

Attorneys for Plaintiff
Kayla Heitzenroder et al., on behalf of herself and
all others similarly situated

SERINA MAIRE BLACKMON, KAYLA
MARIE HEITZENRODER, AND MALLORIE
CHRISTINE MATTESON, individually and on
behalf of all others similarly situated,

V.

Defendants.

DECLARATION OF THEODORE TANG IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL

1. I am an attorney at Frontier Law Center, attorneys of record for Plaintiff Kayla Marie Heitzenroder, and one of the attorneys assigned to this case. I have personal knowledge of the facts in this declaration and if called to testify about the facts I could and would competently do so.
2. On June 20, 2023, our office filed a letter with the Labor and Workforce Development Agency (“LWDA”) via its online portal, with a copy sent to defendant M&S Security Services Incorporated (“M&S” or “Defendant”) via certified mail. On July 17, 2023, our office filed a

1 Supplemental PAGA letter with the LWDA via its online portal, with a copy sent to M&S, outlining
2 additional theories and facts.

3 3. On October 4, 2023, our office filed the complaint on behalf of Plaintiffs Kayla
4 Heitzenroder, Serina Blackmon, and Mallorie Matteson (collectively “Plaintiffs”) behalf of
5 themselves and all Aggrieved Employees in the Superior Court of California for the County of
6 Kern.

7 4. The Parties agreed shortly thereafter that early mediation would have a high chance of
8 success, and, to that end, engaged mediator David Lampe.

9 5. To make sure the mediation was fruitful, our office requested informal discovery from
10 Defendants into the total Aggrieved Employees (including current vs former), total Pay Periods,
11 total Aggrieved Employees, as well as time and payroll data of the Plaintiffs, Defendant’s job site
12 locations, example schedules for Aggrieved Employees, and relevant exemplar On Duty Meal
13 Period Agreements.

14 6. After a full-day mediation, a settlement was reached.

15 7. The Parties began to negotiate specific terms, and a longform Class Action and PAGA
16 Settlement (the “Agreement”). As one of the terms of the settlement, the parties agreed that, for
17 settlement purposes only, the case would be best served as a Class Action, so that individual claims
18 would be resolved as part of the same action. A true and correct copy of the Agreement is attached
19 hereto as **Exhibit 1**.

20 8. At mediation, we estimated the maximum liability Defendants could face is \$7,541,910.
21 This estimate was based on the sample data of 284 employees, 141 of them being former
22 employees, and the total class period.¹ This calculation assumed a 100% violation rate on
23 applicable shifts, the minority view that penalties under Labor Code § 226.3 are recoverable when
24 deficient wage statements are provided, as well as stacking PAGA Penalties.

25 9. Corrected for the evidence and arguments presented at mediation and the risks specific to
26 each claim, and adding estimations for the class claims, the amount that Plaintiff could reasonably
27 expect to recover at trial (i.e. the Risk Adjusted Value or RAV) is \$1,912,127.88, before accounting
28

¹ The Class Period was ultimately set as the same as the PAGA period.

1 for things like witness memory and credibility, the time value of money, or other risks generally
2 inherent in litigation.

3 10. The gross settlement of \$220,000 represents approximately 2% of the theoretical maximum
4 liability, and 11.51% of the RAV.

5 11. The recovery per class member (approximately \$403.17 per class member by dividing the
6 expected Net Settlement Amount by total number of Class Members) is a good result for a wage
7 and hour class action.

8 12. Therefore, I strongly believe that the settlement is in the best interests of the members of the
9 Collective and that it is fair, reasonable, and adequate.

10 13. Since I graduated from UCLA School of Law in 2016, I was a volunteer attorney for the Los
11 Angeles City Attorney's office, where I quickly gained trial experience. Since March 2017, I have
12 worked as an attorney for Frontier Law Center, prosecuting primarily wage and hour cases,
13 including PAGA claims and Class Actions, which are now my primary focus as a litigator.

14 14. In terms of my experience in this field, I have been named as Class Counsel in several Class
15 Actions, and have been lead counsel in numerous representative PAGA settlements that have been
16 granted approval, including the following:

- 17 a. *Joshua Albright, et al. v. Loma Linda Shared Services*, Case No. CIVDS1818361:
18 Class action and PAGA case involving failure to pay wages, meal and rest break
19 violations, and failure to indemnify work related expenses; \$600,000.00 settlement;
20 final approval granted;
- 21 b. *Tri Nguyen v First Alarm Security & Patrol, Inc.*, Case No. 18CV332369: class
22 action and PAGA case on behalf of security guards involving various wage and hour
23 issues; \$7,250,000 settlement; final approval granted;
- 24 c. *Ronnie McNeal v. Platinum Security, Inc.*, Case No. 19STCV05709: PAGA action
25 on behalf of security guards involving meal and rest break violations and failure to
26 pay wages in a timely manner; \$300,000 settlement; PAGA settlement approved;
- 27 d. *Kevin Hernandez v. Contemporary Services Corporation*, Case No. BC684206:
28 PAGA action on behalf of security guards involving various wage and hour issues;

- 1 \$795,000 settlement; PAGA settlement approved;
- 2 e. *Keosia Green v. American Guard Services, Inc.* Case No. BC688437: PAGA action
- 3 on behalf of security guards involving wage and hour issues; \$315,000 settlement;
- 4 PAGA settlement approved;
- 5 f. *James Rushing v. Security Intelligence Specialist Corporation*, Case No. 18-civ-
- 6 1808, class action and PAGA case on behalf of security guards for breaks and wage
- 7 statement violations; \$480,000 settlement; final approval granted;
- 8 g. *Anthony Gaines, et al. v. Triple Canopy, Inc.*, 1 Case No. 9CV345169, class action
- 9 and PAGA case on behalf of approximately 550 security guards relating to meal and
- 10 rest break violations and other wage and hour issues; \$2,300,000 settlement; final
- 11 approval granted;
- 12 h. *Amy Migdal v. Purple Communications, Inc.*, Case No. S-CV-0046377, Class and
- 13 PAGA action on behalf of 73 employees for regular rate violations; \$127,500.00
- 14 settlement, final approval granted;
- 15 i. *Destinee Robinson-Moore v. Media All Stars, Inc.* Case No. 37-2021-00050573-CU-
- 16 OE-CTL, Class and PAGA case on behalf of employees relating to rest breaks,
- 17 regular rate violations and minimum wage violations; \$185,000.00 settlement; final
- 18 approval granted.

19 15. The litigation costs expended to aid in the representation of the Class include the following;,
20 \$465.03 filing fee for filing the complaint with the court, a mediation fee of \$3,750 (for Plaintiff's
21 portion of the mediation), \$75 for filing each PAGA notice and supplemental notice. Including
22 these expenses and various other mail and filing fees, the total of this is \$4,510.45. I anticipate
23 additional costs, including filing this motion, Courtcall Appearance, and any supplement required
24 by the Court, may be as high as \$1,200, bringing the total to \$5,710.45. All of these costs are
25 documented and reasonably incurred. All costs include any fee charged by One Legal or InfoTrack,
26 Plaintiff Counsel's electronic filing processors, where applicable. Per the settlement agreement,
27 Plaintiff Heitzenroder requests only reimbursement of expenses actually paid, up to \$7,000. Any
28 difference will be returned to the Net Settlement Amount.

1 16. Our office will file a declaration setting forth the total lodestar of attorney fees in the present
2 case at the time of final approval. However, in the interest of assuring the court that the amount
3 requested for attorney fees is within the range of reasonable settlements, I can state that as of the
4 time of this declaration, Plaintiff's counsel has spent over 114 hours litigating this case, for a total
5 lodestar fee of over \$56,000, based on the rates agreed to for the various professionals who have
6 worked on the case. I roughly estimate an additional 10 to 20 hours of additional work being
7 necessary to complete the settlement, including reviewing any objections, drafting the motion for
8 final approval, appearing at the hearings for preliminary and final approval, and any amended
9 judgment or other post-judgment filings as may be necessary to finalize and close the case.

10 17. Therefore, based on the above experience and the arguments in the motion, I respectfully
11 request the court to grant the motion for preliminary approval and to approve the issuance of notice
12 to the members of the Class.

13 18. On July 22, 2024 I uploaded a copy of this motion and all supporting papers, including this
14 declaration, to the LWDA website at [https://www.dir.ca.gov/Private-Attorneys-General-](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html)
15 [Act/Private-Attorneys-General-Act.html](https://www.dir.ca.gov/Private-Attorneys-General-Act/Private-Attorneys-General-Act.html).

16
17 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
18 and correct.

19
20 Executed this 25th Day of July, 2024 in Carlsbad, California.

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22 /s/ _____
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EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Kayla Marie Heitzenroder (“Plaintiff”) and defendant M&S Security Services, Inc. (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

This Settlement Agreement is subject to the approval of the Court, pursuant to California Rules of Court, Rule 3.769(c), (d) and (e), and is made for the sole purpose of attempting to consummate settlement of the Action on a class-wide basis subject to the following terms and conditions. As detailed below, in the event the Court does not enter an order granting final approval of the Class Settlement, as defined below, or the conditions precedent are not met for any reason, this Agreement is void and of no force or effect whatsoever.

1. DEFINITIONS.

As used in this Agreement, the following terms shall have the meanings specified below. To the extent terms or phrases used in this Agreement are not specifically defined below, but are defined elsewhere in this Agreement, they are incorporated by reference into this definition section.

1.1 “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against Defendant captioned *Serina Marie Blackmon, Kayla Marie Heitzenroder, and Mallorie Christine Matteson v. M&S Security Services, Inc.*, case number BCV-23-103332 initiated on October 4, 2023, and pending in Superior Court of the State of California, County of Kern. Plaintiffs Blackmon and Matteson settled their individual claims with Defendant separately.

1.2 “Administrator” means ILYM Group, Inc., 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, which are anticipated to not exceed \$9,000.

1.4 “Aggrieved Employee” means a person employed by Defendant in California as hourly-paid or non-exempt employees at any time during the PAGA Period.

1.5 “Class” means all persons who were employed by Defendant in California as hourly-paid or non-exempt employees during the Class Period.

1.6 “Class Counsel” means Frontier Law Center, including Manny Starr and Daniel Ginzburg.

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

1.8 “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Workweeks and PAGA Workweeks (or sufficient information to calculate the number of such workweeks).

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

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

1.11 “Class Notice” means the court-approved “Notice Of Class Action Settlement And Hearing Date For Final Court Approval,” to be mailed to Class Members in English with a Spanish translation, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.12 “Class Period” means the period from June 16, 2022 to the date of preliminary approval.

1.13 “Class Workweek” means any Workweek during the Class Period in which a Class Member worked for Defendant for at least one day.

1.14 “Class Representative” means Kayla Marie Heitzenroder, a named Plaintiff in the Operative Complaint in the Action seeking Court approval to serve as a Class Representative.

1.15 “Class Representative Service Payment” means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.16 “Court” means the Superior Court of California, County of Kern.

1.17 “Defendant” means named Defendant, M&S Security Services, Inc.

1.18 “Defense Counsel” means Vanessa Franco Chavez and Anna M. Burnbaum of Klein, DeNatale, Goldner, Cooper, Rosenlieb & Kimball, LLP.

1.19 “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, upon the later of the following events: (i) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding opposing the Settlement with no right to pursue further remedies or relief; or (iii) upon the expiration of any time to file a petition for rehearing and the expiration of any time to file any petition in the California Supreme Court or the Supreme Court of the United States following a final appellate opinion or order upholding the Court’s final order with no right to pursue further remedies or relief. In the event there is a

motion to set aside the judgment filed within 15 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), or a motion to intervene filed within 60 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), “the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement” (as that phrase is used in (b)(i)-(iii), above) will be based on the later of the court’s ruling or order on any such motion or entry of final order and judgment certifying the class and approving this Settlement. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court’s order approving the Settlement is completely final and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

1.20 “Employer Taxes” means employer-funded taxes and contributions imposed on the wage portions of the Individual Class Payments under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions required of employers, such as for unemployment insurance.

1.21 “Employee’s Taxes and Required Withholding” means the employee’s share of any and all applicable federal, state or local payroll taxes, including those collected under authority of the FICA, FUTA, or SUTA on the portion of any Individual Class Payment that constitutes wages. The Employee’s Taxes and Required Withholdings will be withheld from the Individual Class Payments paid to Participating Class Members.

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

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

1.24 “Final Judgment” means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.25 “Gross Settlement Amount” means Two Hundred and Twenty Thousand Dollars (\$220,000) 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, Employee’s Taxes and Required Withholdings, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses Payment, Class Representative Service Payment and the Administration Expenses Payment. The Gross Settlement Amount does not include Employer Taxes.

1.26 “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Class Workweeks worked during the Class Period, less Employee’s Taxes and Required Withholding.

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 PAGA Workweeks worked 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, subd. (i).

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

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, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.32 “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.

1.33 “Operative Complaint” means the operative complaint in the Action, which will be the First Amended Complaint and will encompass any claims articulated and alleged therein.

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

1.35 “PAGA Notice” means Plaintiffs Serina Marie Blackmon, Kayla Marie Heitzenroder, and Mallorie Christine Matteson June 20, 2023 letter, supplemented March 12, 2024, to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

1.36 “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000) and 75% to the LWDA (\$15,000) in settlement of PAGA claims.

1.37 “PAGA Workweek” means any Workweek during the PAGA Period in which an Aggrieved Employee worked for Defendant for at least one day.

1.38 “PAGA Period” means the period from June 16, 2022 to the date of preliminary approval.

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

1.40 “Plaintiffs” means Serina Marie Blackmon, Kayla Marie Heitzenroder, and Mallorie Christine Matteson, the named plaintiffs in the Action.

1.41 “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.

1.42 “Preliminary Approval Order” means the proposed Order Granting Preliminary Approval and Approval of PAGA Settlement.

1.43 “Released Class Claims” means the claims being released as described in Paragraph 5.2 below.

1.44 “Released PAGA Claims” means the claims being released as described in Paragraph 5.3 below.

1.45 “Released Parties” means: Defendant and each of its former, future, and present parent, joint venturers, and affiliated corporations and partnerships; their directors, officers, shareholders, owners, members, managers, partners, customers, employees, agents, attorneys, insurers, predecessors, successors, assigns, subsidiaries; and any other individuals, entities, successors, assigns, or legal representatives who could be liable for any of the Released Claims.

1.46 “Request for Exclusion” means a Class Member’s submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.47 “Response Deadline” means 45 days after the Administrator mails Notice to Class Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

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

2. RECITALS.

2.1 On October 4, 2023, Plaintiffs commenced this Action by filing a Complaint alleging causes of action against Defendant for (1) failure to provide compliant meal periods, (2) failure to provide compliant rest periods, (3) wage statement penalties, (4) waiting time penalties, (5) unfair and unlawful business practices; and (6) seeking civil penalties under PAGA, including but not limited to, for violations of California Labor Code sections 201, 201.3, 202, 203, 210, 226, 226.3, 226.7, 510, 512, 558, 1197, 1197.1, 1198, and 2802. The complaint from this Action shall be defined as the Operative Complaint. Defendant denies the 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. Defendant further denies that, for any purpose other than settling this Action, these claims are appropriate for class or representative treatment. The Parties agree to file a stipulation and order permitting Plaintiff Heitzenroder to file a First Amended Complaint adding class claims for the Class Period based on the allegations in Plaintiff’s PAGA Letter dated June 20, 2023 and the Supplemental PAGA Letter dated March 12, 2024, including but not limited to: minimum wage violations, overtime violations, unreimbursed work expenses, suitable seating violations, and weekly pay violation.

2.2 Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice on June 20, 2023, and supplemented March 12, 2024.

2.3 Prior to mediation, Plaintiff obtained, through informal discovery, documents, and information obtained pertaining to their wage and hour claims, including, but not limited to, wage and hour policy and procedure documents, an adequate sampling of employee time and payroll records, and the exchanges of relevant data points pertaining to the Class and PAGA claims. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.4 On March 21, 2024, the Parties participated in a full-day mediation, presided over by Hon. David R. Lampe (Ret.) and which led to this Agreement to settle the Action.

2.5 The Parties agree that this Agreement is for settlement purposes only and if, for any reason, the Agreement is not approved, the Agreement will be of no force or effect. In such event, nothing in this Agreement shall be used or construed by or against any party as a determination, admission, or concession of any issue of law or fact in the Action; and the Parties do not waive, and instead expressly reserve, their respective rights with respect to the prosecution and defense of this Action as if this Agreement never existed.

2.6 The Court has not granted class certification.

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

2.8 The Agreement set forth herein intends to achieve the following: (1) an entry of an order approving the Settlement; (2) entry of judgment of the Action; (3) discharge of Released Parties from liability for any and all of the Released Claims; and (4) discharge of Defendant from liability for any and all claims arising out of the Action.

3. **MONETARY TERMS.**

3.1 **Gross Settlement Amount.** Except as otherwise provided by Paragraph 8 below, Defendant promises to pay Two Hundred Twenty Thousand Dollars (\$220,000) and no more as the Gross Settlement Amount and to separately pay any and all Employer Taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 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 Plaintiff:** Class Representative Service Payment to the Class Representative of not more than Seven Thousand Five Hundred Dollars (\$7,500) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendant will not oppose Plaintiff's

request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments as part of the motion for Final Approval. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 35%, which is currently estimated to be Seventy-Seven Thousand Dollars (\$77,000) and a Class Counsel Litigation Expenses Payment of not more than Seven Thousand Dollars (\$7,000). Defendant will not oppose requests for these payments provided that the requests do not exceed these amounts. Plaintiff and/or Class Counsel will request Class Counsel's Fees Payment and Class Counsel Litigation Expenses Payment as part of the motion for Final Approval. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3 To the Administrator: An Administrator Expenses Payment not to exceed Nine Thousand Dollars (\$9,000) except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than Nine Thousand Dollars (\$9,000), the Administrator will retain the remainder in the Net Settlement Amount.

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

3.2.4.1. Tax Allocation of Individual Class Payments. Ten percent (10%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The Parties agree that the Employee's Taxes and Required Withholdings with respect to the wage portion of the Individual Class Payment will be withheld from the Individual Class Payment. Ninety percent (90%) of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest, penalties, and reimbursement under Labor Code section 2802 (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on

IRS 1099 Forms. Participating Class Members 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 the LWDA and Aggrieved Employees. PAGA Penalties in the amount of Twenty Thousand Dollars (\$20,000) to be paid from the Gross Settlement Amount, with 75% (\$15,000) allocated to the LWDA PAGA Payment and 25% (\$5,000) allocated to the Individual PAGA Payments.

3.2.5.1. Calculation of Individual PAGA Payment. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$5,000) by the total number of PAGA Workweeks worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Workweeks. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1 Class Workweeks and Aggrieved Employee PAGA Workweeks. Based on a review of its records through March 20, 2024, Defendant estimates there are 284 Class Members and Aggrieved Employees who collectively worked a total of 11,615 Workweeks.

4.2 Class Data. Not later than fifteen (15) days after the Court grants Preliminary Approval of the Settlement, Defendant will simultaneously deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Class Counsel shall not receive a copy of the Class Data or any content thereof. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3 Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date. At least five (5) business days prior to Defendant's deadline for funding of the

Gross Settlement Amount, the Administrator shall calculate the total Employer Taxes due on the wage portion of the Individual Class Payments and issue Defendant instructions and the amount of the Employer Taxes.

4.4 Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks and/or wire payment for all Individual Class 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. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date (including those checks to Class Members whose re-mailed checks were returned as undelivered), within ten (10) calendar days of the check void date, the Administrator shall transmit the funds represented by such checks to a Court-approved nonprofit organization or foundation consistent with Code of Civil Procedure Section 384, subd. (b), Central Valley Worker's Center ("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.

4.4.4 The payment of Individual Class 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 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 the Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff Heitzenroder's Release. In exchange for a payment of Seven Thousand Five Hundred Dollars (\$7,500), Heitzenroder and her respective former and present spouses, representatives, agents, attorneys, heirs, dependents, administrators, devisees, legatees, executors, trustees, conservators, guardians, personal representatives, successors, and assigns, whether individual, class, representative, legal, equitable, direct or indirect, or any other type of any capacity, shall and does hereby forever generally release, discharge, and agree to hold harmless the Released Parties from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, causes of action, suit, rights, demands, costs, losses, transactions, occurrences, or debts or expenses (including attorney fees and costs), known or unknown, at law or in equity which she may now have or may become aware of after the signing of this Agreement, including, but not limited to: (a) arising out of or in any way connected with their employment with Defendant, including the Released Claims, (b) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Operative Complaint; (c) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Action, Plaintiffs Serina Maire Blackmon, Kayla Marie Heitzenroder, and Mallorie Christine Matteson's PAGA Notice, or ascertained during the Action and released under 5.2, below, and (d) any and all transactions, occurrences, or matters between the Parties occurring prior to the date this Agreement is fully executed. Without limiting the generality of the foregoing, this release shall include, but not limited to, any and all claims under: (a) the Americans with Disabilities Act; (b) Title VII of the Civil Rights Act of 1964; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981; (e) the Age Discrimination in Employment Act; (f) the Fair Labor Standards Act; (g) the Equal Pay Act; (h) the Employee Retirement Income Securities Act, as amended; (i) the Consolidated Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n) the California Constitution; (o) the California Labor Code; (p) the California Government Code; (q) the California Civil Code; and (r) any and all other federal, state, and local statutes, ordinances, regulations, rules, and other laws, and any and all claims based on constitutional, statutory, common law, or regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge, breach of contract or implied contract, fraud, misrepresentation, promissory estoppel, or intentional infliction of emotional distress, negligent infliction of emotional distress, or damages under any other federal, state, or local statutes, ordinances, regulations, rules, or laws. This release is for any and all relief, no matter how denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and attorney fees and costs. ("Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences after signing this Agreement. Heitzenroder acknowledges that Heitzenroder may

discover facts or law different from, or in addition to, the facts or law that Heitzenroder now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Heitzenroder's discovery of them.

5.1.1 Plaintiff's Heitzenroder Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Heitzenroder, being aware of California Civil Code section 1542, as well as any other statutes or common law principles of a similar effect, hereby forever expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

Heitzenroder specifically acknowledges that she is aware of and familiar with the provisions of the above Civil Code section 1542. Heitzenroder may hereafter discover facts in addition to or different from those which she now knows or believes to be true with respect to the subject matter of all the claims referenced herein, but agree that, upon the funding of the entire Gross Settlement Amount and Employer Taxes, Heitzenroder shall and hereby does fully, finally, and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any theory of law or equity without regard to the subsequent discovery of existence of such different or additional facts, through the date on which this Agreement is fully executed.

5.2 Release by Participating Class Members:

5.2.1 Upon the funding of the entire Gross Settlement Amount and Employer Taxes, all Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, dependents, administrators, devisees, legatees, executors, trustees, conservators, guardians, personal representatives, successors, and assigns, whether individual, class, representative, legal, equitable, direct or indirect, or any other type of any capacity, shall and do hereby forever release, discharge, and agree to hold harmless the Released Parties from all claims during the Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint for the Class Period or ascertained in the course of the Action including any and all claims for: (1) failure to provide compliant meal periods or pay meal period premiums in lieu thereof, (2) failure to provide compliant rest periods or pay rest period premiums in lieu thereof, (3) failure to provide accurate and complete wage statement, (4) failure to pay all wages due in a timely fashion at discharge or resignation, (5) failure to pay at least minimum wage, (6) failure to pay applicable overtime and double time wages, (7) unreimbursed work expenses, (8) failure to provide suitable seating, (9) failure to timely pay wages during employment, and (10) unfair and unlawful business practices arising out of the violations referenced in the Action ("Released Class Claims"). To the extent based on facts alleged on the Operative Complaint or the PAGA Letter, the Released Class

Claims encompass, but are not limited to, all claims pursuant to the applicable IWC Wage Order (including Wage Order 4-2001), and Labor Code §§ 201, 201.3, 202, 203, 210, 226, 226.3, 226.7, 510, 512, 558, 1197, 1197.1, 1198, and 2802. Except as set forth in Section 5.2 of 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 claims based on facts occurring outside the Class Period.

5.2.2 Each Participating Class Member will be bound to the release of Released Class Claims as a result of this Class Settlement and to the terms of the final judgment and the satisfaction of such judgment.

5.2.3 Participating Class Members will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Action are disputed, and that their Individual Class Payments constitute payment of all sums allegedly due to them. Participating Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Individual Class Payment. That section provides in pertinent part as follows:

“An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made.”

5.3 Release by Aggrieved Employees: Upon the funding of the entire Gross Settlement Amount and Employer Taxes, all Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA, that Aggrieved Employees have had, now have, or may have in the future against Released Parties based on any acts or omissions occurring during the PAGA Period and based on the PAGA Period facts pleaded in the Action or the PAGA Notice, including, but not limited to, any and all claims for PAGA penalties pursuant to Wage Order 4-2001 and Labor Code §§ 200, 201, 201.3, 202, 203, 204, 206.5, 210, 221, 223, 224, 225.5, 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802. Any Aggrieved Employees who submit a valid and timely Request for Exclusion are still entitled to their Individual PAGA Payment and have no right or ability to opt out of the portion of this Settlement releasing the Released PAGA Claims.

6. **MOTION FOR PRELIMINARY APPROVAL.** Plaintiff will prepare and file a motion for preliminary approval (“Motion for Preliminary Approval”).

6.1 Plaintiff's Responsibilities. Plaintiff will prepare all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(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 each Class

Counsel firm attesting to its competency to represent the Class Members; and (v) Plaintiff's timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (1)(1)), and this Agreement (Labor Code section 2699, subd. (1)(2)).

6.2 Responsibilities of Counsel. Class Counsel is responsible 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. Defense Counsel agrees to not oppose Class Counsel's Motion for Preliminary Approval so long as Defense Counsel has three (3) calendar days to review it before filing and it is consistent with this Settlement Agreement.

6.3 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 otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees 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 to 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, Class Workweeks, and PAGA Workweeks in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit A.

On the date that the Class Notice is mailed to Class Members, the Administrator will also post a copy of the Class Notice with Spanish Translation on its website at least until the date of the Final Approval Hearing. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Class Workweeks and PAGA Workweeks (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.

7.4.3 Not later than 3 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. Other than verifying that Defendant does not have any additional information to locate or send the Class Notice, 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. If these procedures are followed, the duty to notify Class Members of this Settlement will be deemed to have been fully satisfied, and if the intended recipient of the Class Notice does not receive the Class Notice, the intended recipient shall nevertheless remain a Class Member and shall be bound by all terms of the Settlement and the Final Judgment.

7.4.4 The deadlines for Class Members' written objections, Challenges to Workweeks, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

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

7.5 Requests for Exclusion (Opt-Outs).

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

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

7.5.3 Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases of Released Class Claims, under Paragraphs 5.2 and 5.3 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 Released PAGA Claims, identified in Paragraph 5.3 of this Agreement, and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 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 Workweeks and PAGA Workweeks (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 contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks to Defense Counsel and redacted copies to Class Counsel and the Administrator's determination of the challenges. The Administrator will provide similar copies of challenges to Class Counsel after redacting Class Member identifying information, including but not limited to name, address, social security number, email address, and phone number.

7.7 Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement, including contesting the fairness of the

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 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 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, the Final Approval and the Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails. If Final Approval is granted, the Administrator will post the above-listed information of interest for at least 180 days after the date of mailing Individual Class Payments and Individual PAGA Payments.

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

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

Counsel the names and identifying information of Class Members whose Class Notices have been returned as undeliverable for the purpose of determining if Defendant can provide any additional information to successfully mail the Class Notice.

7.8.4 Workweek 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 Workweeks. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

7.8.5 Employer's Share of Payroll Taxes. The Administrator shall handle all tax document preparation and reporting, including W-2 and/or 1099 Forms, and any other state and federal tax forms. The Administrator shall calculate the amount of the Employer's Taxes and shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities in a timely manner.

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

7.8.7 Posting of Final Judgment. Within 10 days after the Court has held a Final Approval Hearing and entered the Judgment certifying the Class for settlement purposes only and approving the Settlement, the Administrator will give notice of judgment to Class Members pursuant to California Rules of Court, rule 3.771(b) by posting a copy of said Judgment on its website at a web address to be included in the Class Notice.

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

8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, Defendant represents that the best-estimate for the number of workweeks worked by the Class Members during the Class Period is 11,615, through March 20, 2024. If the amount of workweeks for this time period is determined to be more than 10% higher than this estimate (i.e., more than 12,776 workweeks), Defendant will have the option to either (1) increase the Gross Settlement Amount proportionally for the excess increase in the total number of workweeks

beyond the 12,776 workweeks sought to be included in the Class Period (i.e., pay an additional \$17.22 per workweek above the 12,776 workweeks) or (2) modify the applicable Class Period's end date to a date prior to the date of preliminary approval to avoid incurring the pro rata increase. The Gross Settlement Amount will not be reduced due to Defendant's estimate.

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

10. **MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (1), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than two (2) calendar days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

10.2 **Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Administrator Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

10.3 **Continuing Jurisdiction of the Court.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or 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 reflected as 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 waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, 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 null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of 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 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 Effect on Employee Benefit Plans. Neither this Agreement nor any amounts paid under the Settlement will modify any previously credited hours, days, or weeks of service under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies or bonus programs. The payments made under the terms of this Settlement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefits plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant to this Settlement are not for "weeks worked," "weeks paid," "weeks of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement. Defendant does not consider the Individual Class Payments "compensation" for purposes of determining eligibility for, or benefit accrual within, any benefit plans, policies, or bonus programs, or any other plan sponsored by Defendant.

12.2 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 of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission

by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does 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 Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

12.3 Confidentiality Prior to Preliminary Approval. Plaintiff, 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) to the Administrator and 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. This confidentiality clause extends to the parties' use of social media people often use to communicate during their daily lives, such as X (formerly Twitter), Facebook, blogs, Instagram, and the like. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other 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.

12.4 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 Plaintiff 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 and/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 Agreement.

12.9 No Tax Advice. Neither Plaintiff, Class Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Agreement 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 Authority of Signatories. The respective signatories to the Agreement represent that they are fully authorized to enter into this Agreement and bind the respective Parties to its terms and conditions.

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

12.13 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.

12.14 Attorneys' Fees and Costs. Except as otherwise specifically provided for herein, each party shall bear her or its own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them or arising out of the Action and shall not seek reimbursement thereof from any other party in this Agreement. In any suit or court action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover her or its reasonable attorneys' fees and costs.

12.15 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.

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

12.17 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 Defendant 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 Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

12.18 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.

12.19 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.

12.20 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:

Manny Starr, Esq.
Daniel Ginzburg, Esq.
FRONTIER LAW CENTER
23901 Calabasas Road, Suite 1084
Calabasas, CA 91302
Telephone: (818) 914-3433
Facsimile: (818) 914-3433
manny@frontierlawcenter.com
daniel@frontierlawcenter.com

To Defendant:

Vanessa F. Chavez, Esq.
KLEIN, DENATALE, GOLDNER,
COOPER, ROSENLIEB & KIMBALL, LLP
10000 Stockdale Highway, Suite 200
Bakersfield, CA 93311
Telephone: (661) 395-1000
Facsimile: (661) 326-0418
vchavez@kleinlaw.com

12.21 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.

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

ON BEHALF OF PLAINTIFF KAYLA MARIE HEITZENRODER

Dated: _____, 2024

Kayla Maire Heitzenroder, Plaintiff

ON BEHALF OF DEFENDANT M & S SECURITY SERVICES, INC:

Dated: 6 6, 2024



Name: Marvin Fuller, Jr.
Title: CEO

APPROVED AS TO FORM:

FRONTIER LAW CENTER

Dated: _____

THEODORE TANG
DANIEL GINZBURG,
Attorneys for Plaintiff

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ON BEHALF OF PLAINTIFF KAYLA MARIE HEITZENRODER

Dated: 05/27/24 | 10:46 PDT, 2024

DocuSigned by:


49EEC6EC67A2495

Kayla Maire Heitzenroder, Plaintiff

ON BEHALF OF DEFENDANT M & S SECURITY SERVICES, INC.:

Dated: _____, 2024

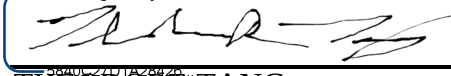
Name: Marvin Fuller, Jr.
Title: CEO

APPROVED AS TO FORM:

FRONTIER LAW CENTER

Dated: 05/27/24 | 10:48 PDT

DocuSigned by:


39A9C27371A2612A

THEODORE TANG
DANIEL GINZBURG,
Attorneys for Plaintiff

EXHIBIT A

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

Blackmon, et al. v. M&S Security Services, Inc.
Case number BCV-23-103332

NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Blackmon, et al. v. M&S Security Services, Inc.
Kern County Superior Court Case No. BCV-23-103332

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF M&S SECURITY SERVICES, INC. (“DEFENDANT”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN JUNE 16, 2022 AND ---- (THE “CLASS PERIOD”), THIS PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class and Private Attorneys General Act of 2004 (“PAGA”) action lawsuit entitled *Blackmon, et al. v. M&S Security Services, Inc.*, Kern County Superior Court Case No. BCV-23-103332 (the “Action”). The purpose of this Notice of Proposed Class and Representative PAGA Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Complaint.

YOUR ESTIMATED PAYMENT FROM THIS SETTLEMENT: Your estimated Individual Settlement Payment is <<Estimated Payment>>, which includes your payment from the Class settlement in the estimated amount of <<Estimated Individual Class Payment>> and, because you are also a member of the PAGA Employee group, your payment from the PAGA settlement in the estimated amount of <<Estimated Individual PAGA Payment>>.

A hearing concerning final approval of the proposed Settlement will be held before Hon. T. Mark Smith on <<FA DATE>>, at <<FA TIME>>, in Department T-2 of Kern County Superior Court, 3131 Arrow Street, Bakersfield, California 93308, to determine whether the Settlement is fair, adequate and reasonable. As a Participating Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered a “Participating Class Member” in the Settlement and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to pursue separate legal action against Defendant about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by completing and submitting the request to be excluded. As a result, you will not receive any benefits under the Settlement (other than based on the PAGA Claim). Request for Exclusion forms must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Settlement, you may mail a written explanation of why you don’t like the Settlement to the Administrator by submitting the objection in writing, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do not exclude yourself from the Settlement. Do not submit a request for exclusion if you wish to object. Written objections must be submitted by <<RESPONSE DEADLINE>>.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the “Class”):

All persons who were employed by Defendant in California as hourly-paid or non-exempt employees during the Class Period. The “Class Period” is June 16, 2022 through -----.

According to Defendant’s records, you are a member of the settlement class (“Class Member”). All persons employed by Defendant in California as hourly-paid or non-exempt employees at any time during the Class Period are also “PAGA Employees” and will automatically receive their *pro rata* share of the \$5,000 allocated from the PAGA Allocation to PAGA Employees, cannot opt-out of the release of PAGA Claims, and will be bound by the release of the PAGA Claims even if they opt-out of the Settlement. Defendant’s records indicate you are also a PAGA Employee who worked in the State of California at any time during the PAGA Period of June 16, 2022 through -----.

What is this case about?

On October 4, 2023, Serina Marie Blackmon, Kayla Marie Heitzenroder, and Mallorie Christine Matteson filed a lawsuit against Defendant. During mediation, Ms. Blackmon and Ms. Matteson separately settled their claims against Defendant and were later dismissed from the Action. Plaintiff Heitzenroder (“Plaintiff”) alleges on behalf of herself and the Class that Defendant: (1) failed to provide compliant meal periods or pay meal period premiums in lieu thereof, (2) failure to provide compliant rest periods or pay rest period premiums in lieu thereof, (3) failed to provide accurate and complete wage statement, (4) failed to pay all wages due in a timely fashion at discharge or resignation, (5) failed to pay at least minimum wage, (6) failed to pay applicable overtime and double time wages, (7) failed to reimburse work expenses, (8) failed to provide suitable seating, (9) failed to timely pay wages during employment, (10) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (11) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*]. Plaintiff seeks unpaid wages, actual, consequential and incidental losses and damages, special damages, liquidated damages, injunctive relief, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys’ fees, and costs.

Defendant denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Defendant contends that its conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Defendant (the “Parties”), through their attorneys, and is not an admission of liability on the part of Defendant. Both sides agree that this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Defendant’s defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Theodore Tang
theodore@frontierlawcenter.com
Manny Starr
manny@frontierlawcenter.com
Daniel Ginzburg
dan@frontierlawcenter.com
FRONTIER LAW CENTER
23901 Calabasas Rd, Suite 1084
Calabasas, CA 91302
Telephone: (818) 914-3433

Defendant’s Counsel

Vanessa Franco Chavez
vchavez@kleinlaw.com
Anna Burnbaum
aburnbaum@kleinlaw.com
KLEIN, DENATALE, GOLDNER
10000 Stockdale Highway, Suite 200
Bakersfield, CA 93311
Telephone: (661) 395-1000
Facsimile: (661) 326-0418

What are the Settlement terms?

Subject to final Court approval, Defendant will pay \$220,000 (the “Gross Settlement Amount”) for: (a) Individual Class Payments to Participating Class Members; (b) the Court-approved Class Representative Service Payment

to Plaintiff in the amount of \$7,500; (c) the Court-approved attorney's fees and costs to Class Counsel ("Class Counsel's Fees and Expenses") (\$77,000 in fees and up to \$7,000 in costs to be requested); (d) payment to the Labor and Workforce Development Agency ("LWDA") for alleged PAGA penalties (the "PAGA Penalty Payment") (\$15,000 of a total of \$20,000.00 allocated to the PAGA settlement); and (e) payment to the Administrator for settlement administration services ("Administrative Expenses Payment") (estimated to be no more than \$9,000).

Individual Payments. Class Members who do not timely and properly request to be excluded from the Settlement (the "Participating Class Members") will receive a share of the Net Settlement Amount ("Individual Class Payment"), and Class Members who are also PAGA Employees will receive a share of the \$5,000 from the PAGA Settlement allocated to PAGA Employees (the "Individual PAGA Payment"), regardless of whether the request exclusion from the Settlement (the total payment to a Class Member is their "Individual Settlement Payment").

The "Net Settlement Amount" will be calculated by deducting from the Gross Settlement Amount the Class Counsel's Fees and Expenses, the Class Representative's Service Payment, the PAGA Penalty Payment, and the Administrative Expenses Payment. Payments by Defendant from the Net Settlement Amount will be included in the Individual Settlement Payments to each Participating Class Member (the "Individual Class Payments") and each PAGA Employee (the "Individual PAGA Payments").

The Settlement Class Payment shall be divided among all Participating Class Members on a *pro rata* basis based upon the total number of work weeks worked by each Participating Class Member during the Class Period. The portion of the Net Settlement Amount paid to a Participating Class Member = Net Settlement Amount (minus \$5,000 set aside for all Individual PAGA Payment) $\times$ the work weeks worked by a Participating Class Member $\div$ the work weeks worked by all Participating Class Members.

The 25% of the PAGA Penalties shall be divided among all PAGA Employees on a *pro rata* basis based upon the total number of workweeks worked by each PAGA Employee during the PAGA Period. The portion of the PAGA Penalties paid to a PAGA Employee = \$5,000 $\times$ the workweeks worked by a PAGA Employee (during the PAGA Period) $\div$ the workweeks worked by all PAGA Employees (during the PAGA Period).

Your estimated Individual Class Payment is <<Estimated Settlement Payment>> and the number of work weeks you worked during the Class Period based on the number of weeks worked is <<Work Weeks>>. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Class Payment set forth in this Class Notice; (iv) state the number of workweeks you believe you have worked during the Class Period; and (v) be mailed to the Administrator with a postmark date on or before <<RESPONSE DEADLINE>> (the "Response Deadline") at:

You must produce documentary evidence supporting your contention. Defendant's records will be presumed correct unless you prove otherwise by credible evidence. The Administrator and the Parties will attempt to resolve all workweek disputes with you informally. If they cannot resolve your workweek dispute with you informally, the dispute will be submitted by the Parties to the Court for final resolution. **REMINDER:** If you believe your estimated Settlement Payment is incorrect because your workweeks (the number of weeks you worked within the Class Period) are wrong, your deadline to dispute this is <<RESPONSE DEADLINE>>.

For tax reporting purposes, the payments to Class Members will be allocated 10% as wages, 90% as penalties, interest, and reimbursement. All Individual PAGA Payments will be allocated as 100% penalties. The wage portion of the Individual Class Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Class Payments. The portion of the Individual Class Payments allocated as civil penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendant.

All checks for Individual Class Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Class Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to -----

----- subject to the requirements of California Code of Civil Procedure § 384(b) (the “Cy Pres Recipient”). In such event, the Participating Class Members and PAGA Employees shall nevertheless remain bound by the Settlement.

The "Effective Date" of the Settlement 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, upon the later of the following events: (i) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) the dismissal of any appeal, writ, or other appellate proceeding opposing the Settlement with no right to pursue further remedies or relief; or (iii) upon the expiration of any time to file a petition for rehearing and the expiration of any time to file any petition in the California Supreme Court or the Supreme Court of the United States following a final appellate opinion or order upholding the Court's final order with no right to pursue further remedies or relief. In the event there is a motion to set aside the judgment filed within 15 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), or a motion to intervene filed within 60 days after notice to Class Members pursuant to California Rules of Court, rule 3.771(b), “the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Settlement” (as that phrase is used in (b)(i)-(iii), above) will be based on the later of the court's ruling or order on any such motion or entry of final order and judgment certifying the class and approving this Settlement. In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court's order approving the Settlement is completely final and there is no further recourse by an appellant or objector who seeks to contest the Settlement.

Payments to Participating Class Members and PAGA Employees will issue only AFTER the payment by Defendant of the Gross Settlement Amount.

PLEASE BE PATIENT AND UPDATE THE ADMINISTRATOR WITH YOUR NEW ADDRESS IF YOU MOVE AFTER RECEIVING THIS NOTICE OR YOU RECEIVED THIS NOTICE AS FORWARDED MAIL.

None of the Parties or their attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

Class Counsel's Fees and Expenses, the Class Representative Service Payment, Administrative Expenses Payment, the PAGA LWDA Payment. Class Counsel will ask the Court to award attorney's fees up to \$77,000 (35%) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$7,000. In addition, Class Counsel will ask the Court to authorize Class Representative Service Payment made to Plaintiff in the amount of \$7,500, for her efforts in bringing the Action on behalf of the Class and general release of his all claims. The Parties estimate the cost of administering the Settlement will not exceed \$9,000. The PAGA Penalty Payment in the amount of \$18,750 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$20,000 PAGA Allocation.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement and Defendant's payment of all sums due pursuant to this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representative, the Class and each Class Member who has not submitted a valid and timely request for exclusion as to claims other than the PAGA claim, will release claims as follows:

(a) Identity of Released Parties. The released parties are Defendant and any of its former, future, and present parent, joint venturers, and affiliated corporations and partnerships; their directors, officers, shareholders, owners, members, managers, partners, customers, employees, agents, attorneys, insurers, predecessors, successors, assigns, subsidiaries; and any other individuals, entities, successors, assigns, or legal representatives who could be liable for any of the Released Claims (collectively “Released Parties”).

(b) Date Release Becomes Effective. The Released Claims will be released upon the later of (1) the Settlement's Effective Date, or (2) the satisfaction of Defendant's obligation to provide to the Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Claims or Released PAGA

Claims until both the Effective Date of the Settlement has occurred, and Defendant has paid all amounts owing under the Settlement.

(c) **Claims Released by Participating Class Members.** Each and every Class Member, on behalf of themselves and each of their heirs, assigns and successors, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Releasees from the following claims for the entire Class Period:

1) any and all claims stated in the Plaintiff's First Amended Complaint, in Plaintiff's PAGA notice to the LWDA dated June 30, 2020³ and supplement July 17, 2023 and March 12, 2024, or that could have been stated based on the facts alleged in the First Amended Complaint or Plaintiff's PAGA notices to the LWDA, including but not limited to state wage and hour claims (including all claims under the California Labor Code and Industrial Welfare Commission Wage Orders) for 1) failure to provide compliant meal periods or pay meal period premiums in lieu thereof, (2) failure to provide compliant rest periods or pay rest period premiums in lieu thereof, (3) failure to provide accurate and complete wage statement, (4) failure to pay all wages due in a timely fashion at discharge or resignation, (5) failure to pay at least minimum wage, (6) failure to pay applicable overtime and double time wages, (7) unreimbursed work expenses, (8) failure to provide suitable seating, (9) failure to timely pay wages during employment, and (10) unfair and unlawful business practices arising out of the violations referenced in the Action ("Released Class Claims"). To the extent based on facts alleged on the Operative Complaint or the PAGA Letter, the Released Class Claims encompass, but are not limited to, all claims pursuant to the applicable IWC Wage Order (including Wage Order 4-2001), and Labor Code §§ 201, 201.3, 202, 203, 210, 226, 226.3, 226.7, 510, 512, 558, 1197, 1197.1, 1198, and 2802 (the "Released Class Claims");

2) in addition, as to all PAGA Employees employed during the Released PAGA Claims Period, whether requesting exclusion from the Settlement or not, claims arising under the Private Attorneys General Act of 2004, Labor Code § 2698 et seq., to the extent asserted in Plaintiff's administrative exhaustion letter submitted to the LWDA and the First Amended Complaint in this matter, including, but not limited to, any and all claims for PAGA penalties pursuant to Wage Order 4-2001 and Labor Code §§ 200, 201, 202, 203, 204, 206.5, 210, 221, 223, 224, 225.5, 226, 226.3, 226.7, 510, 512, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1199, 2800, 2802 ("Released PAGA Claims").

No Class Member employed during the PAGA Period can request exclusion from the settlement of the PAGA Claim. If you are a Class Member, and this Settlement is approved, you will release the PAGA Claims even if you timely and properly submit a Request for Exclusion form. The PAGA Employees are bound by the release of the PAGA Claims regardless of whether they cash their PAGA Payment Check.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Class Payment; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Class Payment, **you do not need to take any action.** By remaining in the Class and receiving settlement monies to resolve your class claims, you consent to the release of the Released Claims as described above.

Any amount paid to Participating Class Members will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by Defendant, unless otherwise required by law.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way and you have selected to remain in the Class, you can ask the Court to deny approval of the Settlement by submitting an objection. You can't object to the release of the PAGA Claim or object to the Individual PAGA Payment. You can't ask the Court to order a larger settlement; the Court can only approve or deny the settlement.

If the Court denies approval, no additional settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object.

You may object to the Settlement in writing or by appearing at the Final Approval Hearing, either in-person or through your attorney. If you appear through your own attorney, you are responsible for paying that attorney. You may appear and orally object regardless of whether you submitted a written objection. Written objections should be sent to the Administrator at _____, _____. The written objection in any form should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; (4) the case and number (*Blackmon, et al. v. M&S Security Services, Inc.*, Kern County Superior Court Case No. BCV-23-103332); and (5) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Administrator at the address listed above. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the Final Approval Hearing. Regardless of whether you object in writing, the Court may, in its sole discretion, permit you to state any objections you may have at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.** If you submit a written objection and then request exclusion from, and opt out of, the Class Settlement, you would be deemed to have waived your objection.

Regardless of the form, an objection, alone will not satisfy the requirement that a Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement, as is required under the California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260 (2018).

OPTION B. Request to Be Excluded from the Class and Receive No Money from the Class Action Portion of the Settlement (PAGA Employees Still Will Receive Their Share of the PAGA Employee Payment). You may not seek exclusion from the PAGA portion of this Settlement. However, if you do not want to be part of the Class Settlement, you must complete and return the request for exclusion form to the Administrator at _____. In order to be valid, your request for exclusion form must be signed and include your name, address, telephone number, the last four digits of your social security number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement).

Your Request for Exclusion form (to remove you from the Class Settlement) must postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a Request for Exclusion form on time (as evidenced by the postmark), your request to be excluded from the Settlement will be rejected, you will be deemed a Participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a Request for Exclusion form by the deadline to request exclusion, you will have no further role in the Action as it relates to the Class claims. You will not be able to complain to the Court about any aspect of the Class Settlement and any written objection to the Class Settlement would not be considered valid. **You will not be entitled to any benefit, including money,** as a result of the Action and Settlement, except for any payment you may be receive from the PAGA portion of this Settlement.

IMPORTANT: DO NOT SUBMIT A REQUEST FOR EXCLUSION FORM IF YOU WISH TO BE INCLUDED IN THE CLASS SETTLEMENT AND RECEIVE YOUR SHARE OF THE MONEY AVAILABLE TO YOU AS PART OF THE SETTLEMENT.

What is the next step in the approval of the Settlement?

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's Fees and Expenses, the Class Representative Service Payment, the Administrative Expenses Payment, and the PAGA Allocation on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department T-2 of the Kern County Superior Court, Kern County Superior Court, 3131 Arrow Street, Bakersfield, California 93308. If you wish to attend the Final Approval Hearing remotely, you may do so via Zoom provided in the court's website <https://kern-courts-ca.gov/zoomgov.com/j/16019043837?pwd=WndoWHc1cjJDSdJc2RYaEdtWWRMdz09#success>. If you wish to attend the Final Approval Hearing in person, you can attend it at Kern County Superior Court, Department T-2, 3131 Arrow Street, Bakersfield, California 93308. You are not required to attend the Final Approval Hearing to receive an Individual Class Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment, will be posted on a website by the Administrator for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Class Action and PAGA Settlement Agreement attached to the Declaration of Theodore Tang in Support of Plaintiff's Motion for Preliminary Approval. The Class Action and PAGA Settlement Agreement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the Kern County Superior Court. Class Members may be required to make an appointment with the Court to view documents. You may need the case number to access and view case documents (BCV-23-103332)

You may also view the operative complaint, complete Settlement, and settlement-related notices at the following website: <<website>>.

PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.