross Value Fund, the Administrator will mail checks for all Individual Class Payments, all Individual FLSA Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments shall not precede disbursement of Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.
- 4.3.1 The Administrator will issue checks to cover the Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments and will send them to the Class Members/Aggrieved Employees/FLSA Subclass Members via First Class U.S. Mail, postage prepaid (including those for whom Class Notice was returned undelivered). 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 (including those for whom Class Notice was returned undelivered). The Administrator may send a single check combining the Individual Class Payment, the Individual FLSA Payment, and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the

National Change of Address Database. For any Class Member who opts out, the Administrator will send a check for only the Individual PAGA Payment.

4.3.1.1 Opt-in and release language regarding the release of the FLSA claim will be printed on the Individual settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

“By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

4.3.2 The Administrator must conduct a Class Member Address Search for all Class Members whose checks are returned undelivered without United States Postal Service (“USPS”) forwarding address. Within seven 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.

4.3.3 For any Class Member whose Individual Class Payment check, Individual FLSA Payment check, or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Unclaimed Property Fund in the name of the Participating Class Member, thereby leaving no “unpaid residue” subject to the requirements of Code of Civil Procedure section 384, subdivision (b).

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

5. RELEASES AND PRECLUSION OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer taxes owed on the wage portion of Individual Class payments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 *Plaintiffs’ General Release.* Plaintiffs and the Plaintiffs’ former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Released Parties from all claims, transactions or occurrences that occurred through the date of final approval (“Plaintiffs’ Release”). Plaintiffs 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 after the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now know or believe to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 *Plaintiffs' Waiver of Rights Under Civil Code Section 1542.* For purposes of Plaintiffs' General Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of Civil Code section 1542, 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 fully shall release Defendant and the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant's exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, 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 Class claims based on facts occurring outside the Class Period. The release shall also not include any Labor Code section 2802 claims released by Class Members in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).

- 5.3 *Release by FLSA Subclass Members:* FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: "By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act ("FLSA") portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement." Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.
- 5.4 *Release by Aggrieved Employees:* All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Operative Complaint or PAGA Notices that arose during the PAGA Period (the "PAGA Release"). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.
6. **MOTION FOR PRELIMINARY APPROVAL.** Upon full execution of the Agreement, Class Counsel will draft and file a Motion for Preliminary Approval of a class action settlement within 90 calendar days and will share their draft for comments by Defense Counsel at least 5 business days before filing. Class Counsel shall seriously consider in good faith Defense Counsel's comments on the draft of the motion before filing any motion.
- 6.1 *Defendant's Responsibilities.* Within 35 days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator. In the Declaration, Defendant shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Additionally, after December 31 2024, but before the hearing on Plaintiffs' Motion for

Preliminary Approval, Defendant will confirm in writing the number of Class Members and Workweeks and Pay Periods for the Class during the Class Period.

- 6.2 *Plaintiffs' Responsibilities.* Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval to be filed in the *Godina* Action, 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* and a request for approval of the PAGA Settlement under Labor Code section 2699, subdivision (O(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (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 Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from Plaintiffs confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members or the Administrator; (vi) a signed declaration from Class Counsel attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Lab. Code, § 2699.3, subd. (a))), Operative Complaint (Lab. Code, § 2699, subd. (1)(1)), this Agreement (Lab. Code, § 2699, subd. (1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members or the Administrator.
- 6.3 *Responsibilities of Counsel.* Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 90 days after the full execution of this Agreement; 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 Order to the Administrator.
- 6.4 *Duty to Cooperate.* If the Parties disagree on any aspect of the proposed Motion for Preliminary Approval 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 or 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 have verified that, as a condition of appointment, that 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 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) business 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, PAGA Members, Workweeks and Pay Periods in the Class Data.
 - 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 25 business days after preliminary approval of the Agreement, the Administrator will send to all Class Members identified in the Class Data, via first-class USPS mail, the Class Notice substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the total dollar amount of any Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment payable to the Class Member, and the number of Workweeks and Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
 - 7.4.3 Not later than five business 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 Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
 - 7.4.5 If the Administrator, Defendant, or Class Counsel are contacted by or otherwise discover any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously confer, in good faith, in an effort to agree on whether to include them as Class Members. If

the Parties agree, then 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 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever 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 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or the Class Member's 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 by 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. If the Administrator has reason to question the authenticity of a Request for Exclusion, then 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' Release under Paragraphs 5.2 through 5.4 of this Agreement, regardless of 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. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for and will receive an Individual PAGA Payment.

7.6 *Challenges to Calculation of Pay Periods and/or Workweeks.* Each Class Member shall have 60 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Pay Periods

and/or Workweeks 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 convincing contrary documentation, the Administrator is entitled to presume that the number of Pay Periods and/or Workweeks contained in the Class Notice is correct so long as it is consistent with the Class Data. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Pay Periods and/or 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 or this Agreement, including contesting the fairness of the Settlement, the amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Class Representative Service Payments.

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present oral objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 60 days after the Administrator's mailing of the Class Notice (plus an additional 14 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 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 Order, the Class Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payments, the Final Approval Order and the Judgment. The Administrator will include on the website page an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will maintain the website and both motion monitor and respond to emails and calls from Class Members after disclosure to the attorneys from both sides and after consultation with the attorneys from both sides.

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 five days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing: (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); and (b) the names and other identifying information of Class Members who have submitted invalid 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 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 and/or Pay Periods received or resolved, and checks mailed for Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (“Weekly Report”). The Weekly Reports will provide the Administrator’s assessment of the validity of Requests for Exclusion.
- 7.8.4 *Workweek and/or Pay Period Challenges.* The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of qualifying Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.5 *Administrator’s Declaration.* Not later than 14 days before the date by which Plaintiffs are 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), and the number of written objections, and will attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties or the Court. Class Counsel is responsible for filing the Administrator’s declaration(s) 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. **ESCALATOR CLAUSE.** The parties recognize that the Gross Settlement Amount is predicated upon the number of Workweeks being not greater than 10 percent more than 2,750,000 for the period January 1, 2024 through December 31, 2024. In the event the

number of Workweeks worked by the Class Members during the Class Period increases by more than 10%, or by more than 3,025,000, then the Gross Settlement Amount shall be increased proportionally by the Workweeks worked in excess of 3,025,000 multiplied by the Workweek value. The Workweek value shall be calculated by dividing the Gross Settlement Amount by 2,750,000 Workweeks. The Parties agree that the Workweek value is \$2.55 (\$7,000,000.00 / 2,750,000 Workweeks). Thus, for example, should there be 3,100,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$191,250 $([3,100,000 \text{ Workweeks} - 3,025,000 \text{ Workweeks}] \times [\$2.55/\text{Workweek}])$. Defendant may elect to not contribute more and keep the covered Workweeks capped at 3,025,000. Should Defendant elect to cap the Workweeks at 3,025,000 and not contribute more to the Gross Settlement Amount, the Class Period will close on the date the Workweeks reach 3,025,000.

9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 3.5% of the total of all Class Members, then Defendant may, but need not, elect to withdraw from the Settlement. The Parties agree that if Defendant withdraws, the Settlement shall be void ab initio, having no force or effect whatsoever, and that no Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of their election to withdraw not later than 15 business days after expiration of the opt-out period; late elections will have no effect on Defendant's right to withdraw.
10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiffs will file in Court a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subdivision (1), a Proposed Final Approval Order, and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiffs shall provide drafts of these documents to Defense Counsel not later than five business days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously confer, in good faith, to resolve any suggestions made by Defendant 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. Any decision by the Court to award less than the amounts requested for the Class Representative Service Payments, for Class Counsel Fees Payment, for Class Counsel Litigation Expenses Payment, or for 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 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.
- 10.4 *Waiver of Right to Appeal.* Provided the Judgment 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 Judgment, including all rights to post judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs and appeals. This waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, then the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.
- 10.5 *Appellate Court Orders to Vacate, Reverse or Materially Modify Judgment.* If the reviewing Court vacates, reverses, or modifies the Judgment 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 voidable. If a reviewing Court vacates, reverses or modifies the Judgment in a matter that requires a material modification of this Agreement, the Parties shall expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, 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 Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment 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 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 Defendant that any allegation in the Operative Complaint has merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Actions 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 Judgment, Defendant reserves the right to contest certification of any class for any reasons,

and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement, and the 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.* Plaintiffs, Class Counsel, Defendant, 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, 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) 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. Plaintiffs, Class Counsel, Defendant, 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 Undue Publicity.* Neither Plaintiffs nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this Agreement or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter/X or any other social media. After the Effective Date, Class Counsel may state on their website that the case has been settled and provide a short and plain description of the claims that were settled, subject to Defendant's approval, which shall not be unreasonably withheld. This provision does not apply to any publications ordered by the Court.
- 12.4 *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 Judgment. 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.
- 12.5 *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.

- 12.6 *Attorney Authorization.* Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiffs and Defendant, 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.
- 12.7 *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 or the Court for resolution.
- 12.8 *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.
- 12.9 *No Tax Advice.* Neither Plaintiffs, Class Counsel, Defendant, 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.
- 12.10 *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.
- 12.11 *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.12 *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.
- 12.13 *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.
- 12.14 *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.
- 12.15 *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.

- 12.16 *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 Plaintiffs:

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian
haig@hbklawyers.com
Cathy Gonzalez
cathy@hbklawyers.com
Melissa Robinson
melissa@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 1-818-696-2306
Facsimile: 1-818-696-2307

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
Norman B. Blumenthal
Kyle R. Nordrehaug
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To Defendant:

SEYFARTH SHAW LLP
Christian J. Rowley
crowley@seyfarth.com
Kerry Friedrichs
kfriedrichs@seyfarth.com
Parnian Vafaenia
pvafaenia@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

- 12.17 *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.

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

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

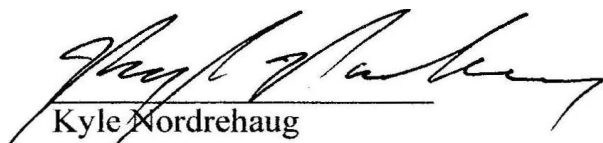
Dated: 12/27/2024



lisa howell (Dec 27, 2024 12:31 PST)

Plaintiff/Class Representative Lisa Howell

Dated: 1/14/25



Kyle Nordrehaug

Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: _____

Plaintiff/Class Representative Bert Mercado

Dated: _____

Plaintiff/Class Representative Liliana Godina

Dated: _____

Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
only)

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

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: _____

Plaintiff/Class Representative Lisa Howell

Dated: _____

Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: 01 / 08 / 2025



Plaintiff/Class Representative Bert Mercado

Dated: 01/04/2025

Liliana Godina
Liliana Godina (Jan 4, 2025 13:00 PST)

Plaintiff/Class Representative Liliana Godina

Dated: 01/13/2025



Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
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Dated: _____
Plaintiff/Class Representative Lisa Howell

Dated: _____
Class Counsel BLUMENTHAL NORDREHAUG
BHOWMIK DE BLOUW LLP

Dated: _____
Plaintiff/Class Representative Bert Mercado

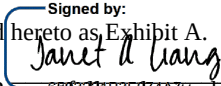
Dated: _____
Plaintiff/Class Representative Liliana Godina

Dated: ~~TO ALL PARTIES AND THEIR COUNSEL OF RECORD:~~ _____
PLEASE TAKE NOTICE that on July 27, 2021, the Court entered an Order reassigning the
above-captioned matter to Judge Carolyn B. Kuhl in Department 12 at the Spring Street Courthouse for

FOR DEFENDANT: Pursuant to Defendant’s 170.6 Peremptory Challenge Motion.

A true and correct copy of the Order is attached hereto as Exhibit A.

Dated: 1/6/2025 | 2:35 PM PST
DATED: August 4, 2021

Signed by:

Respectfully submitted,
For Defendant Kaiser Foundation Hospitals

Dated: 01/06/2025
By: 
Christian J. Rowley
Defendant's Counsel Christian J. Rowley (as to form only)
Parnian Vafaenia
Attorneys for Defendant
SOUTHERN CALIFORNIA PERMANENTE
MEDICAL GROUP erroneously sued as
SOCAL PERMANENTE MEDICAL GROUP

EXHIBIT A

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

Godina v. Kaiser Foundation Hospitals,
Los Angeles County Superior Court, Case No. 23STCV25366

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 Kaiser Foundation Hospitals (“KFH”) for alleged wage and hour violations. The Action was filed by KFH employees Lisa Howell, Bert Mercado, and Liliana Godina (“Plaintiffs”) and seeks payment of wages, damages, and equitable relief for a class of nonexempt employees (“Class Members”) who worked for KFH in California during the Relevant Time Period (defined as January 1, 2024 to December 31, 2024). The Settlement also includes an FLSA Subclass, composed of nonexempt employees who worked for KFH in California during the Relevant Time Period (“FLSA Subclass Members”) and a Private Attorneys General Act (“PAGA”) Subclass, composed of nonexempt employees who worked for KFH in California during the Relevant Time Period (“Aggrieved Employees”).

The proposed Settlement is a Class Settlement requiring KFH to fund Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (collectively, “Individual Settlement Shares”).

Based on KFH’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding), your Individual FLSA Payment is estimated to be \$ [REDACTED], and your Individual PAGA Payment is estimated to be \$ [REDACTED].** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on KFH’s records showing that **you worked [REDACTED] workweeks and [REDACTED] pay periods** during the Relevant Time Period. If you believe that you worked more workweeks and/or pay periods during this 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 Plaintiffs and Plaintiffs’ attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires KFH to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against KFH.

If you worked for KFH during the Relevant Time 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 Settlement Share. As a Participating Class Member, though, you will give up your right to assert Relevant Time Period wage claims against KFH.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment or Individual FLSA Payment, but you will receive an Individual PAGA Payment. You will, however, preserve your right to personally pursue Relevant Time Period wage claims against KFH.

KFH 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 Settlement Share. In exchange, you will give up your right to assert the wage claims against KFH that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement The Opt-out Deadline is [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	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. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment or an Individual FLSA Payment. However, you will still receive an Individual PAGA 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. KFH must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue claims covered by the PAGA Release (defined below).

Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice.
You Can Participate in the [DATE] Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on [DATE] at the Los Angeles County Superior Court, Spring Street Courthouse, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 11 before Judge David S. Cunningham III. This hearing may change as explained below in Section 8. 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 and/or Pay Periods Written Challenges Must be Submitted by [DATE]. If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“Class Workweeks”). The amount of your Individual FLSA Payment depends on how many workweeks you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“FLSA Subclass Workweeks”). The amount of your Individual PAGA Payment depends on how many pay periods you worked at least one day as a nonexempt KFH employee in California during the Relevant Time Period (“PAGA Pay Periods”). The number of Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods you worked according to KFH’s records is stated on the first page of this Notice. If you disagree with these numbers, you must challenge them by 60 days after Notice is sent. See Section 4 of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are KFH employees. The Action accuses KFH of violating California labor laws by failing to pay overtime wages, minimum wages, waiting time penalties, earned wages, reporting time pay, and split shift wages; violating California labor laws by failing to provide meal periods,

rest periods, itemized wages statements, sick pay, and notice of paid sick time; violating California's Unfair Competition Law; and owing penalties under the Private Attorneys General Act ("PAGA"). Plaintiffs are represented by attorneys in the Action: Blumenthal Nordrehaug Bhowmik De Blouw LLP ("BNBD") and Haig B. Kazandjian Lawyers APC ("HBK") (collectively, "Class Counsel.")

KFH 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 KFH or Plaintiffs are correct on the merits. In the meantime, Plaintiffs and KFH hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiffs and KFH 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, KFH does not admit any violations or concede the merit of any claims.

Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) KFH 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) the 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. KFH Will Pay \$7,000,000 as the Gross Settlement Amount (Gross Settlement). KFH 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 FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administrator's Expenses Payment. Assuming the Court grants Final Approval, KFH will fund the Gross Settlement not more than 25 calendar days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiffs and 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 \$2,333,333.33 (one-third (1/3) of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$50,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
- B. Up to \$30,000 (\$10,000 per Plaintiff) to Plaintiffs as Class Representative Service Payments for filing the Action, working with Class Counsel and representing the Class. Class Representative Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs' Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.
- C. Up to \$280,000 to the Administrator for services administering the Settlement.

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, Individual FLSA Payments, and Individual PAGA Payments to Participating Class Members based on their Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods.
- 4. Taxes Owed on Payments to Class Members. Plaintiffs and KFH are asking the Court to approve an allocation of one-third (1/3) of each Individual Class Payment and Individual FLSA Payment to taxable wages ("Wage Portion") and two-thirds (2/3) in equal portions to settlement of claims for interest and penalties ("Interest and Penalties Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. (KFH will separately pay employer payroll taxes it owes on the Wage Portion.) The Administrator will report the Interest and Penalties Portion of the Individual Class Payments and the Individual FLSA Payments on IRS 1099 Forms. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms as well.

Although Plaintiffs and KFH 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. Need to Promptly Cash Payment Checks. Each Class Member's Individual Settlement Share will be provided to them in a single check. The front of every check issued for Individual Settlement Shares 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.

If the monies represented by your check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the Fund for instructions on how to retrieve your money - https://www.sco.ca.gov/upd_msg.html.

6. Requests for Exclusion from the Class Settlement (Opt-Outs). 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 60 days after the Administrator mails this Notice, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the Response Deadline, which is **DATE**. (If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.) The Request for Exclusion should be a letter from a Class Member or their 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 or Individual FLSA Subclass Payments, but will receive Individual PAGA Payments, and will preserve their rights to personally pursue wage and hour claims against KFH.
7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and KFH have agreed that, in either case, the Settlement will be void: KFH will not pay any money and Class Members will not release any claims against KFH.
8. Administrator. Plaintiffs and KFH have jointly selected 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 Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods, 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 Judgment is final and KFH 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 KFH or related entities for wages based on the Relevant Time 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 fully shall release Defendant and the Released Parties from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant's exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant's employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, 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 Class claims based on facts occurring outside the Relevant Time Period. The release shall also not include any Labor Code section 2802 claims released by Class Members in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).

The Participating FLSA Subclass Members will be bound by the following release:

FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, et seq. of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Action. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.

The Participating Aggrieved Employees will be bound by the following release:

All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Action or PAGA Notices that arose during the Relevant Time Period (the “PAGA Release”). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Net Settlement Share. The Administrator will calculate a Class Member’s Individual Settlement Share by adding together a Class Member’s Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment.
 - A. Individual Class Payments. The Administrator will calculate Individual Class Payments as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (i) the number of the Participating Class Member’s Class

Workweeks, divided by (ii) the total Class Workweeks of all Participating Class Members during the Relevant Time Period.

- B. Individual FLSA Payments. The Administrator will calculate Individual FLSA Payments as follows: Each FLSA Subclass Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member's FLSA Subclass Workweeks, divided by (ii) the total FLSA Subclass Workweeks of all FLSA Subclass Members during the Relevant Time Period. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000).
- C. Individual PAGA Payments. \$125,000 has been allocated to the Individual PAGA Payments. The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Class) who worked for Defendant at any time during the Relevant Time Period, based on their proportional number of PAGA Pay Periods. The Administrator will calculate Individual PAGA Payments as follows: The amount of the payment will be calculated on a pro rata basis by the Settlement Administrator based on an Aggrieved Employee's individual PAGA Pay Periods worked during the Relevant Time Period in relation to the total PAGA Pay Periods worked by all Aggrieved Employees during the Relevant Time Period.

- 2. Workweek and/or Pay Period Challenges. The number of Class Workweeks, FLSA Subclass Workweeks, and PAGA Pay Periods you worked during the Relevant Time Period, as recorded in KFH's records, are stated in the first page of this Notice. You have until 60 days after this Notice is sent, and if a Notice is returned as undeliverable and resent, this deadline is extended by 14 days, to challenge the number of Class Workweeks, FLSA Workweeks, and/or PAGA Pay Periods. 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 KFH's calculation of Workweeks and Pay Periods based on KFH'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 Class Workweek, FLSA Workweeks, and PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and KFH's Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

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) containing their Individual Class Payment, Individual FLSA Payment, and Individual PAGA Payment. Non-Participating Class Members will receive, by U.S. mail, a single check containing their Individual PAGA Payment.

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 letter 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 *Godina, et al. vs. Kaiser Foundation Hospitals, et al.*, Case No. 23STCV25366, 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 [DATE]** (if a Notice is returned as undeliverable and resent, this deadline is extended by 14 days), **or it will be invalid.** 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 Plaintiffs and KFH are asking the Court to approve. At least 16 days before the [DATE] Final Approval Hearing, Class Counsel and/or Plaintiffs 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 Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiffs are requesting as a Class Representative Service Award. 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, www.ilymgroup.com/cases, or the Court's website, www.lacourt.org.

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 Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to the Administrator is [DATE].** (If a Notice is returned as undeliverable and resent, this deadline is extended by 14 days.) Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action, *Godina, et al. vs. Kaiser Foundation Hospitals, et al.*, Case No. 23STCV25366, and include your name, current address, telephone number, and approximate dates of employment for KFH 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 [DATE] at [TIME] in Department [##] of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. 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, Plaintiffs, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (<https://www.lacourt.org/lacc/>). 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 www.ilymgroup.com/cases 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 KFH and Plaintiffs have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at „_____>> where these documents will be posted as they are available. 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 <http://www.lacourt.org/casesummary/ui/index.aspx> and entering the Case Number for the Action, Case No. 23STCV25366. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian
haig@hbklawyers.com
Cathy Gonzalez
cathy@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 1-818-696-2306
Facsimile: 1-818-696-2307

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
Norman B. Blumenthal
Kyle R. Nordrehaug
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232
norm@bamlawca.com
kyle@bamlawca.com

Settlement Administrator:

ILYM Group
Email Address: _____
2832 Walnut Ave. Suite C
Tustin, CA, 92780
Telephone: 888-250-6810
Fax Number: 888-845-6185
Settlement Website: _____

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 - https://www.sco.ca.gov/upd_msg.html.

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.

EXHIBIT #2

~~[MODEL]~~ *Lisa Howell v. Kaiser Foundation Hospitals*
(Los Angeles Sup. Ct. Case No.: 23STCV27614)
Lisa Howell v. Kaiser Foundation Hospitals
(Alameda Sup. Ct. Case No.: 24CV060679)
Bert Mercado, et al. v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV20894)
Liliana Godina v. Kaiser Foundation Hospitals
(Los Angeles Sup. Ct. Case No.: 23STCV25366)

CLASS ~~AND REPRESENTATIVE~~ ACTION ~~AND PAGA~~ SETTLEMENT
AGREEMENT AND CLASS NOTICE[†]

This Class ~~and Representative~~ Action ~~and PAGA~~ Settlement Agreement (“Agreement”) is made by and between ~~plaintiff~~ (“~~Plaintiff~~”) the Plaintiffs Lisa Howell, Bert Mercado, and defendant XYZ (“XYZ”), Liliana Godina (collectively, “Plaintiffs” and “Class Representatives”) on behalf of themselves and the putative class and Defendant Kaiser Foundation Hospitals (“KFH” or “Defendant”). The Agreement refers to Plaintiff Plaintiffs and XYZ Defendant collectively as “Parties,” or to one of them individually as “Party.”

1. DEFINITIONS.

~~1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against XYZ captioned _____ initiated on _____ and pending in Superior Court of the State of California, County of Los Angeles.~~

1.1 “Actions” means *Lisa Howell v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV27614) (the “Howell Class Action”), *Lisa Howell v. Kaiser Foundation Hospitals* (Alameda Sup. Ct. Case No.: 24CV060679) (the “Howell PAGA Action”), *Bert Mercado, et al. v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV20894) (the “Mercado Action”), *Liliana Godina v. Kaiser Foundation Hospitals* (Los Angeles Sup. Ct. Case No.: 23STCV25366) (the “Godina Action”).

~~1.1.2~~ “Administrator” or “Settlement Administrator” means ILYM Group, the neutral entity the Parties have agreed to appoint to administer the Settlement.

~~1.2.1.3~~ “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. The Administration Expenses Payment is currently estimated to not exceed \$280,000.

~~1.3.1.4~~ “Aggrieved ~~Employee~~Employees” means e.g., a person all non-exempt persons who were employed by XYZ Defendant in the State of California ~~and classified as a who worked for~~

XYZ at any time during the PAGA Period], defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.

~~1.41.5~~ “Class Members” means ~~[define class e.g., all non-exempt persons who were employed by XYZ Defendant in the State of California and classified as who worked for XYZ at any time during the Class Period], defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.~~

1.6 “Class Period” or “Settlement Period” means the period from January 1, 2024 through December 31, 2024.

~~1.51.7~~ “Class Counsel” means ~~_____ Blumenthal Nordrehaug Bhowmik De Blouw LLP (“BNBD”) and Haig B. Kazandjian Lawyers APC (“HBK”).~~

1.8 “Class Counsel Fees Payment” ~~and means the amount allocated to Class Counsel for attorneys’ fees.~~

~~1.61.9~~ “Class Counsel Litigation Expenses Payment” ~~mean means~~ the ~~amounts amount~~ allocated to Class Counsel for reimbursement of reasonable ~~attorneys’ fees and litigation~~ expenses; ~~respectively, incurred to prosecute the Action.~~

~~1.2.~~ “Class Data” means ~~Class—Member~~ personally identifying information in XYZ’s Defendant’s possession, including ~~the Class Member’s name~~ Member names, last-known mailing ~~address~~ addresses, Social Security ~~number, numbers,~~ and ~~number the numbers~~ of ~~Class Period~~ qualifying Workweeks and ~~PAGA~~ Pay Periods.

~~1.71.10~~ ~~“worked. The Class Member” or “Settlement Data shall be provided to the Administrator confidentially. It shall not be provided to Plaintiffs or Class Member” means a member of the Class, as either a Participating Class Member or Non Participating Class Member (including a Non Participating Class Member who qualifies as an Aggrieved Employee). Counsel.~~

~~1.81.11~~ “Class Member Address Search” means the Administrator’s investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members.

~~1.91.12~~ “Class Notice” means the ~~COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL~~ Court Approved Notice Of Class Action Settlement And Hearing Date For Final Court Approval, to be mailed to Class Members in English ~~[with a Spanish translation, if applicable]~~ in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

~~1.101.13~~ “Class Period Representatives” means the ~~period from _____ to _____.~~ #Plaintiffs Lisa Howell, Bert Mercado, and Liliana Godina.

- ~~1.3.~~ “Class Representative” means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative.
- ~~1.14~~ 1.14 “Class Representative Service ~~Payment~~Payments” means the ~~payment~~payments to the Class ~~Representative~~Representatives for initiating the ~~Action~~Actions and providing services in support of the ~~Action~~Actions.
- ~~1.15~~ 1.15 “Court” means the Superior Court of California, County of Los Angeles.
- ~~1.16~~ 1.16 “XYZ“Defendant” means the named Defendant—, Kaiser Foundation Hospitals.
- ~~1.17~~ 1.17 “Defense Counsel” means Seyfarth Shaw LLP, acting through attorneys Christian Rowley, Kerry Friedrichs, and Par Vafaenia.
- ~~1.4.~~ “Effective Date” means the date by when both of the following have occurred:
 (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and
 (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.18 “Effective Date” means the date upon which both of the following have occurred: (i) final approval of the settlement is granted by the Court and (ii) the Court’s Judgment approving the settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court or other court in California assuming jurisdiction of this matter, or, (ii) if a petition for review filed, the date of denial of the petition, or the date the Court’s Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Court’s Judgment. If a timely objection to settlement is filed (including an objection from the LWDA), “Effective Date” shall be the later of: (a) the date on which the time for all appeals relating to objections to Settlement and the Final Approval Order has expired; or (b) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment. Provided, however, if the California Labor & Workforce Development Agency (“LWDA”) has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA’s objection to the Settlement is resolved and no longer appealable.
- ~~1.19~~ 1.19 “Final Approval” means the Court’s order granting final approval of the Settlement.

~~1.16~~1.20 “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval of the Settlement.

1.21 ~~“Final Judgment~~“FLSA Subclass Members” means all non-exempt persons who were employed by Defendant in the Judgment Entered by State of California at any time during the Court upon Granting Final Approval of FLSA Subclass Period.

1.22 “FLSA Subclass Period” means the period from January 1, 2024 through December 31, 2024.

~~1.17~~1.23 “FLSA Settlement Fund” means the amount of the Settlement allocated for payment to Participating Class Members for settlement and release of claims under the FLSA. The FLSA Settlement Fund shall not exceed Two Hundred Thousand Dollars (\$200,000). The FLSA Settlement Fund shall be paid out of the Gross Value Fund.

~~1.18~~1.24 “Gross Settlement Amount” means \$7,000,000.00, which is the total amount ~~XYZ~~Defendant agrees to pay under the Settlement, except as provided in Paragraph ~~98~~ below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual FLSA Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service PaymentPayments, and the Administrator’s Expenses Payment. This Gross Settlement Amount is an all-in amount without any reversion to Defendant, and excludes any employer payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant.

~~1.19~~1.25 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked by that Participating Class Member during the ~~Class Period~~relevant period.

1.26 “Individual FLSA Payment” means the FLSA Subclass Member’s pro rata share of the FLSA Settlement Fund calculated according to the number of Workweeks worked by that FLSA Subclass Member during the FLSA Subclass Period.

~~1.20~~1.27 “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of ~~Workweeks~~Pay Periods worked by that Aggrieved Employee during the PAGA Period.

~~1.21~~1.28 “Judgment” means the judgment entered by the Court based upon the Final Approval.

~~1.22~~1.29 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, ~~subd. (i).~~subdivision (i), to 75% of the civil penalties recovered in connection with PAGA actions filed before June 20, 2024.

~~1.23~~1.30 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, ~~subd.~~subdivision (i).

~~1.24~~1.31 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: ~~Individual PAGA Payments~~, the LWDA

PAGA Payment, Class Representative Service ~~Payment~~Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is the “Net Settlement Amount” to be paid to Participating Class Members, Participating FLSA Subclass Members, and Aggrieved Employees as Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments (which may be combined into a single payment).

~~1.25~~1.32 “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. There will be no opportunity to opt out of the PAGA portion of the settlement.

~~1.5.~~ “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for XYZ for at least one day during the PAGA Period.

1.33 “Operative Complaint” means the Amended Complaint that Plaintiff Godina shall, as part of this Settlement, file in the *Godina Action*. Plaintiff Godina agrees to amend her Complaint to add Plaintiffs Howell and Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of an Amended Complaint. Within 15 calendar days of the amendment of the Complaint, Plaintiffs Howell and Mercado will dismiss their respective lawsuits (the *Howell Class Action*, *Howell PAGA Action*, and *Mercado Action*) with prejudice as to the claims covered by the Settlement and without prejudice as to all other claims.

~~1.26~~1.34 “PAGA Period” means the period from ~~_____~~ to ~~_____~~.ⁱⁱⁱ January 1, 2024 through December 31, 2024.

~~1.27~~1.35 “PAGA” means the Labor Code Private Attorneys General Act (~~Labor~~of 2004 (Lab. Code §§, § 2698 ~~et seq.~~).

~~1.28~~1.36 “PAGA Notice” means ~~Plaintiff’s _____ letter to XYZ~~any and all letters submitted by Plaintiffs to Defendant and the LWDA ~~[and Plaintiff’s _____ letter to XYZ and the LWDA]~~in connection with the Actions, providing notice pursuant to Labor Code section 2699.3, ~~subd.~~(subdivision (a)). This includes the letters submitted by Plaintiffs on the following dates: June 19, 2023 for Plaintiff Bert Mercado, July 27, 2023 for Plaintiff Liliana Godina, and October 3, 2023 for Plaintiff Lisa Howell,

~~1.6.~~ “PAGA Penalties” means the sum of \$500,000.00, the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, ~~allocated which shall allocate 25% to of the total~~ PAGA Penalties to Aggrieved Employees

~~1.29~~1.37 ~~(_____)~~and the (\$125,000.00) on a pro rata basis according to the number of Pay Periods worked by each Aggrieved Employee, and 75% to shall be allocated to the LWDA (\$375,000.00) (referred to herein as the “LWDA (—) — in — settlement — of — PAGA claimsPayment” and defined in ¶1.30), in settlement of PAGA claims. The PAGA Penalties paid to the Aggrieved Employees shall be made regardless of whether an Aggrieved Employee requests to be excluded from the Settlement Class.

~~1.30~~1.38 “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

~~1.7.~~ “Plaintiff” means _____, the named plaintiff in the Action.

1.39 “Pay Period” means any two week pay cycle during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period, defined in ¶ 1.34 herein as January 1, 2024 through December 31, 2024.

~~1.31~~1.40 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

~~1.32~~1.41 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGAthe Settlement.

~~1.33~~1.42 “Released Class Claims” means the claims being released as described in Paragraph ~~6~~5.2 below.

1.43 “Released FLSA Claims” means the claims being released or precluded as described in Paragraph 5.3 below.

~~1.34~~1.44 “Released PAGA Claims” means the claims being released or precluded as described in Paragraph ~~6.25~~4 below.

~~1.35~~1.45 “Released Parties” means: XYZ Defendant and ~~each of its former and present~~ and former affiliates and all of their officers, directors, officers, shareholders, owners, [members], employees, agents, servants, registered representatives, attorneys, insurers, predecessors, successors, and assigns [subsidiaries] [affiliates], and any other persons acting by through, under or in concert with any of them.

~~1.36~~1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class-class portion of the Settlement signed by the Class Member. There will be no opportunity to opt out of the PAGA portion of the settlement.

~~1.37~~1.47 “Response Deadline” means ~~[e.g., 60]~~ days after the Administrator mails Notice to Class Members, FLSA Subclass Members, and Aggrieved Employees, (attached hereto as Exhibit A) (“Class Notices”), 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 Objectionobjections to the Settlement. Class Members to whom Notice PacketsClass Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline ~~has expired~~.

~~1.38~~1.48 “Settlement” means the disposition of the ~~Action~~Actions effected by this Agreement and the Judgment.

~~1.39~~1.49 “Workweek” means any week during which a Class Member worked for ~~XYZ~~Defendant for at least one day, during the Class Period^{iv}, defined in ¶ 1.6 herein as January 1, 2024 through December 31, 2024.

2. RECITALS.

2.1 On August 30, 2023, Plaintiff ~~commenced this~~Bert Mercado initiated the *Mercado* Action by filing a Complaint alleging causes of action against XYZ for_____. ~~[The Complaint is the operative complaint~~Defendant in the Action (the “Operative Complaint.”)] ~~[On~~_____Los Angeles County Superior Court.

2.2 On October 17, 2023, Plaintiff ~~filed a [e.g.,~~Liliana Godina initiated the *Godina* Action against Defendant in Los Angeles County Superior Court. On February 23, 2024, Plaintiff Godina filed a First Amended Complaint]~~alleging causes of action against XYZ for~~_____. ~~The [e.g.,~~

2.3 On November 9, 2023, Plaintiff Lisa Howell initiated the *Howell Class Action* against Defendant in Los Angeles Superior Court. On November 19, 2023, Plaintiff Howell initiated the *Howell* PAGA Action against Defendant in Alameda County Superior Court. On March 19, 2024, Plaintiff Howell filed a First Amended] ~~Complaint is the operative complaint in the *Howell* PAGA Action~~_____.

~~1.8.~~In connection with this Agreement, Plaintiff Godina agrees to file a Second Amended Complaint in the “Operative

2.4 Godina Action to add Plaintiff Howell and Plaintiff Mercado as plaintiffs to her lawsuit. In amending the Complaint, Plaintiff Godina will also add the claims and theories encompassed by the settlement and release below to ensure that all included claims and theories are clearly articulated and covered. Defendant will stipulate to the filing of the Second Amended Complaint. Within 15 calendar days of the amendment of the Complaint.”] XYZ denies the, Plaintiffs Howell and Mercado will dismiss the *Howell Class Action*, *Howell PAGA Action*, and *Mercado Action* without prejudice.

2.5 The request for permission to file the Second Amended Complaint shall be filed on or before the date of the filing of the motion for preliminary approval. Class Counsel will share the draft Second Amended Complaint for comments by Defense Counsel with reasonable notice before filing the request with the Court to file same. Class Counsel shall seriously consider in good faith Defense Counsel’s comments before filing.

2.12.6 The Parties will treat the Second Amended Complaint as the Operative Complaint. Defendant denies all material allegations in the Operative Complaint, denies any failure to comply with the laws identified in ~~in~~ the Operative Complaint and denies any and all liability for the causes of action alleged.

2.22.7 Pursuant to Labor Code section 2699.3, ~~subd.~~(subdivision (a), PlaintiffPlaintiffs gave timely written notice to XYZDefendant and the LWDA by sending the PAGA NoticeNotices.

2.32.8 On ~~_____~~ (type in additional dates), [On August 12, 2024, the Parties participated in an all-day mediation presided over by _____ which with mediator David Rotman, Esq. This mediation led to this Agreement to settle the Action-(describe alternative means of negotiation).]

~~_____~~ (describe alternative means of negotiation) _____

1.9. _____ Prior to ☐ mediation-☐ negotiating the Settlement, Plaintiff, Plaintiffs obtained, through

2.42.9 ☐ both formal -☐and informal discovery, ~~—(docum ents, testimony and information obtained)—~~. Plaintiff’sincluding summary data from Defendant regarding the number of employees and Workweeks at issue. Plaintiffs’ investigation was sufficient to satisfy satisfies the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) *Ford Motor Company*, 48 Cal.App.4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.* (2008), 168 Cal.App.4th 116, 129-13030 (2008) (“*Dunk/Kullar*”).

1.10. _____ The Court ☐ has ☐ has not granted classClass certification: _____ (insert details as needed) _____

~~2.52.10~~ ~~The Parties, Class Counsel and Defense Counsel represent that they are not aware of~~ has not been adjudicated in any other pending matter or action asserting claims that will be extinguished or affected by the Settlement of the Actions.

3. MONETARY TERMS.

3.1 *Gross Settlement Amount.* Except as otherwise provided by Paragraph 98 below, ~~XYZ~~Defendant promises to pay \$~~—\$7,000,000.00~~ and no more as the Gross Settlement Amount ~~[and. In addition to separately~~the Gross Settlement Amount, Defendant shall pay its share of any ~~and all employer~~ payroll taxes owed ~~on the Wage Portions of the Individual Class Payments.] XYZ has no obligation to.~~ Defendant need not pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph ~~6.14.2~~ of this Agreement.^v The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to XYZ~~Defendant~~.

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~~Plaintiffs: Class Representative Service ~~Payment~~Payments to the Class ~~Representative~~Representatives of not more than \$~~—10,000 each~~ (in addition to any Individual Class Payment ~~[, Individual FLSA Payments,~~ and any Individual PAGA Payment] the Class ~~Representative is~~

- 3.2.1 Representatives are entitled to receive ~~as), for a Participating Class Member).~~ ~~XYZ~~total of \$30,000. Defendant will not oppose ~~Plaintiff's~~Plaintiffs' 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~~Plaintiffs will seek Court approval for any Class Representative Service ~~Payments~~Payment 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, then the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will ~~pay~~issue IRS Form 1099s for the Class Representative Service ~~Payment using IRS Form 1099.~~ ~~Plaintiff assumes~~Payments. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service ~~Payment~~Payments.
- 3.2.2 *To Class Counsel:* A Class Counsel Fees Payment of not more than ~~%,one-third of the Gross Settlement Amount,~~ which is currently estimated to be \$~~2,333,333.33,~~ and a Class Counsel Litigation Expenses Payment of not more than \$~~_____.~~ ~~XYZ~~50,000. Class Counsel Fees Payment shall be allocated among Class Counsel as follows: 60% to HBK and 40% to BNBD. Defendant 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 for 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 in less than the amounts requested, then the Administrator will ~~allocate~~retain the remainder ~~to as part of~~ the Net Settlement Amount. The Released Parties shall have no liability to Class Counsel or any other ~~Plaintiff's Counsel~~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 any taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds ~~XYZ~~Defendant harmless, and indemnifies ~~XYZ~~Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments. Class Counsel shall inform the Administrator of the split between them regarding the Fees Payment and the Class Counsel Litigation Expenses Payment.
- ~~3.2.2.~~ ~~_____~~ *To the Administrator:* An Administrator Expenses Payment ~~not to exceed~~
- 3.2.3 \$~~_____ except for a showing~~will be paid from the Gross Settlement Amount, including, if necessary, any such costs in excess of good cause and as approvedthe amount represented by the Court. ~~To the extent the Administrator as being the maximum costs necessary to administer the Settlement. The Administration Expenses are less or the Court approves payment less~~Payment is currently estimated to not exceed \$280,000.00. To the extent actual Administration Expenses Payment is greater than \$~~_____, the Administrator~~280,000.00, such excess amount will retain the remainder in ~~be deducted from the Net Settlement Amount.~~Gross Settlement Amount, subject to the Court's approval. Any portion

of the Administration Expenses Payment allocated but not paid to the Administrator will be distributed to the Settlement Class pro rata.

- 3.2.4 *To Each Participating Class Member:* ~~An~~The Individual Class Payment shall be calculated as follows: Each Participating Class Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the Net Settlement Amount, calculated by (a) dividing the Net Settlement Amount by the total i) the number of Workweeks worked by the Participating Class Member's weeks worked during the Class Period, divided by (ii) the total weeks worked of all Participating Class Members during the Class Period and. Determination of the number of weeks that a Participating Class Member worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

~~(b) multiplying the result by each Participating Class Member's Workweeks.~~

- 3.2.2.1. ~~_____Tax Allocation of Individual Class Payments. %_____~~A total of one-third (1/3) 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~~
~~%_____~~A total of two-thirds (2/3) of each Participating Class Member's Individual Class Payment will be allocated in equal portions to settlement of claims for ~~[e.g., interest and penalties]~~ (the

3.2.4.1 ~~“Non-Wage “Interest and Penalties Portion”~~.^{vi} ~~The Non-Wage”). The Interest and Penalties~~ Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members 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.

3.2.5 To Each Participating FLSA Subclass Member: The Individual FLSA Payment shall be calculated as follows: Each FLSA Subclass Member will be entitled to receive an amount, subject to any applicable employee payroll taxes, equal to a proportionate share of the FLSA Settlement Fund, calculated by (i) the number of the FLSA Subclass Member’s attributed weeks worked during the FLSA Subclass Period, divided by (ii) the total weeks worked of all FLSA Subclass Members during the FLSA Subclass Period. Determination of the number of weeks that a Participating FLSA Subclass Member worked shall be based on Defendant’s time records. The Parties will consider in good faith any challenge to the weeks worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

3.2.5.1 Tax Allocation of Individual FLSA Payments. A total of one-third (1/3) of each Participating FLSA Subclass Member’s Individual FLSA 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. A total of two-thirds (2/3) of each Participating FLSA Subclass Member’s Individual FLSA Payment will be allocated to settlement of claims for interest 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 FLSA Subclass Members assume full responsibility and liability for any employee taxes owed on their Individual FLSA Payment.

~~3.2.3. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$500,000.00 to be paid from the Gross Settlement Amount, with 75%~~
~~3.2.5.3.2.6 (\$375,000) allocated to the LWDA PAGA Payment and 25% (\$125,000) allocated to the Individual PAGA Payments.~~

3.2.6.1 The Individual PAGA Payments shall be paid to all Aggrieved Employees (regardless of whether they opt out of the Settlement Class) who worked for Defendant at any time during the PAGA Period, based on their proportional number of Pay Periods worked for Defendant during the PAGA Period. The Administrator will calculate each Individual PAGA Payment by (a) dividing the as follows: The amount of the Aggrieved Employees’ 25% share of PAGA Penalties \$ by the total number of PAGA Period Pay Periods

~~worked by all Aggrieved Employees during the PAGA Period and (b) multiplying payment will be calculated on a pro rata basis by the result by each Settlement Administrator based on an Aggrieved Employee's individual Pay Periods worked during the PAGA Period in relation to the total Pay Periods.~~ worked by all Aggrieved Employees during the PAGA Period. Determination of the number of Pay Periods that an Aggrieved Employee worked shall be based on Defendant's time records. The Parties will consider in good faith any challenge to the Pay Periods worked supplied by Defendant to the Settlement Administrator. The Settlement Administrator shall examine all evidence submitted and make a decision regarding the challenge. The determination of the Settlement Administrator shall be final.

~~3.2.5.13.2.6.2~~ 3.2.5.13.2.6.2 Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

~~3.2.5.23.2.6.3~~ 3.2.5.23.2.6.3 If the Court approves PAGA Penalties of less than the amount requested, then the Administrator will ~~allocate~~ retain the remainder ~~to~~ in the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS:

~~1.11. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records to date, XYZ estimates there are Class Members who collectively worked a total of Workweeks, and of Aggrieved Employees who worked a total of PAGA Pay Periods.~~

~~1.12. Class Data. Not later than [e.g., 15] business days after the Court grants Preliminary Approval of the Settlement, XYZ will simultaneously or January 20, 2025, whichever is later, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the 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. XYZ Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data has 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 XYZ must send the Class Data~~

- 4.1 ~~to the Administrator, the~~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.
- 4.2 *Funding of Gross Settlement Amount.* ~~XYZ~~Within 5 business days of the Effective Date, the Administrator shall provide Defendant with the documents and information necessary in order for Defendant to fund the settlement, including the information that Defendant will need in order to pay their share of the payroll taxes owed. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay ~~XYZ's~~their share of payroll taxes, by transmitting the funds to the Administrator no later than ~~[14]~~25 calendar days after the Effective Date.
- 4.3 *Payments from the Gross Settlement Amount.* Within ~~[14] days after XYZ~~ calendar of date Defendant fully funds the Gross ~~Settlement Amount~~Value Fund, the Administrator will mail checks for all Individual Class Payments, all Individual FLSA Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service ~~Payment~~Payments. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service ~~Payment~~Payments shall not precede disbursement of Individual Class Payments, Individual FLSA Payments, and Individual PAGA Payments.
- 4.3.1 The Administrator will issue checks ~~for to cover~~ the Individual Class Payments, Individual FLSA Payments, and ~~for~~ Individual PAGA Payments and will send them to the Class Members/Aggrieved Employees/FLSA Subclass Members via First Class U.S. Mail, postage prepaid— (including those for whom Class Notice was returned undelivered). 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, the Individual FLSA Payment, and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database. For any Class Member who opts out, the Administrator will send a check for only the Individual PAGA Payment.
- 4.3.1.1 Opt-in and release language regarding the release of the FLSA claim will be printed on the Individual settlement checks, with instructions that cashing such check constitutes consent under the FLSA to opt into the collective action. The language to be included will be substantially similar to the following:

“By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.”

- 4.3.2 The Administrator must conduct a Class Member Address Search for all ~~other~~ Class Members whose checks are returned undelivered without United States Postal Service (“USPS”) forwarding address. Within ~~{7}~~seven 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.
- 4.3.3 For any Class Member whose Individual Class Payment check, Individual FLSA Payment check, or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks ~~to the California~~to the California Unclaimed Property Fund in the name of the Participating Class Member, thereby leaving no “unpaid residue” subject to the requirements of Code of Civil Procedure section 384, subdivision (b).

~~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).] [or to a Court approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b) ("Cy Pres Recipient")]. The Parties, Class Counsel and Defense Counsel represent that they have no interest or relationship, financial or otherwise, with the intended Cy Pres Recipient.~~

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

5. **RELEASES AND PRECLUSION OF CLAIMS.** Effective on the date when XYZDefendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portionwage portion of ~~the~~ Individual Class Payments, Plaintiffpayments, Plaintiffs, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff'sPlaintiffs' General Release. PlaintiffPlaintiffs and ~~his or her respective~~the Plaintiffs' former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge the Released Parties from all claims, transactions, or occurrences ~~[that occurred during the Class Period], including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on~~through 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, ~~[or ascertained during the Action and released under 6.2, below]. ("Plaintiff'sdate of final approval ("Plaintiffs' Release.") Plaintiff's").~~ Plaintiffs 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 outsideafter the Class Period. Plaintiff acknowledgesPlaintiffs acknowledge that PlaintiffPlaintiffs may discover facts or law different from, or in addition to, the facts or law that PlaintiffPlaintiffs now knowsknow or believesbelieve to be true but agrees, nonetheless, that Plaintiff'sPlaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff'sPlaintiffs' discovery of them.

5.1.1 ~~6.1.1~~ Plaintiff'sPlaintiffs' Waiver of Rights Under ~~California~~ Civil Code Section 1542. For purposes of Plaintiff'sPlaintiffs' General Release, PlaintiffPlaintiffs expressly waiveswaive and relinquishesrelinquish the provisions, rights, and benefits, if any, of Civil Code 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.

~~6.1—Release by Participating Class Members Who Are Not Aggrieved Employees:~~ All Participating Class Members, ~~on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, fully shall~~ release Defendant and the Released Parties from ~~(i) all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint [and ascertained in the course of the Action] [including, e.g., “(a) any and all claims involving any, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney’s fees, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law for any alleged failure to pay all wages due (including minimum wage; etc.]. Except as set forth in Section 6.3 of and overtime wages), claims regarding rounding, grace periods, shift tolerance, failure to pay for all hours worked (including off-the clock work), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, combining of meal and rest periods, that Defendant’s exemption permit from the DLSE is not valid or does not apply to Class Members, failure to timely pay wages and final wages, failure to properly calculate the regular rate of pay, failure to pay or properly calculate meal or rest period premiums, failure to pay or properly calculate paid sick leave, including paid sick leave under the Healthy Workplaces, Healthy Families Act, failure to provide suitable seating, donning and doffing, pre or post-shift testing or inspections, health status related activities including testing, reporting, and queuing for testing, reporting time pay, failure to furnish accurate wage statements including claims derivative and/or related to these claims, liquidated damages, conversion of wages, that the Labor Code Section 514 exemption does not apply to Defendant’s employees, pre and post-shift work and record-keeping violations, up to and including the date of preliminary approval by the Court. This Release shall include all claims and theories arising under the California Labor Code, wage orders, and applicable regulations, including Labor Code Sections 201, 202, 203, 204, 206, 218, 218.5, 226, 226.3, 226.7, 227, 245 et seq., 510, 511, 512, 517, 551, 552, 558, 1174, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, and 1199, all claims and theories arising under Labor Code Section 2802 as well as claims under Business and Professions Code section 17200 et seq. based on alleged violations of the above Labor Code provisions, as alleged in the lawsuits. The release shall run from January 1, 2024 through December 31, 2024. Except as expressly set forth in this Agreement, 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 Class claims based on facts occurring outside the Class Period.~~

5.2 ~~Release by Non-Participating Class Members Who Are Aggrieved Employees: All Non-Participating~~ The release shall also not include any Labor Code section 2802 claims released by 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 all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based~~

~~on the PAGA Period facts stated in the Operative Complaint[,] [and] the PAGA Notice [and ascertained in the course of the Action][including, e.g., “(a) any and all claims involving any alleged failure to pay minimum wage; etc.] in connection with the following actions: *Jones, et al. v. Kaiser Foundation Hospitals, et al.* (Los Angeles Sup. Ct. Case No. 23STCV04104), *Uribe, et al. v. Southern California Permanente Medical Group* (Los Angeles Sup. Ct. Case No. 22STCV11259), and *LeDoux v. The Permanente Medical Group, Inc.* (Alameda County Sup. Ct. Case No. 22CV019164).~~

5.3 *Release by FLSA Subclass Members:* FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and, as to those Class Members, the Released Claims include any and all wage and hour claims under the Fair Labor Standards Act, 29 U.S.C. section 201, *et seq.* of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory that was or reasonably could have been brought based on the facts alleged in any version of the complaints filed in the Actions. The following language will be printed on the reverse of each check for their Individual Class Payment, or words to this effect: “By endorsing or otherwise negotiating this check, I acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the [Action], elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered by the Settlement.” Only those FLSA Subclass Members who timely cash or otherwise negotiate their Settlement Payment Check will be deemed to have opted into the Action for purposes of the FLSA and thereby release and waive any of their claims under the FLSA arising under or relating to the alleged claims. This release excludes the release of claims not permitted by law.

5.4 *Release by Aggrieved Employees:* All Aggrieved Employees fully release and discharge the Releasees from any and all claims under the PAGA premised on the facts and/or allegations in the Operative Complaint or PAGA Notices that arose during the PAGA Period (the “PAGA Release”). It is understood and acknowledged that Aggrieved Employees entitled to a share of the PAGA Penalties will be issued payment for their share of the PAGA Penalties and will not have the opportunity to opt out of, or object to, the PAGA Release as set forth in this Paragraph.

~~7.—**MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare~~Upon full execution of the Agreement, Class Counsel will draft and file a motion for preliminary approval (“Motion for Preliminary Approval”) that complies with the Court’s current checklist for Preliminary Approvals.

6. ~~XYZ’s Declaration in Support of Preliminary Approval. Within~~— of a class action settlement within 90 calendar days and will share their draft for comments by Defense Counsel at least 5 business days before filing. Class Counsel shall seriously consider in good faith Defense Counsel’s comments on the draft of the motion before filing any motion.

5.36.1 *Defendant’s Responsibilities.* Within 35 days of the full execution of this Agreement, XYZDefendant will prepare and deliver to Class Counsel a signed Declaration from XYZ and Defense Counsel disclosing all facts relevant to any actual or potential conflicts of

interest with the Administrator ~~and Cy Pres Recipient. In their Declarations, Defense Counsel and XYZ. In the Declaration, Defendant~~ shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement. Additionally, after December 31 2024, but before the hearing on Plaintiffs' Motion for Preliminary Approval, Defendant will confirm in writing the number of Class Members and Workweeks and Pay Periods for the Class during the Class Period.

5.46.2 ~~Plaintiff's~~Plaintiffs' Responsibilities. ~~Plaintiff~~Plaintiffs will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval to be filed in the Godina Action, 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* and a request for approval of the PAGA Settlement under Labor Code ~~Section~~section 2699, ~~subd. (f)~~(subdivision (O)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (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/or the proposed Cy Pres~~; and the nature and extent of any financial relationship with ~~Plaintiff~~Plaintiffs, Class Counsel, or Defense Counsel; (v) a signed declaration from ~~Plaintiff~~Plaintiffs 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/or the proposed Cy Pres~~; ~~(v; (vi))~~ (vi) a signed declaration from ~~each~~ Class Counsel ~~firm~~ attesting to its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (~~LaborLab. Code section, § 2699.3, subd. (a))~~)), Operative Complaint (~~LaborLab. Code-section, § 2699, subd. (1)(1))~~), this Agreement (~~LaborLab. Code-section, § 2699, subd. (1)(2))~~; ~~(vi) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court;~~(1)(2)); and (vii) all facts relevant to any actual or potential conflict of interest with Class Members; or the Administrator ~~and/or the Cy Pres Recipient. In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.~~

5.56.3 *Responsibilities of Counsel.* Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than ~~[30]~~90 days after the full execution of this Agreement; 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 Order to the Administrator.

5.66.4 *Duty to Cooperate.* 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/or~~ otherwise satisfy the Court's concerns.

6.7. SETTLEMENT ADMINISTRATION.

~~6.17.1~~ *Selection of Administrator.* The Parties have jointly selected ILYM Group to serve as the Administrator and have verified that, as a condition of appointment, that 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.

~~6.27.2~~ *Employer Identification Number.* The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

~~6.37.3~~ *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.

~~6.47.4~~ *Notice to Class Members.*

~~6.4.17.4.1~~ No later than three (3) business 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, PAGA Members, Workweeks, and Pay Periods in the Class Data.

~~6.4.27.4.2~~ Using best efforts to perform as soon as possible, and in no event later than ~~[14]~~25 business days after ~~receiving preliminary approval of~~ the Class Data Agreement, 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 ~~[with Spanish translation, if applicable]~~ substantially in the form attached to this Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the total dollar ~~amounts~~amount of any Individual Class Payment, Individual FLSA Payment, and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods ~~(if applicable)~~ used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

~~6.4.37.4.3~~ Not later than ~~[3]~~five business 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.

6.4.47.4.4 The deadlines for Class Members' written objections, ~~Challenges~~challenges to Workweeks and/or Pay Periods, and Requests for Exclusion will be extended an additional [14] days beyond the [60] days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

6.4.57.4.5 If the Administrator, ~~XYZ~~Defendant, or Class Counsel ~~is~~are contacted by or otherwise ~~discovers~~discover 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, ~~then~~ 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 [14] ~~days after~~14 days after receipt of Class Notice, or the deadline dates in the Class Notice, whichever is later.

~~receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.~~

~~6.5.7.5~~ *Requests for Exclusion (Opt -Outs).*

~~6.5.17.5.1~~ 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 {60} days after the Administrator mails the Class Notice (plus an additional {14} days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or ~~his/her~~ the Class Member's 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.

~~6.5.27.5.2~~ The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified ~~in~~by 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. If the Administrator has reason to question the authenticity of a Request for Exclusion, ~~then~~ 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.

~~7.1.1~~ 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~~Release under Paragraphs ~~65.2 and~~

~~6.5.37.5.3~~ ~~6.3~~through 5.4 of this Agreement, regardless ~~of~~ whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

~~6.5.47.5.4~~ 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. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 5.4 of this Agreement and are eligible for and will receive an Individual PAGA Payment.

~~6.4 of this Agreement and are eligible for an Individual PAGA Payment.~~

~~6.67.6~~ *Challenges to Calculation of Pay Periods and/or Workweeks.* Each Class Member shall have {60} days after the Administrator mails the Class Notice (plus an additional {14} days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Pay Periods and/or Workweeks ~~and PAGA Pay Periods (if any)~~ 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 convincing contrary documentation, the Administrator is entitled to presume that the number of Pay Periods and/or Workweeks contained in the Class Notice are correct so long as ~~they are~~ it is consistent with the Class Data. The Administrator's determination ~~of each Class Member's allocation of Workweeks and/or Pay Periods~~ shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of ~~Workweeks and/or~~ Pay Periods and/or Workweeks to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

6.7.7.7 *Objections to Settlement.*

6.7.17.7.1 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 the~~ amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, ~~and/or the~~ Class Representative Service ~~Payment~~ Payments.

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

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

6.87.8 *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.

6.8.17.8.1 *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 Order, 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~~ Payments, the Final Approval Order and the Judgment. The Administrator will ~~also maintain and monitor~~ include on the website page an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. The Administrator will maintain the website and both motion monitor and respond to emails and calls from Class Members after disclosure to the attorneys from both sides and after consultation with the attorneys from both sides.

~~6.8.2~~7.8.2 *Requests for Exclusion (Opt-outs Outs) and Exclusion List.* The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than ~~{5}~~five days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing: (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion (“Exclusion List”); and (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).~~

~~6.8.3~~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 and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments ~~and,~~ Individual FLSA Payments, and Individual PAGA Payments (“Weekly Report”). The Weekly Reports ~~must include~~will provide the Administrator’s assessment of the validity of Requests for Exclusion ~~and attach copies of all Requests for Exclusion and objections received.~~

~~6.8.4~~7.8.4 *Workweek and/or Pay Period Challenges.* The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of qualifying Workweeks and/or Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.

~~6.8.5~~7.8.5 *Administrator’s Declaration.* Not later than ~~{14}~~ days before the date by which ~~Plaintiff is~~Plaintiffs are 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), and the number of written objections, and will 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(s) in Court.

~~6.8.6~~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~~Administrator's declaration in Court.

8. **XYZ'S ESCALATOR CLAUSE.** The parties recognize that the Gross Settlement Amount is predicated upon the number of Workweeks being not greater than 10 percent more than 2,750,000 for the period January 1, 2024 through December 31, 2024. In the event the number of Workweeks worked by the Class Members during the Class Period increases by more than 10%, or by more than 3,025,000, then the Gross Settlement Amount shall be increased proportionally by the Workweeks worked in excess of 3,025,000 multiplied by the Workweek value. The Workweek value shall be calculated by dividing the Gross Settlement Amount by 2,750,000 Workweeks. The Parties agree that the Workweek value is \$2.55 (\$7,000,000.00 / 2,750,000 Workweeks). Thus, for example, should there be 3,100,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$191,250 ([3,100,000 Workweeks – 3,025,000 Workweeks] x [\$2.55/Workweek]). Defendant may elect to not contribute more and keep the covered Workweeks capped at 3,025,000. Should Defendant elect to cap the Workweeks at 3,025,000 and not contribute more to the Gross Settlement Amount, the Class Period will close on the date the Workweeks reach 3,025,000.

8.10. MOTION FOR FINAL APPROVAL. Not later than [16] court days before the calendared Final Approval Hearing, PlaintiffPlaintiffs will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, ~~subd. (I)~~ (subdivision (I)), a Proposed Final Approval Order, and a proposed Judgment (collectively “Motion for Final Approval”). PlaintiffPlaintiffs shall provide drafts of these documents to Defense Counsel not later than ~~[seven]~~ five business 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 ~~disagreement~~ suggestions made by Defendant concerning the Motion for Final Approval.

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later ~~that~~ than five] court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

~~8.2~~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~~Any decision by the Court to award less than the amounts requested for the Class Representative Service ~~Payment,~~Payments, for Class Counsel Fees Payment, for Class Counsel Litigation Expenses Payment ~~and/~~, or for Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

~~8.3~~10.3 *Continuing Jurisdiction of the Court.* The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and ~~for~~ Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-judgment matters as are permitted by law.

~~settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.~~

~~8.4~~10.4 *Waiver of Right to Appeal.* Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment ~~reflected~~ 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 Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. ~~The~~This waiver of appeal does not include any waiver of the right to oppose such motions, writs, or appeals. If an objector appeals the Judgment, then the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

~~8.5~~10.5 *Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment.* If the reviewing Court vacates, reverses, or modifies the Judgment 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 voidable. If a reviewing Court vacates, reverses or modifies the Judgment in a matter that requires a material modification of this Agreement, the Parties shall~~ expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, 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~~Payments or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

9.11. 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.

10.12. ADDITIONAL PROVISIONS.

~~10.1~~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 XYZDefendant that any ~~of the allegations~~allegation in the Operative Complaint ~~have~~has merit or that XYZDefendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff~~Plaintiffs~~ that XYZ's~~Defendant's~~ defenses in the Action~~Actions~~ 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 Judgment, XYZDefendant reserves the right to contest certification of any class for any reasons, and XYZDefendant reserves all available defenses to the claims in the Action,

and ~~Plaintiff reserves~~Plaintiffs reserve the right to move for class certification on any grounds available and to contest ~~XYZ's~~Defendant's defenses. The Settlement, this Agreement, and ~~Parties'~~the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

~~10.2~~12.2 *Confidentiality Prior to Preliminary Approval.* ~~Plaintiff~~Plaintiffs, Class Counsel, ~~XYZ~~Defendant, 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~~Plaintiffs, Class Counsel, ~~XYZ~~Defendant, 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, ~~any~~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 Undue Publicity. Neither Plaintiffs nor Class Counsel shall cause to be publicized, directly or indirectly, any discussion resulting in or the existence of this Agreement or its terms in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the Internet, Facebook, Twitter/X or any other social media. After the Effective Date, Class Counsel may state on their website that the case has been settled and provide a short and plain description of the claims that were settled, subject to Defendant's approval, which shall not be unreasonably withheld. This provision does not apply to any publications ordered by the Court.

~~10.3~~12.4 *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 Judgment. 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.

~~10.4~~12.5 *Integrated Agreement.* Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

~~10.5~~12.6 *Attorney Authorization.* Class Counsel and Defense Counsel separately warrant and represent that they are authorized by ~~Plaintiff~~Plaintiffs and ~~XYZ~~Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

~~10.6~~12.7 *Cooperation.* The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator ~~and~~/or the Court for resolution.

~~10.7~~12.8 *No Prior Assignments.* The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

~~10.8~~12.9 *No Tax Advice.* Neither ~~Plaintiff~~Plaintiffs, Class Counsel, ~~XYZ~~Defendant, nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

~~10.9~~12.10 *Modification of Agreement.* This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

~~10.10~~12.11 *Agreement Binding on Successors.* This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

~~10.11~~12.12 *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~~State of California, without regard to conflict of law principles.

~~10.12~~12.13 *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.

~~8.1 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.~~

~~8.2 Use and Return 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 XYZ in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from XYZ unless, prior to the Court's discharge of the Administrator's obligation, XYZ makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.~~

~~10.13~~12.14 *Headings.* The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

~~10.14~~12.15 *Calendar Days.* Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

~~10.15~~12.16 *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~~Plaintiffs:

HAIG B. KAZANDJIAN LAWYERS, APC
Haig B. Kazandjian
haig@hbklawyers.com
Cathy Gonzalez
cathy@hbklawyers.com
Melissa Robinson
melissa@hbklawyers.com
801 North Brand Boulevard, Suite 970
Glendale, California 91203
Telephone: 1-818-696-2306
Facsimile: 1-818-696-2307

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
Norman B. Blumenthal
Kyle R. Nordrehaug
2255 Calle Clara
La Jolla, CA 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232
E-Mail: norm@bamlawca.com
kyle@bamlawca.com

To ~~XYZ~~Defendant:

SEYFARTH SHAW LLP
Christian J. Rowley
crowley@seyfarth.com
Kerry Friedrichs
kfriedrichs@seyfarth.com
Parnian Vafaenia
pvafaenia@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

~~10.16~~12.17 *Execution in Counterparts.* This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

~~10.17~~12.18 *Stay of Litigation.* The Parties agree that upon the execution of this Agreement the ~~litigation~~Actions 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 Code of Civil Procedure section 583.330, the Parties agree to extend the date to bring a case to trial under CCP Code of Civil Procedure section 583.310 for the entire period of this settlement process.

IT IS SO AGREED:

FOR PLAINTIFFS AND THE PUTATIVE CLASS AND AGGRIEVED EMPLOYEES

Dated: _____

Plaintiff _____ For XYZ/Class Representative
Lisa Howell

Dated: _____

Class Counsel For BLUMENTHAL
NORDREHAUG BHOWMIK DE BLOUW LLP

Dated: _____

Plaintiff/Class Representative Bert Mercado

Dated: _____

Plaintiff/Class Representative Liliana Godina

Dated: _____

Class Counsel HAIG B. KAZANDJIAN
LAWYERS, APC

FOR ~~xyz~~ DEFENDANT:

Dated: _____

For Defendant Kaiser Foundation Hospitals

Dated: _____

Defendant's Counsel Christian J. Rowley (as to form
only)

EXHIBIT #3

Blumenthal Nordrehaug Bhowmik De Blouw LLP

2255 Calle Clara, La Jolla, California 92037

Tel: (858) 551-1223

Fax: (858) 551-1232

FIRM RESUME

Areas of Practice: Employee, Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation, Business Litigation.

ATTORNEY BIOGRAPHIES

Norman B. Blumenthal

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Action, Civil Litigation, Wage and Hour Class Actions, Transactional Law

Admitted: 1973, Illinois; 1976, California

Biography: Law Clerk to Justice Thomas J. Moran, Illinois Supreme Court, 1973-1975, while on Illinois Court of Appeals. Instructor, Oil and Gas Law: California Western School of Law, 1981; University of San Diego School of Law, 1983. Sole Practitioner 1976-1987. Partner, Blumenthal & Ostroff, 1988-1995. Partner, Blumenthal, Ostroff & Markham, 1995-2001. Partner, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2018. Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP, 2018 - present.

Member: San Diego County, Illinois State and American Bar Associations; State Bar of California.

Educated: University of Wisconsin (B.A., 1970); Loyola University of Chicago (J.D., 1973);

Summer Intern (1971) with Harvard Voluntary Defenders

Kyle R. Nordrehaug

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Consumer and Securities Class Actions, Wage and Hour Class Actions, Civil Litigation

Admitted: 1999, California

Biography: Associate, Blumenthal, Ostroff & Markham, 1999-2001. Associate, Blumenthal & Markham, 2001-2007. Partner, Blumenthal & Nordrehaug, 2007. Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Member: State Bar of California, Ninth Circuit Court of Appeals, Third Circuit Court of Appeals

Educated: University of California at Berkeley (B.A., 1994); University of San Diego School of Law (J.D. 1999)

Awards: Top Labor & Employment Attorney 2016; Top Appellate Reversal - Daily Journal 2015; Super Lawyer 2015-2018

Aparajit Bhowmik

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2006, California

Educated: University of California at San Diego (B.A., 2002); University of San Diego School of Law (J.D. 2006)

Biography: Partner, Blumenthal, Nordrehaug & Bhowmik, 2008-2017

Awards: Rising Star 2015

Nicholas J. De Blouw

Partner, Blumenthal Nordrehaug Bhowmik De Blouw LLP (2018 to present)

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: Wayne State University (B.A. 2008); California Western School of Law (J.D. 2011)

Piya Mukherjee

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2010, California

Educated: University of California, San Diego (B.S. 2006); University of Southern California, Gould School of Law (J.D. 2010)

Victoria Rivapalacio

Associate Attorney

Practice Areas: Civil Litigation; Consumer Class Actions, Wage and Hour Class Actions

Admitted: 2011, California

Educated: University of California at San Diego (B.A., 2003); George Washington University Law School (J.D. 2010)

Ricardo Ehmann

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2018, California; 2004, Nevada

Educated: University of California, San Diego (B.A. 1998); Loyola Law School (J.D. 2001)

Jeffrey S. Herman

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2011, California; 2016 Arizona

Educated: University of Michigan (B.A. 2008); California Western School of Law (J.D. 2011)

Charlotte James

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: San Diego State University; California Western School of Law

Christine Levu

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2012, California

Educated: University of California, Irvine; California Western School of Law

Andrew Ronan

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2016, California

Educated: Arizona State University; University of San Diego School of Law

Scott Blumenthal

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, New Mexico

Educated: University of Southern California; California Western School of Law

Sergio Julian Puche

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2013, California

Educated: University of California, Irvine; California Western School of Law

Trevor Moran

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2020, California

Educated: University of Rhode Island; California Western School of Law

Adolfo Sanchez Contreras

Associate Attorney

Practice Areas: Civil Litigation; Wage and Hour Class Actions

Admitted: 2024, California; 2014, Mexico

Educated: The Juarez University

REPORTED CASES

Sakkab v. Luxottica Retail N. Am., Inc., 803 F.3d 425 (9th Cir. 2015) (The panel reversed the district court's order granting Luxottica Retail North America, Inc.'s motion to compel arbitration of claims and dismissing plaintiff's first amended complaint, in a putative class action raising class employment-related claims and a non-class representative claim for civil penalties under the Private Attorney General Act.);

Securitas Security Services USA, Inc. v. Superior Court, 234 Cal. App. 4th 1109 (Cal. Feb. 27, 2015) (Court of Appeal concluded the trial court correctly ruled that *Iskanian* rendered the PAGA waiver within the parties' dispute resolution agreement unenforceable. However, the Court of Appeal then ruled the trial court erred by failing to invalidate the non-severable class action waiver from the agreement and remanded the entire complaint, including class action and PAGA claims, be litigated in the Superior Court);

Sussex v. United States Dist. Court for the Dist. of Nev., 781 F.3d 1065 (9th Cir. 2015) (The panel determined that the district court clearly erred in holding that its decision to intervene mid-arbitration was justified under *Aerojet-General*. Specifically, the panel held that the district court erred in predicting that an award issued by the arbitrator would likely be vacated because of his "evident partiality" under 9 U.S.C. § 10(a)(2).);

Provost v. YourMechanic, Inc., 2020 Cal. App. Lexis 955 (Oct. 15, 2020) (Court of Appeals affirmed denial of arbitration of PAGA claim, and held in a case of first impression, that there was no additional standing rules for PAGA claim brought by independent contractor);

In re Tobacco Cases II, 41 Cal. 4th 1257 (2007); Washington Mutual Bank v. Superior Court, 24 Cal. 4th 906 (2001); Rocker v. KPMG LLP, 148 P.3d 703; 122 Nev. 1185 (2006); PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, 150 Cal. App. 4th 384 (2007); Hall v. County of Los Angeles, 148 Cal. App. 4th 318 (2007); Coshov v. City of Escondido, 132 Cal. App. 4th 687 (2005); Daniels v. Philip Morris, 18 F.Supp 2d 1110 (S.D. Cal.1998); Gibson v. World Savings & Loan Asso., 103 Cal. App. 4th 1291 (2003); Jordan v. Department of Motor Vehicles,

75 Cal. App. 4th 445 (1999); Jordan v. Department of Motor Vehicles, 100 Cal.App. 4th 431 (2002); Norwest Mortgage, Inc. v. Superior Court, 72 Cal.App.4th 214 (1999); Hildago v. Diversified Transp. Sya, 1998 U.S. App. LEXIS 3207 (9th Cir. 1998); Kensington Capital Mgal. v. Oakley, Inc., 1999 U.S. Dist LEXIS 385; Fed.Sec.L.Rep. (CCH) P90, 411 (1999 C.D. Cal.); Lister v. Oakley, Inc., 1999 U.S. Dist. LEXIS 384; Fed. Sec. L. Rep. (CCH) P90,409 (C.D. Cal. 1999); Olszewski v. Scripps Health, 30 Cal. 4th 798 (2003); Steroid Hormone Product Cases, 181 Cal. App. 4th 145 (2010); Owen v. Macy's, Inc., 175 Cal. App. 4th 462 (2009); Taiheiyo Cement Corp. v. Superior Court, 117 Cal. App. 4th 380 (2004); Taiheiyo Cement Corp. v. Superior Court, 105 Cal.App. 4th 398 (2003); McMeans v. Scripps Health, Inc., 100 Cal. App. 4th 507 (2002); Ramos v. Countrywide Home Loans, 82 Cal.App. 4th 615 (2000); Tevssier v. City of San Diego, 81 Cal.App. 4th 685 (2000); Washington Mutual Bank v. Superior Court, 70 Cal. App. 4th 299 (1999); Silvas v. E*Trade Mortg. Corp., 514 F.3d 1001 (9th Cir. 2008); Silvas v. E*Trade Mortg. Corp., 421 F. Supp. 2d 1315 (S.D. Cal. 2006); McPhail v. First Command Fin. Planning, Inc., 2009 U.S. Dist. LEXIS 26544 (S.D. Cal. 2009); McPhail v. First Command Fin. Planning, Inc., 251 F.R.D. 514 (S.D. Cal. 2008); McPhail v. First Command Fin. Planning, Inc., 247 F.R.D. 598 (S.D. Cal. 2007); Barcia v. Contain-A-Way, Inc., 2009 U.S. Dist. LEXIS 17118 (S.D. Cal. 2009); Barcia v. Contain-A-Way, Inc., 2008 U.S. Dist. LEXIS 27365 (S.D. Cal. 2008); Wise v. Cubic Def. Applications, Inc., 2009 U.S. Dist. LEXIS 11225 (S.D. Cal. 2009); Gabisan v. Pelican Prods., 2009 U.S. Dist. LEXIS 1391 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 630 F. Supp. 2d 1222 (S.D. Cal. 2009); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin. Nat'l Marine Fisheries Serv., 2008 U.S. Dist. LEXIS 102380 (S.D. Cal. 2008); Louie v. Kaiser Found. Health Plan, Inc., 2008 U.S. Dist. LEXIS 78314 (S.D. Cal. 2008); Weltman v. Ortho Mattress, Inc., 2010 U.S. Dist. LEXIS 20521 (S.D. Cal. 2010); Weltman v. Ortho Mattress, Inc., 2008 U.S. Dist. LEXIS 60344 (S.D. Cal. 2008); Curry v. CTB McGraw-Hill, LLC, 2006 U.S. Dist. LEXIS 5920; 97 A.F.T.R.2d (RIA) 1888; 37 Employee Benefits Cas. (BNA) 2390 (N.D. Cal. 2006); Reynov v. ADP Claims Servs. Group, 2006 U.S. Dist. LEXIS 94332 (N.D. Cal. 2006); Kennedy v. Natural Balance Pet Foods, Inc., 2010 U.S. App. LEXIS 248 (9th Cir. 2010); Kennedy v. Natural Balance Pet Foods, Inc., 2008 U.S. Dist. LEXIS 38889 (S.D. Cal. 2008); Kennedy v. Natural Balance Pet Foods, Inc., 2007 U.S. Dist. LEXIS 57766 (S.D. Cal. 2007); Sussex v. Turnberry/MGM Grand Towers, LLC, 2009 U.S. Dist. LEXIS 29503 (D. Nev. 2009); Picus v. Wal-Mart Stores, Inc., 256 F.R.D. 651 (D. Nev. 2009); Tull v. Stewart Title of Cal., Inc., 2009 U.S. Dist. LEXIS 14171 (S.D. Cal. 2009); Keshishzadeh v. Gallagher, 2010 U.S. Dist. LEXIS 46805 (S.D. Cal. 2010); Keshishzadeh v. Arthur J. Gallagher Serv. Co., 2010 U.S. Dist. Lexis 116380 (S.D. Cal. 2010); In re Pet Food Prods. Liab. Litig., MDL Docket No. 1850 (All Cases), 2008 U.S. Dist. LEXIS 94603 (D.N.J. 2008); In re Pet Food Prods. Liab. Litig., 629 F.3d 333 (3rd Cir. 2010); Puentes v. Wells Fargo Home Mortgage, Inc., 160 Cal. App. 4th 638 (2008); Rezec v. Sony Pictures Entertainment, Inc., 116 Cal. App. 4th 135 (2004); Badillo v. Am. Tobacco Co., 202 F.R.D. 261 (D. Nev. 2001); La Jolla Friends of the Seals v. Nat'l Oceanic & Atmospheric Admin., 2010 U.S. App. Lexis 23025 (9th Cir. 2010); Dirienzo v. Dunbar Armored, Inc., 2011 U.S. Dist. Lexis 36650 (S.D. Cal. 2011); Rix v. Lockheed Martin Corp., 2011 U.S. Dist Lexis 25422 (S.D. Cal. 2011); Weitzke v. Costar Realty Info., Inc., 2011 U.S. Dist Lexis 20605 (S.D. Cal. 2011); Goodman v. Platinum Condo. Dev., LLC, 2011 U.S. Dist. LEXIS 36044 (D. Nev. 2011); Sussex v. Turnberry/MGM Grand Towers, LLC, 2011 U.S. Dist. LEXIS 14502 (D. Nev. 2011); Smith v. Kaiser Foundation Hospitals, Inc., 2010 U.S. Dist. Lexis 117869 (S.D. Cal. 2010); Dobrosky v. Arthur J. Gallagher Serv. Co., LLC, No. EDCV 13-0646 JGB (SPx), 2014 U.S. Dist. LEXIS 106345 (C.D. Cal. July 30, 2014); Metrow v. Liberty Mut. Managed Care LLC - Class Certification Granted, Metrow v. Liberty Mut. Managed Care LLC, No. EDCV 16-1133 JGB (KKx), 2017 U.S. Dist. LEXIS 73656 (C.D. Cal. May 1, 2017); Nelson v. Avon Products, Inc., Class Certification Granted, U.S. District Court for The Northern District of California, Case No. 13-cv-02276-BLF, 2015 U.S. Dist. LEXIS 51104 (N.D. Cal. Apr. 17, 2015); Orozco v. Illinois Tool Works Inc., Class Certification Granted, 2017 U.S. Dist. LEXIS 23179 (E.D. Cal. Feb. 16, 2017); Rieve v. Coventry Health Care, Summary Judgment *Sua*

Sponte Granted for Plaintiff, Rieve v. Coventry Health Care, Inc., 870 F. Supp. 2d 856 (C.D. Cal. 2012)

CLASS ACTION & REPRESENTATIVE CASES

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Case No. 37-2018-00058254-CU-OE-CTL; Tarkington v. Freetime, Inc. – San Diego County Superior Court, Case No. 37-2019-00011473-CU-OE-CTL; McIntyre v. J.J.R. Enterprises, Inc. – Sacramento County Superior Court, Case No. 34-2019-00251220; Bucur v. Pharmaca Integrative Pharmacy, Inc. – San Diego County Superior Court, Case No. 37-2019-00009409-CU-OE-CTL; Batin v. McGee Air Services, Inc. – Santa Clara County Superior Court, Case No. 19CV347733; Terry v. McGee Air Services, Inc. – King County Superior Court of Washington, Case No. 19-2-3321-5 KNT; Weiss v. Niznik Behavioral Health Resources, Inc. – San Diego County Superior Court, Case No. 37-2019-00039441-CU-OE-CTL; Cavada v. Inter-Continental Hotels Group, Inc. – U.S. District Court, Southern District of California, Case No. 3:19-cv-01675-GPC-AHG; Lešević v. Spectraforce Technologies, Inc. – U.S. District Court, Northern District of California, Case No. 5:19-cv-03126-LHK; Mutchler v. Circle K Stores, Inc. – San Diego County Superior Court, Case No. 37-2020-00016331-CU-OE-CTL, Azima v. CSI Medical Group, – Santa Clara County Superior Court, Case No. 19CV345450; Porrás v. Baypointe Enterprises, LLC – Los Angeles County Superior Court, Case No. 19STCV31015; Mitchell v. Mack Trucking, Inc. – San Bernardino County Superior Court, Case No. CIVDS1928334; Watts v. T.R.L. Systems, Incorporated – Orange County Superior Court, Case No. 30-2019-01102457-CU-OE-CXC; Price v. DMSD Restaurants Inc. – San Diego County Superior Court, Case No. 37-2019-00024062-CU-OE-CTL; Jacobs v. Nortek Security & Control LLC – San Diego County Superior Court, Case No. 37-2019-0019735-CU-OE-CTL; Gonzalez v. Hub International Midwest – San Bernardino County Superior Court, Case No. CIVDS1900463; Cisneros v. Bluepearl California, Inc. – San Mateo Superior Court, Case No. 19-CIV-05707; Garcia v. Gallagher Basset Services – San Bernardino Superior Court, Case No. CIVDS2004140; Callow v. Adventist Health System/West – Placer County Superior Court, Case No. SCV0043607; Dominguez v. Kimco Facility Services, LLC – Los Angeles County Superior Court, Case No. 19STCV37592; Searles v. Robert Heath Trucking, Inc. – Los Angeles County Superior Court, Case No. 19STCY30808; Rangel v. Pioneer Hi-Bred international, Inc. – Yolo County Superior Court, Case No. CV-19-1797; Ivon v. Sinclair Television of California, Humboldt County Superior Court, Case No. DR190699; Williams v. Henkels & McCoy, Inc. – San Bernardino County Superior Court, Case No. CIVDS2003888; Cano v. Larry Green Chrysler Jeep Dodge, Inc. – Riverside County Superior Court, Case No. BLC1900184; Lopez v. Cepheid – Santa Clara County Superior Court, Case No. 19CV358827; Hernandez v. Quick Dispense, Inc. – Los Angeles County Superior Court, Case No. 19STCV29405; Lopez v. Lacoste USA, Inc. – San Bernardino County Superior Court, Case No. CIVDS1914626; Duhe v. Hospital Couriers Nevada, LLC – Contra Costa County Superior Court, Case No. MSC19-01377; Law v. Sequoia Equities, Incorporated – Contra Costa Superior Court, Case No. C19-01925; Dvorak v. Rockwell Collins, Inc. – San Diego County Superior Court, Case No. 37-2019-00064397-CU-OE-CTL; Noguera v. Metal Container Corporation – Riverside County Superior Court, Case No. RIC2003235; Leon v. Miller Event Management, Inc. – San Luis Obispo Superior Court, Case No. 19CV-0435; Leon v. Miller Event Management, Inc. – San Luis Obispo County Superior Court, Case No. 19CV-0435, Camacho-Bias v. Serve U Brands Inc. – Butte County Superior Court, Case No. 20CV00603; La Pietra v. Entertainment Partners Services, LLC – Los Angeles County Superior Court, Case No. 19STCV39529; Celis v. Theatre Box - San Diego, LLC – San Diego County Superior Court, Case No. ____; Ignacio v. Laboratory Corporation of America – U.S. District Court, California Central District, Case No. 2:19-cv-06079-AB-RAO; Kovnas v. Cahill Contractors LLC – Alameda County Superior Court, Case No. RG19037852; Hersh v. Mrs. Gooch's Natural Food – Los Angeles County Superior Court, Case No. 19STCV10444; Miller v. The Permanente Medical Group – Alameda County Superior Court, Case No. RG19045904; Vasquez v. Autoalert, LLC – Orange County Superior Court, Case No. 30-2019-01114549-CU-OE-CXC; Cavanaugh v. Morton Golf, LLC – Sacramento County Superior Court, Case No. 34-2019-00270176; Coley v. Monroe Operations, LLC – Alameda County Superior Court, Case No. RG20063188; Ramirez v. Sierra Aluminum Company – U.S. District Court, California Central District Court, Case No. 5:20-cv-00417-JGB-KK; Marrero v. Stat Med, P.C. – Alameda County Superior Court, Case No. HG19043214; Enriquez v. Solari Enterprises, Inc. – Los Angeles County Superior Court, Case No. 20STCV11129; Craig v.

Hometown Heart – San Francisco County Superior Court, Case No. CGC-20-582454; Lopez v. Hy0Lang Electric California, Inc. – San Diego County Superior Court, Case No. 37-2020-00012543-CU-OE-CTL; Heuklom v. Clara Medical Group, P.C. – San Francisco County Superior Court, Case No. CGC-20-585918; Dominguez v. Lifesafer of Northern California – Monterey County Superior Court, Case No. 20CV002586; Kiseleva v. Totalmed Staffing Inc. – U.S. District Court, California Northern District, Case No. 5:19-cv-06480; Vires v. Sweetgreen, Inc. – Santa Clara County Superior Court, Case No. 20CV365918; Kim v. Wireless Vision, LLC – San Bernardino County Superior Court, Case No. CIVDS2000074; Senoren v. Air Canada Corporation – Los Angeles County Superior Court, Case No. 20STCV13942; Clark v. Quest Diagnostics Incorporated – San Bernardino County Superior Court, Case No. CIVDS2018707; Green v. Shipt, Inc. – Los Angeles County Superior Court, Case No. 20STCV01001; Respass v. The Scion Group LLC – Sacramento County Superior County, Case No. 34-2020-00285265; Jackson v. Decathlon USA LLC – Alameda County Superior Court, Case No. RG2003024; Avacena v. FTG Aerospace Inc. – Los Angeles County Superior Court, Case No. 20STCV28767; Perez v. Butler America, LLC – Los Angeles County Superior Court, Case No. 20STCV20218; Christensen v. Carter’s Retail, Inc. – Orange County Superior Court, Case No. 30-2020-01138792-CU-OE-CXC; Astudillo v. Torrance Health Association, Inc. – Los Angeles County Superior Court, Case No. 20STCV18424; Hansen v. Holiday AI Management Sub LLC – Contra Costa County Superior Court, Case No. CIVMSC20-00779; Almahdi v. Vitamin Shoppe Industries Inc – Santa Clara County Superior Court, Case No. 20CV365150; Krisinda v. Loyal Source Government Services LLC – U.S. District Court, California Southern District, Case No. 3:20-cv-879-LAB-NLS; Ettedgui v. WB Studio Enterprises Inc – U.S. District Court, California Central District, Case No. 2:20-CV-08053-MCS (MAAx); Fernandez v. Nuvision Federal Credit Union – Orange County Superior Court, Case No. 30-2020-01161691-CU-OE-CJC; Aviles v. UPS Supply Chain Solutions, Inc. – Riverside County Superior Court, Case No. RIC2000727; Alcocer v. DSV Solutions, LLC – San Bernardino Superior Court, Case No. CIVDS2010345; Wilson v. Wholesome Harvest Baking, LLC – U.S. District Court, California Northern District, Case No. 4:20-cv-05186-YGR; Gregory v. Verio Healthcare, Inc. – Los Angeles County Superior Court, Case No. 20STCV37254; Rose v. Impact Group, LLC – Orange County Superior Court, Case No. 30-2020-01141107-CU-OE-CXC; Monasterio v. Citibank, N.A. – San Mateo County Superior Court, Case No. 20-CIV-03650; Martinez-Lopez v. Medamerica, Inc. – San Diego County Superior Court, Case No. 37-2020-00034393-CU-OE-CTL; Cox v. PRB Management, LLC – Solano County Superior Court, Case No. FCS055514; Nash v. K. Hovnanian Companies, LLC – Riverside County Superior Court, Case No. RIC2003319; Kyler v. Harbor Freight Tools USA, Inc. – San Diego County Superior Court, Case No. 37-2020-00015828-CU-OE-CTL; Roberts v. Solantic Corporation – Los Angeles County Superior Court, Case No. 20STCV41117; Price v. Mistras Group, Inc. – Los Angeles County Superior Court, Case No. 20STCV22485; Macias v. ABM Electrical & Lighting Solutions, Inc. – San Diego County Superior Court, Case No. 37-2020-00024997-CU-OE-CTL; Basu-Kesselman v. Garuda Labs, Inc. – San Francisco County Superior Court, Case No. CGC-20-585229; Armstrong v. Prometric LLC – Los Angeles County Superior Court, Case No. 20STCV29967; Ashlock v. Advantis Medical Staffing, LLC – San Diego County Superior Court, Case No. 37-2020-00022305-CU-OE-CTL; Wilson v. WXI Global Solutions, LLC – Los Angeles County Superior Court, Case No. 20STCV25007; Gandhale v. Select Rehabilitation, LLC – Monterey County Superior Court, Case No. 20CV002240; Starvoice v. G4S Secure Solutions (USA) Inc. – San Diego County Superior Court, Case No. 37-2020-00029421-CU-OE-CTL; Mbise v. Axlehire, Inc. – Alameda County Superior Court, Case No. RG20067350; Points v. C&J Services, Inc. – Kern County Superior Court, Case No. BCV-20-102483; Marshall v. PHI Air Medical, LLC – Lassen County Superior Court, Case No. 62973; Jauregui v. Cyctec Engineered Materials, Inc. – Orange County Superior Court, Case No. 30-2020-01164932-CU-OE-CXC

EXHIBIT #4

June 9, 2023

VIA ONLINE FILING

California Labor & Workforce Development Agency

Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL

KAISER FOUNDATION HOSPITALS

Agent for Service of Process
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE
SACRAMENTO, CALIFORNIA 95833

**Re: Notice of Labor Law Violations, California Labor Code Section 2698 Et. Seq. to
KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive**

Dear Labor and Workforce Development Agency Representative,

We are writing on behalf of Bert Mercado (“EMPLOYEE”) who seeks penalties from KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive (hereinafter, collectively “EMPLOYERS”), on EMPLOYEE’s own behalf, on behalf of the State of California, and on behalf of all non-exempt, hourly-paid employees who worked for EMPLOYERS during the relevant statutory period for violations of the California Labor Code and applicable wage law, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 226.8, 246, 510, 512(a), 515(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1 1198, 2753, and 2802.

EMPLOYEE intends to seek civil penalties, attorney’s fees, costs, and any and all other available relief for violations of the California Labor Code made recoverable under sections 2698, *et seq.*, the Labor Code Private Attorney General Act of 2004 (“PAGA”). EMPLOYEE seeks relief on EMPLOYEE’S own behalf, on behalf of the State of California, and on behalf of all other non-exempt, hourly-paid employees who were employed by EMPLOYERS (“AGGRIEVED EMPLOYEES”).

This Notice is sent in compliance with and pursuant to the reporting requirements of California Labor Code section 2699.3. **This Notice also serves to demonstrate EMPLOYEE’s good-faith attempt at settlement with EMPLOYERS. If EMPLOYERS are interested in**

**HAIG B.
KAZANDJIAN**
LAWYERS | APC

settling this matter, EMPLOYERS are encouraged to contact HAIG B. KAZANDJIAN LAWYERS, APC using the contact information provided in this Notice.

This Notice is sent on behalf of all non-exempt, hourly-paid employees of KAISER FOUNDATION HOSPITALS. The AGGRIEVED EMPLOYEES worked for all of the EMPLOYERS or for any of the EMPLOYERS as non-exempt, hourly-paid employees. Nothing in this Notice should be interpreted as limiting the representative class to non-exempt, hourly-paid employees who worked for all EMPLOYERS only.

The definition of “EMPLOYER” for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California’s labor laws. To that end, EMPLOYEE is informed and believes, and based thereon alleges, that EMPLOYERS, including any as of now unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under PAGA. As such, EMPLOYERS are each liable for civil penalties for violation of the California Labor Code as to EMPLOYEE and the other Aggrieved Employees.

This Notice further reserves EMPLOYEE’s right to amend and/or add to this Notice, upon discovery of new information, additional violations of the California Labor Code and/or individuals and/or EMPLOYERS responsible for same. Any further amendments and changes to this notice shall relate back to the date of this notice.

Factual Background

EMPLOYERS, jointly and/or separately, employed EMPLOYEE as an hourly-paid, non-exempt employee at its 4867 Sunset Blvd, Los Angeles, CA 90027 location. EMPLOYEE was hired on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice.

While employed by EMPLOYERS, EMPLOYEE’s job titles are Night Charge Nurse and Circulating Nurse. As a Night Charge Nurse, EMPLOYEE is tasked with coordinating between various medical departments for new cases and surgeries, preparing surgical rooms and assisting staff in operating rooms tasked. As a Circulating Nurse, EMPLOYEE is tasked with interviewing patients, checking documentation before proceeding into the operating room, review lab results and tests, interviewing patient, charting, assisting doctors, and responding to emergencies.

EMPLOYEE is informed, believes, and thereupon alleges that EMPLOYERS are California nonprofit corporation, licensed to do business and/or are doing business in California. EMPLOYERS operate as series of nonprofit hospitals with multiple locations, primarily in the western United States, including Los Angeles, California.

**HAIG B.
KAZANDJIAN**
LAWYERS | APC

EMPLOYEE is informed, believes, and thereupon alleges that at all relevant times, the above-named EMPLOYERS instituted and implemented standard practices and procedures for all non-exempt, hourly-paid employees in California. This includes, but is not limited to, payroll processing, dissemination of wage statements, oversight and approval of rest breaks, meal breaks, and timekeeping.

EMPLOYEE seeks penalties on behalf of the State of California and all current and former hourly-paid, non-exempt employees who worked for each of the EMPLOYERS and/or either of the EMPLOYERS during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

The facts¹ of the aforementioned violations of the California wage-and-hour laws include, but are not limited to, the facts referenced herein.

Violation of Labor Code 226, 432, 1198.5 (Failure to Provide Employment Records)

California Labor Code Section 226 provides, “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]... shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

California Labor Code Section 432 provides, “If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

In accordance with the process set out in Labor Code Section 226, EMPLOYEE requested, in writing by letter via certified first-class mail to EMPLOYERS and regular first-class mail to EMPLOYERS, that EMPLOYERS provide EMPLOYEE with EMPLOYEE’S wage and payroll history, all documents signed by EMPLOYEE pursuant to Labor Code Section 432, and a copy of EMPLOYEE’S personnel records pursuant to Labor Code Section 1198.5.

¹ EMPLOYEE reserves the right to present and/or reference further evidence as it is discovered.

The time periods provided to EMPLOYERS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since EMPLOYERS received EMPLOYEE'S correspondence requesting documents pursuant to Labor Code Section 226, 432, and 1198.5, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

Pursuant to the foregoing, EMPLOYEE is entitled to recover a \$750 penalty pursuant to Labor Code Section 226(f), a \$750 penalty pursuant to Labor Code Section 1198.5(k), and reimbursement for costs, including attorney's fees as afforded under applicable law, including, but not limited to, Labor Code Sections 226(f) and 1198.5(k).

Violation of Labor Code 510 (Overtime and Double Time)

California Labor Code sections 510 and the applicable Wage Orders require employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a week at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for time such worked, and two (2) times their regular rate of pay ("double time") for such hours worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-discretionary bonuses and incentives.

During the relevant time period, EMPLOYEE and other AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek.

EMPLOYERS routinely required this work to be performed before and/or after scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence, EMPLOYERS willfully failed to pay EMPLOYEE and other hourly-paid, non-exempt employees the wages to which they were entitled.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code section 510 and the applicable Wage Orders. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of Labor Code 226.7 and 512(a) (Meal and Rest Breaks)

California Labor Code sections 226.7, 512(a), and the applicable Wage Orders require employers to pay employees one (1) additional hour of pay at the employees' regular rate for each work day that a legally compliant meal and/or rest break was not provided.

**HAIG B.
KAZANDJIAN**
LAWYERS | APC

Employers cannot require, cause, or permit an employee to work more than five (5) hours per day without providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday, employers are required to either provide a second, uninterrupted 30-minute meal break or pay employees an additional one (1) hour of pay at the employees' regular rate.

If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided.

Furthermore, no employer shall require an employee to work during any rest period. Rest periods requirements are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

EMPLOYERS failed to provide EMPLOYEE and other AGGRIEVED EMPLOYEES with the required rest and meal break periods. EMPLOYEE and other AGGRIEVED EMPLOYEES were routinely required to work through these periods instead, because of understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE and other AGGRIEVED EMPLOYEES worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more without a second meal break, due to understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE is informed and believes, and based thereon alleges, that any purported appearance of meal and rest break compliance is because EMPLOYERS systematically and routinely clocked out for and/or otherwise altered the timekeeping records of EMPLOYEE and other AGGRIEVED EMPLOYEES in an attempt to hide the aforementioned infractions. EMPLOYERS, knowingly and contrary to law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods that were never taken and/or otherwise falsified or altered timekeeping records.

EMPLOYERS knew, or should have known, that their behavior caused EMPLOYEE and other AGGRIEVED EMPLOYEES to work through the above-described meal and/or rest periods. As a company-wide policy, EMPLOYERS still chose not to pay meal and rest period premiums required by law.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code sections 226.7, 512(a), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil

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penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 1182.12, 1194, 1197, and 1197.1 (Minimum Wage)

California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

- (1) For any employer who employs 26 or more employees:
 - (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.
 - (B) From January 1, 2018, to December 31, 2018, \$11 per hour.
 - (C) From January 1, 2019, to December 31, 2019, \$12 per hour.
 - (D) From January 1, 2020, to December 31, 2020, \$13 per hour.
 - (E) From January 1, 2021, to December 31, 2021, \$14 per hour.
 - (F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.
- (2) For any employer who employs 25 or fewer employees:
 - (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.
 - (B) From January 1, 2019, to December 31, 2019, \$11 per hour.
 - (C) From January 1, 2020, to December 31, 2020, \$12 per hour.
 - (D) From January 1, 2021, to December 31, 2021, \$13 per hour.
 - (E) From January 1, 2022, to December 31, 2022, \$14 per hour.
 - (F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

As alleged throughout this Notice, due to the company-wide failures of EMPLOYERS, EMPLOYEE and other AGGRIEVED EMPLOYEES were forced to work off-the-clock, and/or during rest breaks, and/or during meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 226(a), 1174(d), and 1198 (Accurate Employment Records)

California Labor Code 226(a) requires employers to create and provide to employees true

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and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

EMPLOYERS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because EMPLOYERS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, EMPLOYERS failed to list the correct amount of gross and/or net wages earned by EMPLOYEE and the other AGGRIEVED EMPLOYEES.

The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

EMPLOYERS willfully failed to maintain accurate payroll records for EMPLOYEE and other AGGRIEVED EMPLOYEES as a result of EMPLOYERS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. EMPLOYERS failure makes it impossible for EMPLOYEE and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

Pursuant to the foregoing, EMPLOYER is in violation of California Labor Code Sections 226(a), 1174(d), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(5)(A) (Reporting Time)

California Code of Regulations, Title 8, section 11050(5)(A) provides that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees regular rate of pay.

EMPLOYEE and other AGGRIEVED EMPLOYEES were told by EMPLOYERS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. EMPLOYERS routinely failed to pay the required reporting time wages to EMPLOYEE and other AGGRIEVED EMPLOYEES for each of these instances.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(4)(C) (Split Shifts)

California Code of Regulations 11050(4)(C) provides that when an employee works a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than *bona fide* rest or meal periods.

EMPLOYERS routinely scheduled EMPLOYEE and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than *bona fide* rest or meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES one (1) hour's pay at the applicable minimum wage, which resulted in EMPLOYEE and other AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, EMPLOYERS also failed to separately list "split shift" payments on EMPLOYEE and other AGGRIEVED EMPLOYEES wage statements.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 204 (All Wages Paid on Time)

California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute.

As a result of the numerous company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: minimum wages, overtime wages, double time wages, split shift pay and/or reporting time pay, within the statutorily required time period.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Sections 204. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 203, 210 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 201, 202, and 203 (Timely Payment Upon Discharge or Resignation)

California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72 hours' notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72 hours' notice are entitled to all wages earned at the time their resignation becomes effective.

Due to the company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS similarly failed to pay other AGGRIEVED EMPLOYEES timely wages upon their discharge or resignation pursuant to Labor Code sections 201, 202, and 203.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 201, 202, 203, and 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 2800, 2802 (Reimbursement of Necessary Expenditures)

California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

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EMPLOYEE and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of EMPLOYERS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, travel expenses, and parking expenses. EMPLOYEE and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties absent incurring these personal expenses. EMPLOYERS failed to indemnify EMPLOYEE and other AGGRIEVED EMPLOYEES for all necessary expenditures or losses accordingly.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 246 (Notice of Paid Sick Time and Accrual)

California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the commencement of employment. Employers must provide employees with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as described in Labor Code section 226) or in a separate writing accompanying such wage statements.

EMPLOYEE was hired by EMPLOYERS on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice. EMPLOYEE and other AGGRIEVED EMPLOYEES worked for EMPLOYERS for more than 30 days, triggering the protections of Labor Code section 246.

Nevertheless, EMPLOYER failed to furnish upon EMPLOYEE and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in a separate writing accompanying such wage statements, the amount of sick leave available to EMPLOYEE and other AGGRIEVED EMPLOYEES.

As such, EMPLOYERS unlawfully retained and continue to retain paid sick leave that should have been paid to EMPLOYEE and the other AGGRIEVED EMPLOYEES but for EMPLOYERS' failure to properly institute and/or adhere to a legally compliant paid sick leave program. EMPLOYEE is informed and believes, and based thereon alleges, that these practices were experienced and continue to be experienced by the other AGGRIEVED EMPLOYEES.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Section 246. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), 248.5(e) and any and all other applicable law.

California Labor Code 558(a) (Civil Penalties)

California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

EMPLOYERS were and are an employer, and violated EMPLOYEE'S and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various sections of this code as described throughout this notice letter.

Conclusion

Pursuant to California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, EMPLOYEE, acting in the public interest as Private Attorney General, seeks the applicable penalties for themselves, all other AGGRIEVED EMPLOYEES, and the State of California against EMPLOYERS for violations of Labor Code sections, including, but not limited to: 201, 202, 203, 204, 206, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2802, and any and all other applicable law.

If you have questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very truly yours,

Haig B. Kazandjian Lawyers, APC



Haig B. Kazandjian, Esq.
Cathy Gonzalez, Esq.

June 19, 2023

VIA ONLINE FILING

California Labor & Workforce Development Agency

Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL

KAISER FOUNDATION HOSPITALS

Agent for Service of Process
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE
SACRAMENTO, CALIFORNIA 95833

**Re: Notice of Labor Law Violations, California Labor Code Section 2698 Et. Seq. to
KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive**

Dear Labor and Workforce Development Agency Representative,

We are writing on behalf of Bert Mercado (“EMPLOYEE”) who seeks penalties from KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive (hereinafter, collectively “EMPLOYERS”), on EMPLOYEE’s own behalf, on behalf of the State of California, and on behalf of all non-exempt, hourly-paid employees who worked for EMPLOYERS during the relevant statutory period for violations of the California Labor Code and applicable wage law, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 226.8, 246, 510, 512(a), 515(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1 1198, 2753, and 2802.

EMPLOYEE intends to seek civil penalties, attorney’s fees, costs, and any and all other available relief for violations of the California Labor Code made recoverable under sections 2698, *et seq.*, the Labor Code Private Attorney General Act of 2004 (“PAGA”). EMPLOYEE seeks relief on EMPLOYEE’S own behalf, on behalf of the State of California, and on behalf of all other non-exempt, hourly-paid employees who were employed by EMPLOYERS (“AGGRIEVED EMPLOYEES”).

This Notice is sent in compliance with and pursuant to the reporting requirements of California Labor Code section 2699.3. **This Notice also serves to demonstrate EMPLOYEE’s good-faith attempt at settlement with EMPLOYERS. If EMPLOYERS are interested in**

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settling this matter, EMPLOYERS are encouraged to contact HAIG B. KAZANDJIAN LAWYERS, APC using the contact information provided in this Notice.

This Notice is sent on behalf of all non-exempt, hourly-paid employees of KAISER FOUNDATION HOSPITALS. The AGGRIEVED EMPLOYEES worked for all of the EMPLOYERS or for any of the EMPLOYERS as non-exempt, hourly-paid employees. Nothing in this Notice should be interpreted as limiting the representative class to non-exempt, hourly-paid employees who worked for all EMPLOYERS only.

The definition of “EMPLOYER” for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California’s labor laws. To that end, EMPLOYEE is informed and believes, and based thereon alleges, that EMPLOYERS, including any as of now unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under PAGA. As such, EMPLOYERS are each liable for civil penalties for violation of the California Labor Code as to EMPLOYEE and the other Aggrieved Employees.

This Notice further reserves EMPLOYEE’s right to amend and/or add to this Notice, upon discovery of new information, additional violations of the California Labor Code and/or individuals and/or EMPLOYERS responsible for same. Any further amendments and changes to this notice shall relate back to the date of this notice.

Factual Background

EMPLOYERS, jointly and/or separately, employed EMPLOYEE as an hourly-paid, non-exempt employee at its 4867 Sunset Blvd, Los Angeles, CA 90027 location. EMPLOYEE was hired on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice.

While employed by EMPLOYERS, EMPLOYEE’s job titles are Night Charge Nurse and Circulating Nurse. As a Night Charge Nurse, EMPLOYEE is tasked with coordinating between various medical departments for new cases and surgeries, preparing surgical rooms and assisting staff in operating rooms tasked. As a Circulating Nurse, EMPLOYEE is tasked with interviewing patients, checking documentation before proceeding into the operating room, review lab results and tests, interviewing patient, charting, assisting doctors, and responding to emergencies.

EMPLOYEE is informed, believes, and thereupon alleges that EMPLOYERS are California nonprofit corporation, licensed to do business and/or are doing business in California. EMPLOYERS operate as series of nonprofit hospitals with multiple locations, primarily in the western United States, including Los Angeles, California.

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EMPLOYEE is informed, believes, and thereupon alleges that at all relevant times, the above-named EMPLOYERS instituted and implemented standard practices and procedures for all non-exempt, hourly-paid employees in California. This includes, but is not limited to, payroll processing, dissemination of wage statements, oversight and approval of rest breaks, meal breaks, and timekeeping.

EMPLOYEE seeks penalties on behalf of the State of California and all current and former hourly-paid, non-exempt employees who worked for each of the EMPLOYERS and/or either of the EMPLOYERS during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

The facts¹ of the aforementioned violations of the California wage-and-hour laws include, but are not limited to, the facts referenced herein.

Violation of Labor Code 226, 432, 1198.5 (Failure to Provide Employment Records)

California Labor Code Section 226 provides, “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]... shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

California Labor Code Section 432 provides, “If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

In accordance with the process set out in Labor Code Section 226, EMPLOYEE requested, in writing by letter via certified first-class mail to EMPLOYERS and regular first-class mail to EMPLOYERS, that EMPLOYERS provide EMPLOYEE with EMPLOYEE’S wage and payroll history, all documents signed by EMPLOYEE pursuant to Labor Code Section 432, and a copy of EMPLOYEE’S personnel records pursuant to Labor Code Section 1198.5.

¹ EMPLOYEE reserves the right to present and/or reference further evidence as it is discovered.

The time periods provided to EMPLOYERS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since EMPLOYERS received EMPLOYEE'S correspondence requesting documents pursuant to Labor Code Section 226, 432, and 1198.5, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

Pursuant to the foregoing, EMPLOYEE is entitled to recover a \$750 penalty pursuant to Labor Code Section 226(f), a \$750 penalty pursuant to Labor Code Section 1198.5(k), and reimbursement for costs, including attorney's fees as afforded under applicable law, including, but not limited to, Labor Code Sections 226(f) and 1198.5(k).

Violation of Labor Code 510 (Overtime and Double Time)

California Labor Code sections 510 and the applicable Wage Orders require employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a week at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for time such worked, and two (2) times their regular rate of pay ("double time") for such hours worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-discretionary bonuses and incentives.

During the relevant time period, EMPLOYEE and other AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek.

EMPLOYERS routinely required this work to be performed before and/or after scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence, EMPLOYERS willfully failed to pay EMPLOYEE and other hourly-paid, non-exempt employees the wages to which they were entitled.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code section 510 and the applicable Wage Orders. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of Labor Code 226.7 and 512(a) (Meal and Rest Breaks)

California Labor Code sections 226.7, 512(a), and the applicable Wage Orders require employers to pay employees one (1) additional hour of pay at the employees' regular rate for each work day that a legally compliant meal and/or rest break was not provided.

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Employers cannot require, cause, or permit an employee to work more than five (5) hours per day without providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday, employers are required to either provide a second, uninterrupted 30-minute meal break or pay employees an additional one (1) hour of pay at the employees' regular rate.

If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided.

Furthermore, no employer shall require an employee to work during any rest period. Rest periods requirements are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

EMPLOYERS failed to provide EMPLOYEE and other AGGRIEVED EMPLOYEES with the required rest and meal break periods. EMPLOYEE and other AGGRIEVED EMPLOYEES were routinely required to work through these periods instead, because of understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE and other AGGRIEVED EMPLOYEES worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more without a second meal break, due to understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE is informed and believes, and based thereon alleges, that any purported appearance of meal and rest break compliance is because EMPLOYERS systematically and routinely clocked out for and/or otherwise altered the timekeeping records of EMPLOYEE and other AGGRIEVED EMPLOYEES in an attempt to hide the aforementioned infractions. EMPLOYERS, knowingly and contrary to law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods that were never taken and/or otherwise falsified or altered timekeeping records.

EMPLOYERS knew, or should have known, that their behavior caused EMPLOYEE and other AGGRIEVED EMPLOYEES to work through the above-described meal and/or rest periods. As a company-wide policy, EMPLOYERS still chose not to pay meal and rest period premiums required by law.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code sections 226.7, 512(a), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil

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penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 1182.12, 1194, 1197, and 1197.1 (Minimum Wage)

California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

- (1) For any employer who employs 26 or more employees:
 - (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.
 - (B) From January 1, 2018, to December 31, 2018, \$11 per hour.
 - (C) From January 1, 2019, to December 31, 2019, \$12 per hour.
 - (D) From January 1, 2020, to December 31, 2020, \$13 per hour.
 - (E) From January 1, 2021, to December 31, 2021, \$14 per hour.
 - (F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.
- (2) For any employer who employs 25 or fewer employees:
 - (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.
 - (B) From January 1, 2019, to December 31, 2019, \$11 per hour.
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The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

As alleged throughout this Notice, due to the company-wide failures of EMPLOYERS, EMPLOYEE and other AGGRIEVED EMPLOYEES were forced to work off-the-clock, and/or during rest breaks, and/or during meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 226(a), 1174(d), and 1198 (Accurate Employment Records)

California Labor Code 226(a) requires employers to create and provide to employees true

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and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

EMPLOYERS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because EMPLOYERS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, EMPLOYERS failed to list the correct amount of gross and/or net wages earned by EMPLOYEE and the other AGGRIEVED EMPLOYEES.

The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

EMPLOYERS willfully failed to maintain accurate payroll records for EMPLOYEE and other AGGRIEVED EMPLOYEES as a result of EMPLOYERS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. EMPLOYERS failure makes it impossible for EMPLOYEE and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

Pursuant to the foregoing, EMPLOYER is in violation of California Labor Code Sections 226(a), 1174(d), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(5)(A) (Reporting Time)

California Code of Regulations, Title 8, section 11050(5)(A) provides that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees regular rate of pay.

EMPLOYEE and other AGGRIEVED EMPLOYEES were told by EMPLOYERS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. EMPLOYERS routinely failed to pay the required reporting time wages to EMPLOYEE and other AGGRIEVED EMPLOYEES for each of these instances.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(4)(C) (Split Shifts)

California Code of Regulations 11050(4)(C) provides that when an employee works a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than *bona fide* rest or meal periods.

EMPLOYERS routinely scheduled EMPLOYEE and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than *bona fide* rest or meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES one (1) hour's pay at the applicable minimum wage, which resulted in EMPLOYEE and other AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, EMPLOYERS also failed to separately list "split shift" payments on EMPLOYEE and other AGGRIEVED EMPLOYEES wage statements.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 204 (All Wages Paid on Time)

California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute.

As a result of the numerous company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: minimum wages, overtime wages, double time wages, split shift pay and/or reporting time pay, within the statutorily required time period.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Sections 204. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 203, 210 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 201, 202, and 203 (Timely Payment Upon Discharge or Resignation)

California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72 hours' notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72 hours' notice are entitled to all wages earned at the time their resignation becomes effective.

Due to the company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS similarly failed to pay other AGGRIEVED EMPLOYEES timely wages upon their discharge or resignation pursuant to Labor Code sections 201, 202, and 203.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 201, 202, 203, and 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 2800, 2802 (Reimbursement of Necessary Expenditures)

California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

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EMPLOYEE and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of EMPLOYERS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, travel expenses, and parking expenses. EMPLOYEE and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties absent incurring these personal expenses. EMPLOYERS failed to indemnify EMPLOYEE and other AGGRIEVED EMPLOYEES for all necessary expenditures or losses accordingly.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 246 (Notice of Paid Sick Time and Accrual)

California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the commencement of employment. Employers must provide employees with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as described in Labor Code section 226) or in a separate writing accompanying such wage statements.

EMPLOYEE was hired by EMPLOYERS on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice. EMPLOYEE and other AGGRIEVED EMPLOYEES worked for EMPLOYERS for more than 30 days, triggering the protections of Labor Code section 246.

Nevertheless, EMPLOYER failed to furnish upon EMPLOYEE and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in a separate writing accompanying such wage statements, the amount of sick leave available to EMPLOYEE and other AGGRIEVED EMPLOYEES.

As such, EMPLOYERS unlawfully retained and continue to retain paid sick leave that should have been paid to EMPLOYEE and the other AGGRIEVED EMPLOYEES but for EMPLOYERS' failure to properly institute and/or adhere to a legally compliant paid sick leave program. EMPLOYEE is informed and believes, and based thereon alleges, that these practices were experienced and continue to be experienced by the other AGGRIEVED EMPLOYEES.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Section 246. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), 248.5(e) and any and all other applicable law.

California Labor Code 558(a) (Civil Penalties)

California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

EMPLOYERS were and are an employer, and violated EMPLOYEE'S and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various sections of this code as described throughout this notice letter.

Conclusion

Pursuant to California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, EMPLOYEE, acting in the public interest as Private Attorney General, seeks the applicable penalties for themselves, all other AGGRIEVED EMPLOYEES, and the State of California against EMPLOYERS for violations of Labor Code sections, including, but not limited to: 201, 202, 203, 204, 206, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2802, and any and all other applicable law.

If you have questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very truly yours,

Haig B. Kazandjian Lawyers, APC



Haig B. Kazandjian, Esq.
Cathy Gonzalez, Esq.

July 27, 2023

VIA ONLINE FILING

California Labor & Workforce Development Agency

Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA U.S. CERTIFIED MAIL

KAISER FOUNDATION HOSPITALS

Agent for Service of Process
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE
SACRAMENTO, CALIFORNIA 95833

**Re: Notice of Labor Law Violations, California Labor Code Section 2698 Et. Seq. to
KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive**

Dear Labor and Workforce Development Agency Representative,

We are writing on behalf of Liliana Godina (“EMPLOYEE”) who seeks penalties from KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive (hereinafter, collectively “EMPLOYERS”), on EMPLOYEE’s own behalf, on behalf of the State of California, and on behalf of all non-exempt, hourly-paid employees who worked for EMPLOYERS during the relevant statutory period for violations of the California Labor Code and applicable wage law, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 226.8, 246, 510, 512(a), 515(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1 1198, 2753, and 2802.

EMPLOYEE intends to seek civil penalties, attorney’s fees, costs, and any and all other available relief for violations of the California Labor Code made recoverable under sections 2698, *et seq.*, the Labor Code Private Attorney General Act of 2004 (“PAGA”). EMPLOYEE seeks relief on EMPLOYEE’S own behalf, on behalf of the State of California, and on behalf of all other non-exempt, hourly-paid employees who were employed by EMPLOYERS (“AGGRIEVED EMPLOYEES”).

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This Notice is sent in compliance with and pursuant to the reporting requirements of California Labor Code section 2699.3. **This Notice also serves to demonstrate EMPLOYEE's good-faith attempt at settlement with EMPLOYERS. If EMPLOYERS are interested in settling this matter, EMPLOYERS are encouraged to contact HAIG B. KAZANDJIAN LAWYERS, APC using the contact information provided in this Notice.**

This Notice is sent on behalf of all non-exempt, hourly-paid employees of KAISER FOUNDATION HOSPITALS. The AGGRIEVED EMPLOYEES worked for all of the EMPLOYERS or for any of the EMPLOYERS as non-exempt, hourly-paid employees. Nothing in this Notice should be interpreted as limiting the representative class to non-exempt, hourly-paid employees who worked for all EMPLOYERS only.

The definition of "EMPLOYER" for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California's labor laws. To that end, EMPLOYEE is informed and believes, and based thereon alleges, that EMPLOYERS, including any as of now unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under PAGA. As such, EMPLOYERS are each liable for civil penalties for violation of the California Labor Code as to EMPLOYEE and the other Aggrieved Employees.

This Notice further reserves EMPLOYEE's right to amend and/or add to this Notice, upon discovery of new information, additional violations of the California Labor Code and/or individuals and/or EMPLOYERS responsible for same. Any further amendments and changes to this notice shall relate back to the date of this notice.

Factual Background

EMPLOYERS, jointly and/or separately, employed EMPLOYEE as an hourly-paid, non-exempt employee at its 5601 De Soto Ave, Woodland Hills, CA 91367 location. EMPLOYEE started working for EMPLOYERS on or about December 18, 2018 and continues to work for EMPLOYERS as of the date of this notice.

While employed by EMPLOYERS from on or about December 18, 2018 until on or about March 01, 2020, EMPLOYEE's job titles were Diet Clerk, tasked with taking orders from patients, delivering food, training cashiers in the cafeteria, and placing catering orders or packages for meetings throughout the hospital. While employed by EMPLOYERS from on or about March 06, 2020 through to the date of this Notice, EMPLOYEE's job title was Admin Specialist / Coordinator, tasked with staffing the nurses to different stations depending on need, placing sick patients from Urgent Care into an appropriate bed depending on necessary level of care, and scheduling nurses.

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EMPLOYEE is informed, believes, and thereupon alleges that EMPLOYERS are California non-profit corporation, licensed to do business and/or are doing business in California. EMPLOYERS operate as a series of nonprofit hospitals with multiple locations, primarily in the western United States, including Los Angeles, California.

EMPLOYEE is informed, believes, and thereupon alleges that at all relevant times, the above-named EMPLOYERS instituted and implemented standard practices and procedures for all non-exempt, hourly-paid employees in California. This includes, but is not limited to, payroll processing, dissemination of wage statements, oversight and approval of rest breaks, meal breaks, and timekeeping.

EMPLOYEE seeks penalties on behalf of the State of California and all current and former hourly-paid, non-exempt employees who worked for each of the EMPLOYERS and/or either of the EMPLOYERS during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

The facts¹ of the aforementioned violations of the California wage-and-hour laws include, but are not limited to, the facts referenced herein.

Violation of Labor Code 226, 432, 1198.5 (Failure to Provide Employment Records)

California Labor Code Section 226 provides, “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]... shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

California Labor Code Section 432 provides, “If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

¹ EMPLOYEE reserves the right to present and/or reference further evidence as it is discovered.

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In accordance with the process set out in Labor Code Section 226, EMPLOYEE requested, in writing by letter via certified first-class mail to EMPLOYERS and regular first-class mail to EMPLOYERS, that EMPLOYERS provide EMPLOYEE with EMPLOYEE'S wage and payroll history, all documents signed by EMPLOYEE pursuant to Labor Code Section 432, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

The time periods provided to EMPLOYERS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since EMPLOYERS received EMPLOYEE'S correspondence requesting documents pursuant to Labor Code Section 226, 432, and 1198.5, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

Pursuant to the foregoing, EMPLOYEE is entitled to recover a \$750 penalty pursuant to Labor Code Section 226(f), a \$750 penalty pursuant to Labor Code Section 1198.5(k), and reimbursement for costs, including attorney's fees as afforded under applicable law, including, but not limited to, Labor Code Sections 226(f) and 1198.5(k).

Violation of Labor Code 510 (Overtime and Double Time)

California Labor Code sections 510 and the applicable Wage Orders require employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a week at the rate of at least time-and-one-half (1.5) times their regular rate of pay ("overtime") for time such worked, and two (2) times their regular rate of pay ("double time") for such hours worked in excess of 12 hours in a day. "Regular rate" includes all remuneration, including non-discretionary bonuses and incentives.

During the relevant time period, EMPLOYEE and other AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek.

EMPLOYERS routinely required this work to be performed before and/or after scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence, EMPLOYERS willfully failed to pay EMPLOYEE and other hourly-paid, non-exempt employees the wages to which they were entitled.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code section 510 and the applicable Wage Orders. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of Labor Code 226.7 and 512(a) (Meal and Rest Breaks)

California Labor Code sections 226.7, 512(a), and the applicable Wage Orders require employers to pay employees one (1) additional hour of pay at the employees' regular rate for each work day that a legally compliant meal and/or rest break was not provided.

Employers cannot require, cause, or permit an employee to work more than five (5) hours per day without providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday, employers are required to either provide a second, uninterrupted 30-minute meal break or pay employees an additional one (1) hour of pay at the employees' regular rate.

If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided.

Furthermore, no employer shall require an employee to work during any rest period. Rest periods requirements are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

EMPLOYERS failed to provide EMPLOYEE and other AGGRIEVED EMPLOYEES with the required rest and meal break periods. EMPLOYEE and other AGGRIEVED EMPLOYEES were routinely required to work through these periods instead, because of understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE and other AGGRIEVED EMPLOYEES worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more without a second meal break, due to understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE is informed and believes, and based thereon alleges, that any purported appearance of meal and rest break compliance is because EMPLOYERS systematically and routinely clocked out for and/or otherwise altered the timekeeping records of EMPLOYEE and other AGGRIEVED EMPLOYEES in an attempt to hide the aforementioned infractions. EMPLOYERS, knowingly and contrary to law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods that were never taken and/or otherwise falsified or altered timekeeping records.

EMPLOYERS knew, or should have known, that their behavior caused EMPLOYEE and other AGGRIEVED EMPLOYEES to work through the above-described meal and/or rest periods.

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As a company-wide policy, EMPLOYERS still chose not to pay meal and rest period premiums required by law.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code sections 226.7, 512(a), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 1182.12, 1194, 1197, and 1197.1 (Minimum Wage)

California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

- (1) For any employer who employs 26 or more employees:
 - (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.
 - (B) From January 1, 2018, to December 31, 2018, \$11 per hour.
 - (C) From January 1, 2019, to December 31, 2019, \$12 per hour.
 - (D) From January 1, 2020, to December 31, 2020, \$13 per hour.
 - (E) From January 1, 2021, to December 31, 2021, \$14 per hour.
 - (F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.
- (2) For any employer who employs 25 or fewer employees:
 - (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.
 - (B) From January 1, 2019, to December 31, 2019, \$11 per hour.
 - (C) From January 1, 2020, to December 31, 2020, \$12 per hour.
 - (D) From January 1, 2021, to December 31, 2021, \$13 per hour.
 - (E) From January 1, 2022, to December 31, 2022, \$14 per hour.
 - (F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

As alleged throughout this Notice, due to the company-wide failures of EMPLOYERS, EMPLOYEE and other AGGRIEVED EMPLOYEES were forced to work off-the-clock, and/or during rest breaks, and/or during meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact.

**HAIG B.
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Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 226(a), 1174(d), and 1198 (Accurate Employment Records)

California Labor Code 226(a) requires employers to create and provide to employees true and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

EMPLOYERS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because EMPLOYERS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, EMPLOYERS failed to list the correct amount of gross and/or net wages earned by EMPLOYEE and the other AGGRIEVED EMPLOYEES.

The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

EMPLOYERS willfully failed to maintain accurate payroll records for EMPLOYEE and other AGGRIEVED EMPLOYEES as a result of EMPLOYERS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. EMPLOYERS failure makes it impossible for EMPLOYEE and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

Pursuant to the foregoing, EMPLOYER is in violation of California Labor Code Sections 226(a), 1174(d), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(5)(A) (Reporting Time)

California Code of Regulations, Title 8, section 11050(5)(A) provides that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees regular rate of pay.

EMPLOYEE and other AGGRIEVED EMPLOYEES were told by EMPLOYERS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. EMPLOYERS routinely failed to pay the required reporting time wages to EMPLOYEE and other AGGRIEVED EMPLOYEES for each of these instances.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(4)(C) (Split Shifts)

California Code of Regulations 11050(4)(C) provides that when an employee works a "split shift", one (1) hour's pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A "split shift" is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than *bona fide* rest or meal periods.

EMPLOYERS routinely scheduled EMPLOYEE and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than *bona fide* rest or meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES one (1) hour's pay at the applicable minimum wage, which resulted in EMPLOYEE and other AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, EMPLOYERS also failed to separately list "split shift" payments on EMPLOYEE and other AGGRIEVED EMPLOYEES wage statements.

**HAIG B.
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Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 204 (All Wages Paid on Time)

California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute.

As a result of the numerous company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: minimum wages, overtime wages, double time wages, split shift pay and/or reporting time pay, within the statutorily required time period.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Sections 204. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 203, 210 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 201, 202, and 203 (Timely Payment Upon Discharge or Resignation)

California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72 hours' notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72 hours' notice are entitled to all wages earned at the time their resignation becomes effective.

Due to the company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYEE alleges that EMPLOYERS similarly failed to pay other AGGRIEVED EMPLOYEES timely wages upon their discharge or resignation pursuant to Labor Code sections 201, 202, and 203.

Pursuant to the foregoing, AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 201, 202, 203, and 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 2800, 2802 (Reimbursement of Necessary Expenditures)

California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

EMPLOYEE and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of EMPLOYERS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, travel expenses, and parking expenses. EMPLOYEE and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties absent incurring these personal expenses. EMPLOYERS failed to indemnify EMPLOYEE and other AGGRIEVED EMPLOYEES for all necessary expenditures or losses accordingly.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 246 (Notice of Paid Sick Time and Accrual)

California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the commencement of employment. Employers must provide employees with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as described in Labor Code section 226) or in a separate writing accompanying such wage statements.

EMPLOYEE was hired by EMPLOYERS on or about December 18, 2018 and continues to work for EMPLOYERS as of the date of this Notice. EMPLOYEE and other AGGRIEVED EMPLOYEES worked for EMPLOYERS for more than 30 days, triggering the protections of Labor Code section 246.

Nevertheless, EMPLOYER failed to furnish upon EMPLOYEE and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in a separate writing accompanying such wage statements, the amount of sick leave available to EMPLOYEE and other AGGRIEVED EMPLOYEES.

As such, EMPLOYERS unlawfully retained and continue to retain paid sick leave that should have been paid to EMPLOYEE and the other AGGRIEVED EMPLOYEES but for EMPLOYERS' failure to properly institute and/or adhere to a legally compliant paid sick leave

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program. EMPLOYEE is informed and believes, and based thereon alleges, that these practices were experienced and continue to be experienced by the other AGGRIEVED EMPLOYEES.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Section 246. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), 248.5(e) and any and all other applicable law.

California Labor Code 558(a) (Civil Penalties)

California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

EMPLOYERS were and are an employer, and violated EMPLOYEE'S and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various sections of this code as described throughout this notice letter.

Conclusion

Pursuant to California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, EMPLOYEE, acting in the public interest as Private Attorney General, seeks the applicable penalties for themselves, all other AGGRIEVED EMPLOYEES, and the State of California against EMPLOYERS for violations of Labor Code sections, including, but not limited to: 201, 202, 203, 204, 206, 226(a), 226.7, 246, 510, 512(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2802, and any and all other applicable law.

If you have questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very truly yours,

HAIG B.
KAZANDJIAN
LAWYERS | APC

Haig B. Kazandjian Lawyers, APC

Haig Kazandjian

Haig B. Kazandjian, Esq.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

**2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037**

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:
Nick@bamlawca.com

WRITERS EXT:
1004

October 3, 2023
CA2977

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

Kaiser Foundation Hospitals
Certified Mail #9589071052700182374729
CSC - LAWYERS INCORPORATING
SERVICE
BECKY DEGEORGE
2710 GATEWAY OAKS DRIVE, Suite
150N
SACRAMENTO, CA 95833

Re: Notice Of Violations Of California Labor Code Sections §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246 *et seq.*, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of Applicable Industrial Welfare Commission Wage Order(s), and Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

“Aggrieved Employees” refers to all individuals who are or previously were employed by Kaiser Foundation Hospitals in California, including any employees staffed with Kaiser Foundation Hospitals by a third party, and classified as non-exempt employees during the time period of October 3, 2022 until a date as determined by the Court. Our offices represent Plaintiff Lisa Howell (“Plaintiff”) and other Aggrieved Employees in a lawsuit against Kaiser Foundation Hospitals (“Defendant”). Plaintiff has been employed by Defendant in California since February 25, 2022. Plaintiff has been at all times classified by Defendant as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock. Moreover, when Defendant required Plaintiff and Aggrieved Employees to report for work, but “furnished less than half said employee’s usual or scheduled day’s work,” Defendant violated Cal. Code Regs., tit. 8 § 11040, subd. 5(A) by failing to pay Plaintiff and Aggrieved Employees for at least two (2) hours’ worth of work at their regular rate of pay. In addition, when Defendant required Plaintiff and Aggrieved Employees to respond to and engage in additional work, this resulted in a second reporting for work in a single workday,

and Defendant failed to pay these employees reporting time pay as required by Cal. Code Regs., tit. 8, § 11040, subd. 5(B). Further, Defendant failed to advise Plaintiff and the other Aggrieved Employees of their right to take separately and hourly paid duty-free ten (10) minute rest periods. *See Vaquero v. Stoneledge Furniture, LLC*, 9 Cal. App. 5th 98, 110 (2017). Additionally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff and other Aggrieved Employees with their wages. Plaintiff further contends that Defendant failed to provide accurate wage statements to her, and other Aggrieved Employees, in violation of California Labor Code section 226(a). Specifically, PLAINTIFF and the AGGRIEVED EMPLOYEES were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the total hours worked, and the applicable pay period in which the wages were earned pursuant to California Labor Code Section 226(a). The wage statements Defendant provided to PLAINTIFF and the AGGRIEVED EMPLOYEES failed to identify such information. More specifically, the wage statements failed to identify the accurate total hours worked each pay period in violation of Cal. Lab. Code Section 226(a)(2). Additionally, Plaintiff contends that Defendant failed to comply with Industrial Wage Order 7(A)(3) in that Defendant failed to keep time records showing when Plaintiff began and ended each shift and meal period. Plaintiff and other Aggrieved Employees perform tasks that reasonably permit sitting, and a seat would not interfere with their performance of any of their tasks that may require them to stand. Defendant failed to provide Plaintiff and other Aggrieved Employees with suitable seats. Said conduct, in addition to the foregoing, as well as the conduct alleged in the incorporated Complaint, violates Labor Code §§ 201, 202, 203, 204 *et seq.*, 210, 218, 221, 226(a), 226.7, 227.3, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), California Code of Regulations, Title 8, Section 1 1070(14) (Failure to Provide Seating), Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable Plaintiff to proceed with the Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit consists of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the Complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

Your earliest response to this notice is appreciated. If you have any questions of concerns, please do not hesitate to contact me at the above number and address.

Respectfully,

/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

HAIG B.
KAZANDJIAN
LAWYERS | APC

January 22, 2025

VIA ONLINE FILING

California Labor & Workforce Development Agency

Attn. PAGA Administrator
800 Capitol Mall, MIC-55
Sacramento, California 95814

VIA ELECTRONIC MAIL

SEYFARTH SHAW LLP

Christian J. Rowley
CRowley@seyfarth.com
Kerry Friedrichs
KFriedrichs@seyfarth.com
Par Vafaeenia
Email: PVafaeenia@seyfarth.com
560 Mission Street | Suite 3100,
San Francisco, California 94105-2930
Tel: +1-415-544-1034

Attorneys for Defendant KAISER FOUNDATION HOSPITALS

Re: LWDA Case Number: LWDA-CM-960886-23; Amended Notice of Labor Law Violations, California Labor Code Section 2698 Et. Seq. to KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive

Dear Labor and Workforce Development Agency Representative,

We are writing on behalf of Bert Mercado (“EMPLOYEE”) who seeks penalties from KAISER FOUNDATION HOSPITALS and DOES 1 through 100, inclusive (hereinafter, collectively “EMPLOYERS”), on EMPLOYEE’s own behalf, on behalf of the State of California, and on behalf of all non-exempt, hourly-paid employees who worked for EMPLOYERS during the relevant statutory period for violations of the California Labor Code and applicable wage law, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.7, 226.8, 227, 246, 510, 511, 512(a), 515(a), 551, 552, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2753, and 2802.

EMPLOYEE intends to seek civil penalties, attorney’s fees, costs, and any and all other available relief for violations of the California Labor Code made recoverable under sections 2698, *et seq.*, the Labor Code Private Attorney General Act of 2004 (“PAGA”). EMPLOYEE seeks relief on EMPLOYEE’S own behalf, on behalf of the State of California, and on behalf of all other non-

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exempt, hourly-paid employees who were employed by EMPLOYERS (“AGGRIEVED EMPLOYEES”).

This Amended Notice is sent in compliance with and pursuant to the reporting requirements of California Labor Code section 2699.3 and relates back to the date of the original notice of June 9, 2023 date. The purpose of this amended notice is to add additional allegations regarding violations of Labor Code Sections 227, 511, 551, and 552. **This Notice also serves to demonstrate EMPLOYEE’s good-faith attempt at settlement with EMPLOYERS. If EMPLOYERS are interested in settling this matter, EMPLOYERS are encouraged to contact HAIG B. KAZANDJIAN LAWYERS, APC using the contact information provided in this Notice.**

This Notice is sent on behalf of all non-exempt, hourly-paid employees of KAISER FOUNDATION HOSPITALS. The AGGRIEVED EMPLOYEES worked for all of the EMPLOYERS or for any of the EMPLOYERS as non-exempt, hourly-paid employees. Nothing in this Notice should be interpreted as limiting the representative class to non-exempt, hourly-paid employees who worked for all EMPLOYERS only.

The definition of “EMPLOYER” for purposes of the California Labor Code includes irregular working arrangements, and was specifically drafted in order to prevent evasion and subterfuge of California’s labor laws. To that end, EMPLOYEE is informed and believes, and based thereon alleges, that EMPLOYERS, including any as of now unknown entities, must be classified as joint-employers for purposes of liability for civil penalties under PAGA. As such, EMPLOYERS are each liable for civil penalties for violation of the California Labor Code as to EMPLOYEE and the other Aggrieved Employees.

This Notice further reserves EMPLOYEE’s right to amend and/or add to this Notice, upon discovery of new information, additional violations of the California Labor Code and/or individuals and/or EMPLOYERS responsible for same. Any further amendments and changes to this notice shall relate back to the date of this notice.

Factual Background

EMPLOYERS, jointly and/or separately, employed EMPLOYEE as an hourly-paid, non-exempt employee at its 4867 Sunset Blvd, Los Angeles, CA 90027 location. EMPLOYEE was hired on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice.

While employed by EMPLOYERS, EMPLOYEE’s job titles are Night Charge Nurse and Circulating Nurse. As a Night Charge Nurse, EMPLOYEE is tasked with coordinating between various medical departments for new cases and surgeries, preparing surgical rooms and assisting staff in operating rooms tasked. As a Circulating Nurse, EMPLOYEE is tasked with interviewing

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patients, checking documentation before proceeding into the operating room, review lab results and tests, interviewing patient, charting, assisting doctors, and responding to emergencies.

EMPLOYEE is informed, believes, and thereupon alleges that EMPLOYERS are California nonprofit corporation, licensed to do business and/or are doing business in California. EMPLOYERS operate as series of nonprofit hospitals with multiple locations, primarily in the western United States, including Los Angeles, California.

EMPLOYEE is informed, believes, and thereupon alleges that at all relevant times, the above-named EMPLOYERS instituted and implemented standard practices and procedures for all non-exempt, hourly-paid employees in California. This includes, but is not limited to, payroll processing, dissemination of wage statements, oversight and approval of rest breaks, meal breaks, and timekeeping.

EMPLOYEE seeks penalties on behalf of the State of California and all current and former hourly-paid, non-exempt employees who worked for each of the EMPLOYERS and/or either of the EMPLOYERS during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”). The purpose of this letter is to comply with the statutory requirements of California Labor Code section 2699.3 and shall constitute notice of the same.

The facts¹ of the aforementioned violations of the California wage-and-hour laws include, but are not limited to, the facts referenced herein.

Violation of Labor Code 226, 432, 1198.5 (Failure to Provide Employment Records)

California Labor Code Section 226 provides, “An employer who receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee [records of hours worked and wages paid]... shall comply with the request as soon as practicable, but no later than 21 calendar days from the date of the request.”

California Labor Code Section 432 provides, “If an employee signs any instrument relating to the obtaining or holding of employment, he shall be given a copy of the instrument upon request.”

California Labor Code Section 1198.5 provides that every employee shall be permitted to inspect and obtain a copy of their personnel records upon request.

¹ EMPLOYEE reserves the right to present and/or reference further evidence as it is discovered.

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In accordance with the process set out in Labor Code Section 226, EMPLOYEE requested, in writing by letter via certified first-class mail to EMPLOYERS and regular first-class mail to EMPLOYERS, that EMPLOYERS provide EMPLOYEE with EMPLOYEE'S wage and payroll history, all documents signed by EMPLOYEE pursuant to Labor Code Section 432, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

The time periods provided to EMPLOYERS by Labor Code Sections 226, 432, 1198.5 and any other relevant statutes have elapsed since EMPLOYERS received EMPLOYEE'S correspondence requesting documents pursuant to Labor Code Section 226, 432, and 1198.5, and a copy of EMPLOYEE'S personnel records pursuant to Labor Code Section 1198.5.

Pursuant to the foregoing, EMPLOYEE is entitled to recover a \$750 penalty pursuant to Labor Code Section 226(f), a \$750 penalty pursuant to Labor Code Section 1198.5(k), and reimbursement for costs, including attorney's fees as afforded under applicable law, including, but not limited to, Labor Code Sections 226(f) and 1198.5(k).

Violation of Labor Code 227 (Wage Withholdings)

Per California Labor Code section 227, if an EMPLOYER has made withholdings from an EMPLOYEE'S wages pursuant to state, local, or federal law, or has agreed with any employee to make payments to a health or welfare fund, pension fund, or vacation plan, or other similar plan for the benefit of the EMPLOYEES, or a negotiated industrial promotion fund, or has entered into a collective bargaining agreement providing for these payments, it shall be unlawful for that EMPLOYER willfully or with intent to defraud to fail to remit the withholdings to the proper agency or to fail to make the payments required by the terms of that agreement.

During the relevant time period, EMPLOYER has made withholdings from AGGRIEVED EMPLOYEES' wages pursuant to state, local, or federal law, or has agreed with any EMPLOYEE to make payments to a health or welfare fund, pension fund, or vacation plan, for the benefit of the EMPLOYEES. EMPLOYEE alleges that EMPLOYER willfully or with intent to defraud failed to remit withholdings to the proper agency or failed to make the payments required.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code section 227 and the applicable Wage Orders. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of Labor Code 510 (Overtime and Double Time)

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California Labor Code sections 510 and the applicable Wage Orders require employers to pay employees working more than eight (8) hours in a day or more than 40 hours in a week at the rate of at least time-and-one-half (1.5) times their regular rate of pay (“overtime”) for time such worked, and two (2) times their regular rate of pay (“double time”) for such hours worked in excess of 12 hours in a day. “Regular rate” includes all remuneration, including non-discretionary bonuses and incentives.

During the relevant time period, EMPLOYEE and other AGGRIEVED EMPLOYEES regularly worked in excess of eight (8), and in excess of 12, hours in a workday and/or 40 hours in a workweek.

EMPLOYERS routinely required this work to be performed before and/or after scheduled shifts, and/or during off-the-clock meal breaks, and/or during rest breaks. As a consequence, EMPLOYERS willfully failed to pay EMPLOYEE and other hourly-paid, non-exempt employees the wages to which they were entitled.

Pursuant to the foregoing, EMPLOYERS violated California Labor Code section 510 and the applicable Wage Orders. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558, 1194, and/or 2699(a), (f)-(g).

Violation of Labor Code 511 (Alternative workweek)

California Labor Code section 511 provides that upon the proposal of an employer, the EMPLOYEES of an EMPLOYER may adopt a regularly scheduled alternative workweek that authorizes work by the affected employees for no longer than 10 hours per day within a 40-hour workweek without the payment to the affected employees of an overtime rate of compensation pursuant to this section.

The EMPLOYER violated California Labor Code Section 511 by failing to properly implement an alternative workweek schedule in accordance with the law. Specifically, the EMPLOYER required AGGRIEVED EMPLOYEES to work shifts exceeding 8 hours per day and up to 10 hours per day without compensating them at the legally mandated overtime rate. Additionally, no formal proposal for an alternative workweek schedule was presented to AGGRIEVED EMPLOYEES, and no election was conducted to allow AGGRIEVED EMPLOYEES to adopt such a schedule. As a result, EMPLOYEES were unlawfully denied overtime wages for hours worked beyond 8 hours in a day, violating the protections provided under Section 511.

EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 558, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 226.7 and 512(a) (Meal and Rest Breaks)

California Labor Code sections 226.7, 512(a), and the applicable Wage Orders require employers to pay employees one (1) additional hour of pay at the employees' regular rate for each work day that a legally compliant meal and/or rest break was not provided.

Employers cannot require, cause, or permit an employee to work more than five (5) hours per day without providing an uninterrupted meal break. If an employee works over ten (10) hours in a workday, employers are required to either provide a second, uninterrupted 30-minute meal break or pay employees an additional one (1) hour of pay at the employees' regular rate.

If the employer fails to properly record a valid meal period, it is presumed that no meal period was provided.

Furthermore, no employer shall require an employee to work during any rest period. Rest periods requirements are based on the total hours worked; employees are legally entitled to ten (10) minutes per four (4) hours, or major fraction thereof, that employee worked.

EMPLOYERS failed to provide EMPLOYEE and other AGGRIEVED EMPLOYEES with the required rest and meal break periods. EMPLOYEE and other AGGRIEVED EMPLOYEES were routinely required to work through these periods instead, because of understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE and other AGGRIEVED EMPLOYEES worked shifts in excess of five (5) hours without a meal break, and worked shifts of ten (10) hours or more without a second meal break, due to understaffing, inadequate coverage, unreasonably high workload and expectations, and/or other actions, inactions, or decisions made by and within the sole control and discretion of EMPLOYERS.

EMPLOYEE is informed and believes, and based thereon alleges, that any purported appearance of meal and rest break compliance is because EMPLOYERS systematically and routinely clocked out for and/or otherwise altered the timekeeping records of EMPLOYEE and other AGGRIEVED EMPLOYEES in an attempt to hide the aforementioned infractions. EMPLOYERS, knowingly and contrary to law and public policy, employed a tactic of clocking-out employees for rest and/or meal periods that were never taken and/or otherwise falsified or altered timekeeping records.

EMPLOYERS knew, or should have known, that their behavior caused EMPLOYEE and other AGGRIEVED EMPLOYEES to work through the above-described meal and/or rest periods. As a company-wide policy, EMPLOYERS still chose not to pay meal and rest period premiums required by law.

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Pursuant to the foregoing, EMPLOYERS violated California Labor Code sections 226.7, 512(a), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 551 and 552 (Day of Rest)

California Labor Code 551 provides that every person employed in any occupation of labor is entitled to one day's rest therefrom in seven; and California Labor Code 552 states that no EMPLOYER of labor shall cause his EMPLOYEES to work more than six days in seven.

The employer violated California Labor Code Sections 551 and 552 by requiring employees to work more than six consecutive days without providing the mandated day of rest. Despite the legal requirement to ensure employees receive at least one day off in a seven-day workweek, employees were scheduled to work seven consecutive days on multiple occasions, depriving them of their entitled rest period and violating their rights under these labor code sections.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 1182.12, 1194, 1197, and 1197.1 (Minimum Wage)

California Labor Code sections 1182.12, 1194, 1197, and 1197.1 require employers to pay the minimum wage as set by the IWC. California Labor Code section 1182.12, as amended by Senate Bill 3, Chapter 4, Section 3, defines the minimum wage as;

- (1) For any employer who employs 26 or more employees:
 - (A) From January 1, 2017, to December 31, 2017, \$10.50 per hour.
 - (B) From January 1, 2018, to December 31, 2018, \$11 per hour.
 - (C) From January 1, 2019, to December 31, 2019, \$12 per hour.
 - (D) From January 1, 2020, to December 31, 2020, \$13 per hour.
 - (E) From January 1, 2021, to December 31, 2021, \$14 per hour.
 - (F) From January 1, 2022, and until adjusted by subdivision (c) \$15 per hour.
- (2) For any employer who employs 25 or fewer employees:
 - (A) From January 1, 2018, to December 31, 2018, \$10.50 per hour.
 - (B) From January 1, 2019, to December 31, 2019, \$11 per hour.
 - (C) From January 1, 2020, to December 31, 2020, \$12 per hour.

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- (D) From January 1, 2021, to December 31, 2021, \$13 per hour.
- (E) From January 1, 2022, to December 31, 2022, \$14 per hour.
- (F) From January 1, 2023, and until adjusted by subdivision (c) \$15 per hour.

The minimum wage standard applies to each hour employees worked for which they were not paid. Therefore, employer's failure to pay for any particular hour worked by an employee is unlawful even if averaging an employee's total pay over all hours worked, paid or not, results in an average hourly wage above minimum wage.

As alleged throughout this Notice, due to the company-wide failures of EMPLOYERS, EMPLOYEE and other AGGRIEVED EMPLOYEES were forced to work off-the-clock, and/or during rest breaks, and/or during meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES minimum wage for this time and/or falsified timekeeping records to hide this fact.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 226(a), 1174(d), and 1198 (Accurate Employment Records)

California Labor Code 226(a) requires employers to create and provide to employees true and accurate employment records. California Labor Code section 226(e) provides that if an employer fails to furnish an employee with same, the employee is entitled to recover the greater of all actual damages, or \$50.00 for an initial infraction, and \$100 per employee for each subsequent violation in any pay period. California Labor Code 226.3 imposes civil penalties on any employer in violation of section 226(a) at \$250 per employee violation in an initial citation, and \$1,000 per employee for each subsequent violation.

California Labor Code 1174(d) requires employers to keep payroll records showing hours worked, and wages paid to and/or number of piece-rate units earned, for all employees. California Labor Code section 1174.5 subjects employers to a \$500 penalty for failing to maintain same.

California Labor Code section 1198 provides that maximum hours and standard conditions of labor are fixed by the Labor Commissioner in the applicable Wage Orders. Pursuant to the applicable Wage Order, employers must keep accurate records of when employees begin and end each work period and each meal period.

EMPLOYERS knowingly provided employees with records that do not meet the statutory requirements of truth and accuracy, because EMPLOYERS failed to truthfully and accurately document, among other things, employees off-the-clock work. As a result, EMPLOYERS failed to list the correct amount of gross and/or net wages earned by EMPLOYEE and the other AGGRIEVED EMPLOYEES.

HAIG B. KAZANDJIAN

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The statements in question are deficient in many other ways, including, but not limited to: failure to list total hours worked, failing to list applicable hourly rates and the numbers of hours worked at each rate, failure to list piece-rate units earned and the applicable piece-rate, failure to list deductions, failure to track sick leave, failure to list the employee and SSN/EID properly, failure to list the full legal name and address of the employer, failure to list inclusive dates for which employees are paid, failure to provide employees with the ability to easily access wage statements and get hard copies at no expense to the employee, and/or failure to state all hours worked as a result of off-the-clock work.

EMPLOYERS willfully failed to maintain accurate payroll records for EMPLOYEE and other AGGRIEVED EMPLOYEES as a result of EMPLOYERS failure to accurately record employees rest breaks, and/or meal breaks, and/or off-the-clock work. EMPLOYERS failure makes it impossible for EMPLOYEE and other AGGRIEVED EMPLOYEES to accurately determine the extent of their underpayment, thereby causing further injuries to each of them.

Pursuant to the foregoing, EMPLOYER is in violation of California Labor Code Sections 226(a), 1174(d), and 1198. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(5)(A) (Reporting Time)

California Code of Regulations, Title 8, section 11050(5)(A) provides that for each workday when an employee is required to and does in fact report to work, but is either not put to work or is furnished less than half of said employee's usual scheduled day's work, that employee should be paid for no less than half, and in no event less than two (2) hours, of the employees regular rate of pay.

EMPLOYEE and other AGGRIEVED EMPLOYEES were told by EMPLOYERS to report to work and were either not put to work or were furnished less than half of said employee's usual scheduled day's work. EMPLOYERS routinely failed to pay the required reporting time wages to EMPLOYEE and other AGGRIEVED EMPLOYEES for each of these instances.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of California Code of Regulations 11050(4)(C) (Split Shifts)

**HAIG B.
KAZANDJIAN**
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California Code of Regulations 11050(4)(C) provides that when an employee works a “split shift”, one (1) hour’s pay at the State or local minimum wage (whichever is greater) must be paid in addition to the minimum wage for that workday. A “split shift” is defined as a work schedule which is interrupted by non-paid, non-working periods established by the employer, other than *bona fide* rest or meal periods.

EMPLOYERS routinely scheduled EMPLOYEE and other AGGRIEVED EMPLOYEES for multiple different shifts throughout the same workday, separated by periods other than *bona fide* rest or meal breaks. EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES one (1) hour’s pay at the applicable minimum wage, which resulted in EMPLOYEE and other AGGRIEVED EMPLOYEES being paid less than the applicable minimum wage for that day. As a further consequence, EMPLOYERS also failed to separately list “split shift” payments on EMPLOYEE and other AGGRIEVED EMPLOYEES wage statements.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 1197.1 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 204 (All Wages Paid on Time)

California Labor Code section 204 requires that all wages earned, other than those due upon termination, be paid on time as defined by the statute.

As a result of the numerous company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS failed to pay EMPLOYEE and other AGGRIEVED EMPLOYEES all wages due to them, including, but not limited to: minimum wages, overtime wages, double time wages, split shift pay and/or reporting time pay, within the statutorily required time period.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Sections 204. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney’s fees, costs, and interest thereon, pursuant to Labor Code sections 203, 210 and/or 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 201, 202, and 203 (Timely Payment Upon Discharge or Resignation)

**HAIG B.
KAZANDJIAN**
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California Labor Code sections 201, 202, and 203 provide that employees who are terminated are due all wages earned immediately. Employees who resign their employment without giving 72 hours' notice are due all wages earned within 72 hours of their resignation. Employees who resign their employment giving 72 hours' notice are entitled to all wages earned at the time their resignation becomes effective.

Due to the company-wide failures of EMPLOYERS as described throughout this Notice, EMPLOYERS similarly failed to pay other AGGRIEVED EMPLOYEES timely wages upon their discharge or resignation pursuant to Labor Code sections 201, 202, and 203.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 201, 202, 203, and 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 2800, 2802 (Reimbursement of Necessary Expenditures)

California Labor Code Sections 2800 and 2802 require that an employer indemnify employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

EMPLOYEE and other AGGRIEVED EMPLOYEES were directed and expected to incur personal expenses on behalf of EMPLOYERS while performing their job duties. Such personal expenses include, but are not limited to, use of personal cell phone, travel expenses, and parking expenses. EMPLOYEE and the other AGGRIEVED EMPLOYEES would not have been able to successfully accomplish their job duties absent incurring these personal expenses. EMPLOYERS failed to indemnify EMPLOYEE and other AGGRIEVED EMPLOYEES for all necessary expenditures or losses accordingly.

Pursuant to the foregoing, EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), and any and all other applicable law.

Violation of Labor Code 246 (Notice of Paid Sick Time and Accrual)

California Labor Code section 246 provides that an employee who works for the same employer for more than 30 days is entitled to paid sick days. Paid sick leave is to accrue at a rate not less than one (1) hour per every 30 hours worked, such accrual beginning at the commencement of employment. Employers must provide employees with written notice setting the amount of sick leave available (or paid time off in lieu thereof) for use on either itemized wage statements (as described in Labor Code section 226) or in a separate writing accompanying such wage statements.

**HAIG B.
KAZANDJIAN**
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EMPLOYEE was hired by EMPLOYERS on or about May 5, 2008 and continues to work for EMPLOYERS as of the date of this notice. EMPLOYEE and other AGGRIEVED EMPLOYEES worked for EMPLOYERS for more than 30 days, triggering the protections of Labor Code section 246.

Nevertheless, EMPLOYER failed to furnish upon EMPLOYEE and other AGGRIEVED EMPLOYEES, either on itemized wage statements or in a separate writing accompanying such wage statements, the amount of sick leave available to EMPLOYEE and other AGGRIEVED EMPLOYEES.

As such, EMPLOYERS unlawfully retained and continue to retain paid sick leave that should have been paid to EMPLOYEE and the other AGGRIEVED EMPLOYEES but for EMPLOYERS' failure to properly institute and/or adhere to a legally compliant paid sick leave program. EMPLOYEE is informed and believes, and based thereon alleges, that these practices were experienced and continue to be experienced by the other AGGRIEVED EMPLOYEES.

Pursuant to the foregoing, EMPLOYERS are in violation of California Labor Code Section 246. EMPLOYEE and other AGGRIEVED EMPLOYEES are entitled to civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 2699(a), (f)-(g), 248.5(e) and any and all other applicable law.

California Labor Code 558(a) (Civil Penalties)

California Labor Code section 558(a) provides that any employer, including individuals acting on behalf of employers, that violates, or causes to be violated, a section of the Labor Code or any applicable Wage Orders are subject to the following penalties;

- \$50 for any initial violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover unpaid wages;
- \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount to recover unpaid wages;

Labor Code section 558.1 permits joint and several liability as to both an individual and employer for violations of Labor Code sections 203, 226, 226.7, 1194, and 2802. Labor Code section 558(c) provides that the penalties in this section are in addition to any other civil penalty.

EMPLOYERS were and are an employer, and violated EMPLOYEE'S and other AGGRIEVED EMPLOYEES' rights by violating, or causing to be violated, various sections of this code as described throughout this notice letter.

HAIG B.
KAZANDJIAN
LAWYERS | APC

Conclusion

Pursuant to California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), 2699.5, and 558, EMPLOYEE, acting in the public interest as Private Attorney General, seeks the applicable penalties for themselves, all other AGGRIEVED EMPLOYEES, and the State of California against EMPLOYERS for violations of Labor Code sections, including, but not limited to: 201, 202, 203, 204, 206, 226(a), 226.7, 227, 246, 510, 511, 512(a), 551, 552, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1 1198, 2802, and any and all other applicable law.

If you have questions or require additional information, please do not hesitate to contact us. Thank you in advance for your attention to this matter.

Very truly yours,

Haig B. Kazandjian Lawyers, APC

Haig B. Kazandjian

Haig B. Kazandjian, Esq.
Cathy Gonzalez, Esq.