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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF CONTRA COSTA**

12 JOSHUA RICCABONA, individually, and on
behalf of the State of California and other
13 aggrieved persons,

14 *Plaintiff,*

15 v.

16 DOLANS OF PINOLE LUMBER AND
BUILDING MATERIALS CO., a California
17 corporation; DOLANS OF CONCORD, a
California corporation; and DOES 1 through 10,
18 inclusive,

19 *Defendants.*
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Lead Case No. C23-02758
Consolidated with Case No. C22-02810

*[Assigned for All Purposes to the Hon.
Edward G. Weil, Dept. 39]*

**DECLARATION OF JOHN G. YSLAS IN
SUPPORT OF PLAINTIFF'S MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION AND PAGA
SETTLEMENT**

Class Action Filed: December 29, 2022
PAGA Action Filed: October 30, 2023

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1. I am an attorney at law licensed to practice before all of the courts of the State of California. I am a senior partner at Wilshire Law Firm, PLC (“WLF”), counsel for Plaintiff Joshua Riccabona (“Plaintiff”) in this matter. I am thoroughly familiar with and have personal knowledge of all of the facts set forth herein.
2. I submit this declaration in support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement.

3. On December 29, 2022, Plaintiff filed a putative class action against Defendant Dolans of Pinole Lumber and Building Materials Co. alleging: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) unfair business practices, in the Superior Court of California, County of Contra Costa, Case No. C22-02810 (“Class Action”).

5. On October 27, 2023, Plaintiff provided amended written notice to the LWDA and Defendants of the specific provisions the Labor Code alleged to have been violated, including the facts and theories in support (“Amended PAGA Notice”). A true and correct copy of Plaintiff’s Amended PAGA Notice is attached hereto as **Exhibit 2**. The LWDA did not notify Plaintiff that it intended to investigate within 65 days of the Amended PAGA Notice. On January 26, 2024,

1 Plaintiff filed a First Amended Complaint in this PAGA Action.

2 6. On July 8, 2024, the Court consolidated the Class Action into this PAGA Action
3 with this PAGA Action designated as the master case.

4 7. The Parties participated in a private full-day mediation with mediator Mark
5 Lehocky, Esq. (“Mr. Lehocky”) on December 23, 2024, and June 5, 2025. The Parties accepted
6 the mediator’s proposal and agreed on general settlement. The parties negotiated the terms of the
7 Settlement over the next few months, which was finalized in October 2025. A true and correct
8 copy of the fully executed Class Action and PAGA Settlement Agreement (“Settlement
9 Agreement” is attached hereto as **Exhibit 3**. Attached thereto as **Exhibit A** is a true and correct
10 copy of the Parties’ proposed Class Notice.

11 8. On February 23, 2026, Plaintiff submitted a copy of the Settlement Agreement to
12 the LWDA. A true and correct copy of the confirmation of submission my office received after
13 submitting the Settlement Agreement to the LWDA is attached hereto as **Exhibit 4**.

14 **Investigation and Exposure Analysis**

15 9. Prior to attending mediation, Plaintiff’s Counsel thoroughly investigated the claims,
16 applicable law, and potential defenses. Plaintiff’s Counsel assessed the value to the class claims
17 using the data and documents Defendants produced in informal discovery. The data and documents
18 produced by Defendants included the number of Class Members and Aggrieved Employees, the
19 number of workweeks in the Class Period, and the number of pay periods in the PAGA Period, all
20 documents concerning Plaintiff available to Defendants, Defendant’s written wage-and-hour
21 policies, and a sampling of Class Members’ time and payroll records.

22 10. Defendants’ records show there are approximately 260 Class Members, making
23 joinder of all Class Members impracticable. Further, given the size and amount of each Class
24 Members’ claim, Class Members have little incentive to litigate their claims on an individual basis
25 because the out-of-pocket expenses and personal commitment necessary to litigate each claim
26 likely outweigh any potential recovery

27 11. Plaintiff has alleged that Defendants maintained common employment policies
28 and/or practices that unlawfully deprived Class Members of wages, meal periods, rest periods,

1 reimbursements for business expenses, accurate wage statements, and timely payment of wages
2 upon separation of employment. These allegations present common factual and legal questions of,
3 *inter alia*, whether Defendants applied the same scheduling, timekeeping, pay, meal period, rest
4 period, and reimbursement policies to all Class Members, whether these policies and practices
5 resulted in Labor Code violations, whether Defendants' conduct was intentional, and whether Class
6 Members are entitled to damages and/or penalties. These common questions could be resolved
7 using Class Members' time records, payroll records, testimony from Defendants' designated
8 representative(s), and Class Members' testimony.

9 12. Although the exposure Plaintiff's Counsel calculated is substantial, the various risks
10 at succeeding at class certification and through trial affected the valuation of the claims for
11 settlement purposes. Based on an analysis of the facts and legal contentions in this case, documents
12 and information from Defendants, Plaintiff's Counsel evaluated Defendants' maximum exposure.
13 Plaintiff's Counsel took into account the risk of not having the claims certified and the risk of not
14 prevailing at trial, even if the claims are certified. After using the data Defendants provided,
15 including class member timekeeping and payroll records, as well as class member demographics,
16 with the assistance of a statistics expert, Plaintiff's Counsel created a damages model to evaluate
17 the realistic range of potential recovery for the class.

18 13. Minimum and Overtime Wages: Plaintiff's unpaid minimum and overtime wage
19 claims were based on the allegation that Defendants required Class Members to routinely perform
20 work duties off the clock. For example, Plaintiff alleges that Defendants required him and other
21 Class Members to perform tasks before clocking in and after clocking out, without compensation.
22 Based on these allegations, Plaintiff's Counsel conservatively estimated that Class Members
23 worked one (1) hour off the clock per week as overtime in calculating potential exposure to be
24 approximately \$993,378.75 for these claims (29,110 workweeks x \$22.75 hourly rate x 1.5
25 overtime rate of pay x 1.00 hour of unpaid work per workweek). Because this claim would have
26 relied heavily on Class Member testimony and would not be evidenced in Defendants' time and
27 payroll records, the risk of succeeding at class certification was substantial. Accordingly,
28 Plaintiff's Counsel applied a risk discount based on a 40% chance of succeeding at class

certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$158,940.60 ($\$993,378.75 \times 40\% \times 40\%$).

14. Meal Periods: Plaintiff's meal period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant meal periods or pay meal period premiums in lieu thereof. For example, Plaintiff alleges that he and the other Class Members were regularly required to work through their recorded meal periods. In addition, Plaintiff's Counsel's expert found a violation rate of approximately 15.2% in Defendants' time and payroll records for shifts greater than five (5) hours. Therefore, potential liability for the meal period claims is approximately \$311,593.46 (90,108 shifts greater than 5.00 hours x \$22.75 hourly rate x 15.2% violation rate). However, Defendants argued that Class Members were covered by standing meal period waivers. Accordingly, Plaintiff's Counsel applied a risk discount based on a 50% chance of succeeding at class certification and a 40% chance of succeeding at trial on the merits, yielding a realistic damage estimate of approximately \$62,318.69 ($\$311,593.46 \times 50\% \times 40\%$).

15. Rest Periods: Plaintiff's rest period claim was based on the allegation that Defendants failed to provide Class Members with legally compliant rest periods or pay rest period premiums in lieu thereof. For example, Plaintiff alleges that Defendants failed to provide him and other Class Members with rest periods. Moreover, Plaintiff alleges that Defendants had a facially invalid written policy that required employees to remain on the premises during their rest periods. Based on these allegations, Plaintiff's Counsel applied a 100% violation rate to all shifts of 3.5 hours or longer. Therefore, potential liability for the rest period claims is approximately \$2,081,170.00 (91,480 shifts of 3.5 hours or longer x \$22.75 hourly rate x 100% violation rate). However, Plaintiff's Counsel discounted this figure to account for the difficulty of certifying and proving rest period claims, particularly because rest periods do not have to be recorded, and to account for the possibility of Class Members voluntarily choosing to forego a rest period. Because this claim would have relied exclusively on Class Member testimony, Plaintiff's Counsel discounted this claim based on a 30% chance of succeeding at class certification and a 20% chance of succeeding at trial, yielding a realistic damage estimate of

approximately \$124,870.20 ($\$2,081,170.00 \times 30\% \times 20\%$).

16. Reimbursement: Plaintiff's reimbursement claim was based on the allegation that Defendants failed to indemnify Class Members for expenses incurred as a direct result of performing their job duties for Defendants. For example, Plaintiff alleges that Defendants required him and other Class Members to use their personal cell phones for work-related purposes. For purposes of calculating Defendants' liability based on a best-case scenario for Plaintiff and the Class, Plaintiff's Counsel estimated that Defendants were liable to each class member for \$30 per month, or \$7.50 per workweek, in unreimbursed expenses, for a total amount of approximately \$218,325.00 ($\$7.50 \times 29,110$ workweeks). Plaintiff's Counsel discounted this figure based on an evaluation of a 30% chance of succeeding at class certification and a 30% chance of succeeding at trial to account for the difficulty of certifying and proving expense reimbursement claims, yielding a realistic damage estimate of approximately \$19,649.25 ($\$218,325.00 \times 30\% \times 30\%$).

17. In sum, Plaintiff's Counsel estimated that Plaintiff's maximum recovery for the off-the-clock claim, meal period violations, and rest period violations (i.e. wage claims) is approximately \$3.39 million, but after factoring in the risk and uncertainty of prevailing at certification and trial, Plaintiff's Counsel estimates that Plaintiff's realistic estimated recovery for the non-penalty wage claims is approximately \$346,129.49.

18. Derivative Penalties: Plaintiff alleged that as a result of Defendants' failure to pay all wages owed, Defendants owed waiting time penalties and wage statement penalties. With respect to Plaintiff's derivative claims for statutory penalties, Plaintiff's Counsel estimated that Defendants' realistic potential liability is approximately \$77,507.64. Defendants' maximum potential liability for waiting time penalties is approximately \$690,144.00 (128 employees x \$22.75 hourly rate x 7.90 hours/day x 30 days) based on approximately 128 formerly employed class members during the 3-year statute of limitations period and an average daily shift length of 7.90 hours. Defendants' maximum potential liability for inaccurate wage statements is approximately \$601,650.00 ($[151 \text{ employees} \times 1 \text{ initial violation/employee} \times \$50 \text{ for an initial violation}] + [(6,092 \text{ pay periods} - 151 \text{ initial violations}) \times \$100 \text{ for each subsequent violation}]$) based on approximately 151 class members who worked during the 1-year statute of limitations

1 period and approximately 6,092 pay periods in that statutory timeframe. In light of the foregoing,
2 Plaintiff's Counsel believes that it would be unrealistic to expect the Court to award the full
3 \$1,291,794.00 in penalties given Defendants' defenses, the contested nature of Plaintiff's claims,
4 the challenges of establishing willfulness as applicable, and the discretionary nature of penalties.
5 Considering that the underlying wage claims are realistically estimated to be approximately
6 \$346,129.49, such a disproportionate award would also raise due process concerns. As such,
7 Plaintiff's Counsel discounted these figures to account for the risk and uncertainty of prevailing at
8 trial, resulting in a realistic evaluation of approximately \$41,408.64 ($\$690,144.00 \times 30\% \times 20\%$)
9 for waiting time penalty claims, and approximately \$36,099.00 ($\$601,650.00 \times 30\% \times 20\%$) for
10 wage statement penalty claims, or approximately \$77,507.64 total for statutory penalties.

11 19. PAGA: For the PAGA claim, Plaintiff's Counsel determined that Defendants'
12 potential exposure could potentially reach \$609,200.00, assuming the initial \$100 penalty would
13 apply for each of the 6,092 pay periods in the PAGA Period. However, even assuming success on
14 the merits of each claim, PAGA gives the Court discretion to reduce penalties for a variety of
15 reasons, including where to do otherwise would result in an award that is unjust, arbitrary and
16 oppressive, or confiscatory. As such, Plaintiff's Counsel discounted this figure to account for the
17 risk and uncertainty of prevailing at trial, resulting in a realistic evaluation of approximately
18 \$60,920.00 ($\$609,200.00 \times 10\%$) for PAGA penalties. The settlement allocates \$30,000.00 of the
19 Gross Settlement Amount to PAGA, therefore the PAGA allocation amounts to 49% of the realistic
20 maximum damages for PAGA penalties ($\$30,000.00 / \$60,920.00$).

21 20. Using these estimated figures, Plaintiff's Counsel predicted that the realistic
22 maximum recovery for all claims, including penalties, would be approximately \$504,206.38.
23 This means that the realistic maximum recovery represents approximately 76% of the
24 \$662,000.00 gross settlement figure ($\$504,206.38 / \$662,000.00$). Considering the risk and
25 uncertainty of prevailing at class certification and at trial, this is an excellent result for the Class.
26 Indeed, because of the proposed Settlement, Class Members will receive timely, guaranteed
27 relief and will avoid the risk of an unfavorable judgment.

28 21. The Net Settlement Amount available for class settlement payments is currently

1 estimated to be \$346,583.33 for approximately 260 Class Members. As a result, each Settlement
2 Class Member would be eligible to receive an average net benefit of approximately \$1,333.01.

3 **Plaintiff's Counsel's Qualifications**

4 22. Plaintiff is represented by WLF. The attorneys at WLF performed significant work
5 and expended litigation costs in prosecuting this matter with no guarantee of payment.

6 23. WLF was selected by Best Lawyers and U.S. News & World Report as one of the
7 nation's Best Law Firms since 2020 and is comprised of more than 100 attorneys and over 600
8 employees. WLF is actively and continuously practicing in employment litigation, representing
9 employees in both individual and class actions in both state and federal courts throughout
10 California.

11 24. WLF is qualified to handle this litigation because its attorneys are experienced in
12 litigating Labor Code violations in individual, class action, and representative action cases. WLF
13 has handled, and is currently handling, numerous wage and hour class action lawsuits, as well as
14 class actions involving consumer rights and data privacy litigation.

15 25. I graduated from the University of California, Santa Barbara with High Honors in
16 1991 with Bachelor of Arts degrees in Psychology. I received my Juris Doctor from UCLA Law
17 School in 1996.

18 26. Upon graduating from law school in 1996, I worked for a boutique law firm
19 practicing general litigation which included employment law matters. Since 2000 (that is, the last
20 25 years) my practice has been exclusively focused on labor and employment matters including
21 handling wage and hour class, collective and representative actions (including the California
22 Private Attorneys General Act, or "PAGA"), including in the international law firms of Morgan,
23 Lewis & Bockius LLP (where I was a senior associate), Foley & Lardner LLP (where I was a
24 partner and a national Vice Chair of the Labor and Employment Group), Norton Rose Fulbright
25 LLP (where I was a partner) and Seyfarth Shaw LLP (where I was a partner and member of the
26 Wage and Hour Practice Group). During my time at these law firms, I was the primary attorney or
27 took a major leading role in defending employers on numerous wage and hour class, collective and
28 representative actions.

1 27. In late June 2022 I left Seyfarth Shaw LLP and joined my current firm, Wilshire
2 Law Firm, PLC, to represent plaintiff employees. I have been and am handling many wage and
3 hour class and representative actions litigating such matters on behalf of plaintiff employees in
4 numerous Superior Courts and District Courts. From matters representing both plaintiffs and
5 defendants, I have successfully mediated the resolution of many wage and hour class, collective,
6 and representative actions. Just since starting to settle cases in late April 2023 I have already
7 successfully mediated matters in which I have been counsel or co-counsel resulting in **well over**
8 **\$225 million** in settlements and verdicts which are in the process of being finalized, and with
9 numerous upcoming mediations scheduled. In those and numerous other matters, I have managed
10 and assisted with the litigation and settlement of many wage and hour PAGA and class actions. In
11 those actions, I performed similar tasks as those performed in the course of prosecuting this action.
12 Indeed, I recently tried and prevailed in achieving a jury verdict in a wage and hour class action in
13 the matter of *Aguilar-Flores v. Javier's – CC LLC*, Los Angeles County Superior Court, Case
14 No. 19STCV36438 (settled after verdict).

15 28. I have received numerous awards for my legal work. For example, from 2015 to
16 2018, I was listed in Los Angeles Super Lawyers for Employment Litigation (Thomson Reuters).
17 I have also served on numerous prominent boards and in other leadership positions, including
18 serving as Southern California Regional President for the Hispanic National Bar Association and
19 on the board of directors of the Mexican American Bar Foundation. I also previously served on the
20 5-member Los Angeles Civil Service Commission, which generally oversees the personnel
21 decisions for the City of Los Angeles.

22 29. I have also published numerous blogs on labor and employment issues including on
23 wage and hour issues. For example, I published “Headline News: Wal-Mart v. Dukes-Impact on
24 Class Action Litigation” (while a partner with Foley & Lardner LLP) and “Are You Really
25 Protected From Wage-and-Hour Successor Liability in an Asset Purchase” (while a partner with
26 Seyfarth Shaw LLP). I have also been a presenter at numerous conferences, including being a
27 presenter involving the “Employment Law Update” at a National Employment Law Council
28 conference.

1 30. Samantha A. Smith was a Senior Attorney at WLF where her practice was focused
2 on managing wage and hour class action and PAGA settlements. Ms. Smith was admitted to the
3 California Bar in December of 2004, and received a J.D. from University of California, Hastings
4 College of the Law and a B.A. from University of California, Davis. Ms. Smith has dedicated her
5 21-year career to plaintiffs’-side class action litigation. Her wealth of experience includes
6 successful work on all stages of class action litigation, including class action appeals, class
7 certification motions, and class settlements. See, e.g., *Blue Diamond Growers Product Labeling*
8 *Cases*, JCCP No. 4822 (Los Angeles County Superior Court) (false advertising of Blue Diamond
9 food products); *Adam vs. eHealth, Inc.*, Case No. 17CV309050 (Santa Clara County Superior
10 Court) (employee data breach); *Overton v. Armour-Eckrich Meats, LLC*, Case No. CIVDS1501325
11 (San Bernardino County Superior Court) (unpaid wages, meal period and rest break claims, and
12 PAGA violations for non-exempt employees); *DeLeon et al. v. Westlake Services, LLC*, Case No.
13 BC 526750 (Los Angeles County Superior Court) (unpaid overtime, meal period and rest break
14 claims for call center employees); *Sawyer v. Retail Data, LLC*, Case No. 30-2014-00753767-CU-
15 OE-CXC (Orange County Superior Court) (unpaid wage and rest break claims for piece rate
16 workers); *Nguyen v. Pharmerica Corporation et al.*, Case No. 30-2014-00716072-CU-OE-CXC
17 (Orange County Superior Court) (unpaid wages and unreimbursed expenses for pharmacists);
18 *Laumea v. Performance Food Group, Inc.*, Case No. CIVDS1407509 (San Bernardino County
19 Superior Court) (unpaid wages, meal and rest break claims for non-exempt employees); *Durroh v.*
20 *East West Bank*, Case No. BC528860 (Los Angeles County Superior Court) (overtime claims for
21 failure to include bonuses in regular rate of pay for bank workers); *Gonzalez et al. v. SFFI*
22 *Company, Inc. et al.*, Case No. CIVDS1504287 (San Bernardino County Superior Court) (unpaid
23 wages, meal period and rest break claims for non-exempt employees).

24 31. Jeffrey C. Bils (“Mr. Bils”) is an eleventh-year Senior Attorney at WLF. He
25 graduated from the University of Wisconsin–Madison with a Bachelor of Arts in Journalism and
26 German, and received his Juris Doctor from the University of California, Los Angeles School of
27 Law in 2014. During law school, Mr. Bils was a Senior Editor on the UCLA Law Review and an
28 Articles Editor on the Entertainment Law Review. Mr. Bils served as a Judicial Extern for the Hon.

1 Consuelo Bland Marshall in United States District Court for the Central District of California, and
2 also for the Hon. Sandra R. Klein of United States Bankruptcy Court for the Central District of
3 California. Mr. Bils graduated ranked No. 7 in his graduating class from UCLA School of Law.
4 He was admitted to practice law in the State of California in 2014. Since graduating from law
5 school, he has focused his legal work primarily on employment matters, including wage-and-hour
6 class action and PAGA representative action litigation, and he has helped obtain dozens of
7 settlements on behalf California workers, as well as on behalf of California employers during his
8 years on the defense bar. Mr. Bils is a member of the Beverly Hills Bar Association (BHBA),
9 where he is a past member of the Board of Governors and a past Chair of the Labor & Employment
10 Law Section Executive Committee. He is also a member of the California Employment Lawyers
11 Association (CELA) and the Consumer Attorneys Association of Los Angeles (CAALA).

12 32. Emily K. Borman (“Ms. Borman”) is a Junior Partner at Wilshire Law Firm, PLC.
13 She was admitted to practice law in the State of California in May 2015. Ms. Borman graduated
14 from Cornell University with a Bachelor of Science in Development Sociology and a Minor in
15 Applied Economics and Management. While at Cornell she was inducted into the Alpha Kappa
16 Delta International Honor Society. Ms. Borman received her Juris Doctor from University of
17 California Law San Francisco (formerly UC Hastings). Since graduating, her practice has been in
18 employment law, including plaintiff-side wage and hour cases. She has received numerous awards
19 for her legal work. In 2021 and from 2023 to 2025, Super Lawyers selected her as a “Southern
20 California Rising Star.”

21 33. Courtney M. Miller (“Ms. Miller”) is a Settlement Attorney at WLF. She was
22 admitted to practice law in the State of California in 2019. Ms. Miller graduated from the
23 University of California, Santa Cruz, with a Bachelor of Arts in Sociology. Prior to becoming an
24 attorney, Ms. Miller worked at a boutique civil litigation firm for nearly a decade, primarily
25 handling employment matters. She earned her Juris Doctor from Southwestern Law School in
26 2019. Ms. Miller has prosecuted wage and hour class and PAGA actions, almost exclusively, since
27 2020. As a handling attorney, Ms. Miller obtained over \$30 million dollars in settlements on behalf
28 of California employees.

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35. WLF is not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected this Settlement.

36. A true and correct copy of the ILYM Group Inc.'s bid to administer this Settlement is attached hereto as **Exhibit 5**. The services covered by this payment are extensive and necessary to carry out the Settlement administration.

Executed on February 23, 2026 at Los Angeles, California.

John G. Yslas

EXHIBIT 1

**WILSHIRE LAW FIRM,
PLC**

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Carolyn Shining, Esq.
Brad Stuckey, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Christina Le, Esq.

Jennifer Leinbach, Esq.
Jeffrey Bils, Esq.
Nathan Kingery, Esq.
Elizabeth Votra, Esq.
Benjamin Haber, Esq.
Ghazaleh Attaran, Esq.
Adam Sherman, Esq.
Jesenia Martinez, Esq.
Arrash Fattahi, Esq.
Jesse Chen, Esq.

August 30, 2023

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Dolans of Pinole Lumber and
Building Materials Co.
990 San Pablo Ave
Pinole, CA 94564
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4829 24

Dolans of Pinole Lumber and
Building Materials Co.
3355 Vincent Rd
Pleasant Hill, CA 94523
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4829 31

Eugene Dolan
Agent for Service of Process
Dolans of Pinole Lumber and
Building Materials Co.
3355 Vincent Rd
Pleasant Hill, CA 94523
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4829 48

Horace W. Green
Stefano Abbasciano
BROTHERS SMITH LLP
2033 N. Main Street, Suite 720
Walnut Creek, CA 94596
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4829 55

Re: ***Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Joshua Riccabona ("Mr. Riccabona" or "Employee") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Dolans of Pinole Lumber and Building Materials Co. ("Dolans" or "Employers"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employee and potentially all of Employers' Aggrieved Employees.

Mr. Riccabona wishes to pursue this action on behalf of Employee as Aggrieved Employees, on behalf of the State of California, as well as on behalf of potentially all other persons who worked for Dolans in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employee and the Aggrieved Employees suffered the Labor Code violations described below.

Mr. Riccabona's Employment with Dolans

Dolans is a building and lumber material supplier. Mr. Riccabona worked as a warehouse associate, regularly assisting in processing products, dispatching orders, replenishing stock, preparing and loading products for transport, and transporting products as a driver. In performing his duties, Mr. Riccabona was frequently deprived of an opportunity to take legally compliant meal and rest breaks due to understaffing and high workload. He is aware that, at times, management fabricated his timecards to show that he received meal breaks that he did not actually receive. He was also often required to work after his scheduled shift (off-the-clock), without compensation. Additionally, Employee was expected to and did incur business-related expenses, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employee asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such, and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code. Mr. Riccabona is a resident of Pittsburg, California who worked for Employers in Contra Costa County, California as an hourly-paid, non-exempt employee from approximately May 2022 to approximately October 2022.

During Employee's employment for Employers, Employers paid Mr. Riccabona an hourly wage and classified him as non-exempt from overtime. Employers typically scheduled Employee to work at least five days in a workweek and at least eight hours per day, but Employee also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employee's employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employee with legally compliant meal periods, failed to authorize and permit Employee to take rest periods, failed to timely pay all final wages to Employee when Employers terminated Employee's employment, failed to furnish accurate wage statements to Employee, failed to indemnify Employee for business expenditures, and failed to produce requested employment records. As discussed below, Employee's experience working for Employers was typical and illustrative.

Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. "Hours worked" is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers failed to pay Employees and the Aggrieved

Employees for all hours worked, including minimum, straight time, and overtime wages. Employers required Employees and the Aggrieved Employees to work “off-the-clock,” uncompensated, by, for example, requiring Employees and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring Employees and the Aggrieved Employees to perform work before clocking in and/or after clocking out. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers failed to properly calculate Employees’ regular rate of pay when paying overtime, by failing to include all compensation in Employees’ overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employees and the Aggrieved Employees worked.

Throughout the statutory period, Employers also engaged in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employees worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to “precisely capture time worked” means that “the employer must pay the employee for that worktime when due.” (*Id.* at 671.) As a result of Employers’ rounding policy, Employees consistently were not compensated at least minimum wage for all hours that Employees worked. As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Despite these legal requirements, Employers wrongfully failed to provide Employee and the Aggrieved Employees with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing to provide Plaintiff, the Class, and the Aggrieved Employees the opportunity to leave the work premises to take meal periods). Employers also continued to assert control over Employee and the Aggrieved Employees by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employee and the Aggrieved Employees permission to take a meal period under the conditions required by law, and without properly compensating Employee and the Aggrieved Employees for meal periods that were not provided as required by law. Employers also did not inform Employee of Employee’s right to, nor permitted Employee to take, all of Employee’s second meal periods when Employee worked at least ten hours of work in a workday and otherwise unlawfully pressured Employee to waive such breaks. Accordingly, Employers failed to provide meal periods to Employee and the Aggrieved Employees in compliance with California law.

Employees and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Employers, however, regularly failed to pay Employee and the Aggrieved Employees the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers have wrongfully failed to authorize and permit Employee and the Aggrieved Employees to take legally compliant rest periods in a manner required by law (and also including but not limited to failing to authorize and permit Plaintiff, the Class, and the Aggrieved Employees the opportunity to leave the work premises to take rest periods). Employers regularly required Employee and the Aggrieved Employees to work in excess of four consecutive hours a day without Employers authorizing and permitting Employee to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employee and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Employers continued to assert control over Employee and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Employees and the Aggrieved Employees permission to take a rest period. Accordingly, Employers failed to authorize and permit Employee and the Aggrieved Employees to take rest periods in compliance with California law. Employee and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, regularly failed to pay Employee and the Aggrieved Employees the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure to pay Employee and the Aggrieved Employees for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Employers failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees suffered damages in those amounts.

Moreover, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Employee and the Aggrieved Employees.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Employers to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employee have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Employee and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers failed, and continue to fail to pay Employee and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate

until paid or until an action is commenced, but the wages shall not continue for more than thirty (30) days.

Accordingly, Employee and the Aggrieved Employees are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers failed to, and continue to fail to timely furnish Employee and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers violated Labor Code § 226, Employee and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Employee and similarly Aggrieved Employees are entitled to recover from Employers the greater of their actual damages caused by Employers’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct

discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers wrongfully required Employee and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Employers. Employee and the Aggrieved Employee regularly paid out-of-pocket for necessary employment-related expenses. Employee and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employee and the Aggrieved Employees for these employment-related expenses.

As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employee and the Aggrieved Employees for necessary business expenditures.

Failure to Produce Requested Employment Records

Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request. Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees' performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions. Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request. On information and belief, Employee and the Aggrieved Employees, or some of them, submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employee and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep "accurate and complete" payroll records showing, among other things, the hours worked daily by Employee and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers failed, and continue to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employee and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers failed and continue to fail to keep accurate and

complete records showing total hours worked by Employee and Aggrieved Employees by virtue of Employers' time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

Employers failed and continue to fail to keep accurate and complete records showing total hours worked by virtue of Employers' failure to relieve Employee and Aggrieved Employees of all duties and Employers' control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed, and continue to fail, to record the true start and end times of Employee's and Aggrieved Employees' meal periods.

Based on further information and belief, Employers further failed and continue to fail, to record the true start and end times of Employee's and Aggrieved Employees' work shifts.

Additionally, Employers failed, and continue to fail to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employee and Aggrieved Employees. Employers' failure to keep "accurate and complete" payroll records for Employee and Aggrieved Employees violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each Labor Code section and Wage Order provision, for each Aggrieved Employees, results in a separate civil penalty.¹

Violation of Wage Theft Protection Act of 2011

Based on information and belief, Employers failed, and continue to fail, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and Aggrieved Employees with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any "doing business as" names used, the name, address and telephone number of the workers' compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay employees at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employee is additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, employees may collect from Employers in connection with these violations' civil penalties pursuant to Labor Code sections 558 and 2699.

Violation of California Labor Code §§ 245-248.5

Throughout the relevant time period, Employers failed to provide proper paid sick leave to Employees and other Aggrieved Employees. Employers either failed to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Employee and other Aggrieved Employees by failing to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

not limited to unpaid meal periods that were restricted to Employers' premises) and by failing to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Employers further failed to provide notice of the correct sick leave amount balance available to Employee and other Aggrieved Employees on their wage statements or other written statement.

Based on information and belief, Employers failed to put NON-EXEMPT AGGRIEVED on notice of their paid sick leave rights—or thereby putting their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Employers failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the NON-EXEMPT AGGRIEVED EMPLOYEE throughout the relevant time period.

Based on information and belief, throughout the relevant period, Employers failed to provide notice of sick leave amount balance left for Employee and other Aggrieved Employees, thus affecting their intelligent exercise of their paid sick leave. But for this failure, Employees and other Aggrieved Employees would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and Employee seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Employee and all Aggrieved Employees.

In violation of Labor Code section 247.5, Employers failed to maintain records documenting the hours worked and paid sick days accrued and used by Employee and all Aggrieved Employees, permitting the presumption that Employee and all Aggrieved Employees were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Employers further failed and continue to fail to comply with Labor Code section 246, by failing to provide Employee and all Aggrieved Employees with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

Employers unlawfully retained and continue to retain paid sick leave that should have been paid but was not, as a result of Employers' failure to properly institute a paid sick leave program.

On information and belief, Employee alleges that all of these practices were experienced and continue to be experienced by other Aggrieved Employees.

Employee requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Employers' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Employee and other Aggrieved Employees are entitled to injunctive relief, attorney's fees, declaratory relief, restitution, and penalties as permitted by law. Employee requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave

Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, Employers violated Labor Code section 248.2 by not providing Aggrieved Employees with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

Employers violated and continue to violate Labor Code section 216 by failing to pay Employee and all Aggrieved Employees for all hours worked at the proper wage rate and by failing to pay Employee and all Aggrieved Employees an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject Employers to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each NON-EXEMPT AGGRIEVED EMPLOYEE, for each pay period during which the statute's provisions were violated.²

Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior*

² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

Court, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, Employers failed to provide Aggrieved Employees with suitable seating, and when such employees were not engaged in duties which required them to stand, no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were working. Lastly, based on information and belief, there were periods of time when Aggrieved Employees were not engaged in active duties of their employment, yet there were no suitable seats in reasonable proximity to the work area and use of seats would not interfere with the performance of their duties.

Employers' Aggrieved Employees worked in various positions. The nature of Employees' and other Aggrieved Employees' work reasonably permitted the use of seats. However, Employers failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas in violation of section 14(A-B) of all applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Employers to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each NON-EXEMPT AGGRIEVED EMPLOYEE, results in a separate civil penalty.³

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Employers willfully and systematically denied Employee and other Aggrieved Employees of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers acted with the intent to deprive them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers paid Employee and other Aggrieved Employees lower wages than those they were entitled to while purporting that Employee and all Aggrieved Employees were properly paid. As such, Employees and all Aggrieved Employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, Employers had and continue to have a uniform policy and practice of failing to allow Aggrieved Employees and Exempt Aggrieved Employees to use their earned vacation/paid time off during their employment and failing to pay all vested, accrued paid time off to Aggrieved Employees and/or Exempt Aggrieved

³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Employees upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

Failure to Timely Provide Temporary Workers with Owed Wages

On information and belief, Employers had and have a policy of failing to provide all temporary workers with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employers would be liable for civil penalties pursuant to Labor Code sections 201.3.

Unlawful Agreements/ Unlawful Criminal History Inquiries

Unlawful Agreements

Labor Code section 432.5 provides that “no employer ... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law.” Based on information and belief, Employers required Employee, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful conditions of employment including but not limited to, unlawful non-compete and/or non-solicitation agreements as well as unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA - CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Employers ordered unlawful financial credit checks on Aggrieved Employees and Exempt Aggrieved Employees, in violation of Labor Code section 1024.5, and required Aggrieved Employees and Exempt Aggrieved Employees to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Employers also required Aggrieved Employees and Exempt Aggrieved Employees to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, based on information and belief, Employers required Employee to submit and/or agree to submit in writing to an unlawful background check as a condition of obtaining and/or holding employment in violation of, including but not limited to, Labor Code section 432.5.

Based on information and belief, Employers required Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to a background check which failed to abide by the requirements set forth in CA Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing to provide a clear and conspicuous disclosure (and/or failing

to provide any disclosure at all), failing to provide disclosures free of extraneous information, failing to provide a lawful purpose for the background check, failing to provide a summary of rights under the ICRAA and/or the FRCA, failing to provide a way by which the individual could request a copy of the report, failing to disclose the name, address, and telephone number of the third party preparing the report, and failing to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By requiring Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Employers violated Labor Code section 432.5.

Based on information and belief, Employers also required Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to provide ongoing consent to Employers to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by requiring applicants and employees to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Employers knew that requiring Aggrieved Employees and Exempt Aggrieved Employees to agree to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring Aggrieved Employees, and Exempt Aggrieved Employees agree in writing to unlawful provisions as a condition of employment, Employers violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Employers asked Aggrieved Employees and Exempt Aggrieved Employees about arrests not resulting in convictions on its employment application, in violation of California law.

Upon information and belief, Employers, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), asked Aggrieved Employees and Exempt Aggrieved Employees about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking about arrests not resulting in convictions, Employers violated Labor Code section 432.7. By asking about convictions at the application phase or prior to extending an employment offer, Employers violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to disclose arrests and/or convictions as a condition of employment.

Unlawful PAGA Waiver

Additionally, Employers violated Labor Code section 432.5 by requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to other unlawful agreements, including but not limited to, an unlawful waiver of PAGA and or representative actions as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to

waive an employee's right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 ("We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.")

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee's individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int'l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 ("There is no individual component to a PAGA action because 'every PAGA action ... is a representative action on behalf of the state.'")

Upon information and belief, Employers required Employee, Aggrieved Employees and Exempt Aggrieved Employees to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees to agree, in writing, to an unlawful PAGA waiver, Employers required written agreement to an unlawful provision as a condition of employment which is a violation of labor code section 432.5.

As such, Employee, Aggrieved Employees and Exempt Aggrieved Employees continue to be subject to various unlawful provisions as a condition of employment.

Preventing Employees from Using or Disclosing Skills, Knowledge, and Experience

On information and belief, Employers had and have a policy or practice of preventing Employee and/or other aggrieved employees from using or disclosing the skills, knowledge, and experience they obtained at Employers for purposes of competing with Employers, including, without limitation, preventing Employee from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employers and under what circumstances they might be receptive to an offer from a rival employer. As such, Employee is informed and believes that this violates Business and Professions Code sections 17200, 16600 and 16700, and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employers would be liable for civil penalties pursuant to Labor Code section 2699.

Whistleblower Violations

On information and belief, Employers had and have a policy or practice of preventing Employee and/or other Aggrieved Employees from disclosing violations of state and federal law, either within Employers to their managers or outside Employers to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and, thus, in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices prevent Employee and/or other Aggrieved Employees from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code sections 98.6, 232, and 232.5. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Workplace Health and Safety Violations

On information and belief, Employers had and have a policy or practice of failing to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations and

processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employee is informed and believes, and based thereon alleges that Employers had and have a policy or practice of requiring or permitting employees to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employee is informed and believes, and based thereon alleges that Employers had and have a policy or practice of failing or neglecting to: provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employee is informed and believes, and based thereon alleges that these failures include, without limitation, failing to disinfect time clocks and other surfaces after use by Employee and/or other Aggrieved Employees; failing to provide adequate protection equipment to Employee and/or other Aggrieved Employees; and failing to provide adequate distance in working conditions between Employee and/or other Aggrieved Employees.

On information and belief, Employers violated section 1527, 3366, 3457 and 8397.4 by failing to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Action for Civil Penalties Under PAGA

In light of the above, Employee alleges that Employers violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;
8. Labor Code § 2802 by failing to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing to timely produce requested payroll records, timecards, and personnel records;
10. Labor Code § 1174 by failing to keep accurate and complete payroll records;
11. Labor Code §§ 245-248.5 by failing to provide proper sick leave and supplemental paid sick leave;
12. Labor Code § 216 for refusal to pay wages due and payable and/or denial of the validity of any claim to wages due;

13. Labor Code § 223 for secretly paying wages lower than required by statute while purporting to pay legal wages;
14. Labor Code § 227.3 for failure to pay vested vacation and/or paid time off;
15. Section 14(A-B) of all applicable IWC Wage Orders for failure to provide suitable seating;
16. Labor Code § 432.5 for unlawful agreements;
17. Labor Code § 201.3 for failure to timely provide temporary workers with wages;
18. Labor Code §§ 98.6, 232, 232.5, 1102.5, and 1197.5 for preventing employees from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations;
19. Labor Code § 432.7 for unlawful inquiries into criminal histories; and
20. Labor Code §§ 1527, 3366, 3457, 8397.4, 6401, and 6401 for workplace health and safety violations.

Therefore, on behalf of potentially all Aggrieved Employees, Employee seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

A handwritten signature in black ink, appearing to read "John Yslas", is written over the printed name.

John G. Yslas, Esq.

EXHIBIT 2

WILSHIRE LAW FIRM, PLC

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Ghazaleh Attaran, Esq.
Adam Sherman, Esq.
Jesenia Martinez, Esq.
Arrash Fattahi, Esq.
Jesse Chen, Esq.

October 27, 2023

LWDA

Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

Dolans of Pinole Lumber and Building Materials Co.
990 San Pablo Ave
Pinole, CA 94564
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4793 20

Dolans of Concord
Attn: Eugene Dolan
3355 Vincent Rd
Pleasant Hill, CA 94523
(Via Certified Mail, Return Receipt Requested)
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Horace W. Green
Stefano Abbasciano
BROTHERS SMITH LLP
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Walnut Creek, CA 94596
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4793 44

Re: ***Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al.***
Amended Notice of Labor Code Violations and PAGA Penalties
LWDA Case No.: LWDA-CM-978704-23

To Whom It May Concern:

Please be advised that my office has been retained by Joshua Riccabona ("Mr. Riccabona" or "Employee") to pursue a Labor Code Private Attorneys General Act of 2004 ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against Employee's former employers, Dolans of Pinole Lumber and Building Materials Co., and Dolans of Concord (collectively, "Dolans" or "Employers" – who are joint employers). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Employers engaged in with respect to Employee and some or potentially all of Employers' Aggrieved Employees.

This letter amends Mr. Riccabona's August 30, 2023 letter to the LWDA by adding Dolans of Concord as an employer.

Mr. Riccabona wishes to pursue this action on behalf of Employee as Aggrieved Employees, on behalf of the State of California, as well as on behalf of some or potentially all other persons who worked for Dolans in California as a non-exempt or hourly-paid employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

Employee and the Aggrieved Employees, or some of them, suffered the Labor Code violations described below.

Mr. Riccabona's Employment with Dolans

Employers are a building and lumber material supplier. Mr. Riccabona worked as a warehouse associate, regularly assisting in processing products, dispatching orders, replenishing stock, preparing and loading products for transport, and transporting products as a driver. In performing Employee's duties, Employee was regularly required to perform work (off-the-clock), without compensation. Due to understaffing and high workloads, Employee was also frequently deprived of an opportunity to take legally compliant meal and rest breaks. Employers failed to provide Employee and other Aggrieved Employees with the meal and rest break premiums they were entitled to under the Labor Code. Additionally, Employee necessarily incurred business-related expenses, but Employers failed to reimburse such business-related expenses. These are just non-exhaustive examples of the facts and theories the Employee asserts, which are described in more detail below.

Employers own/owned and operate/operated an industry, business, and establishment within the State of California. As such, and based upon all the facts and circumstances incident to Employers' business in California, Employers are subject to the California Labor Code, Wage Orders issued by the Industrial Welfare Commission ("IWC"), and the California Business & Professions Code.

Mr. Riccabona is a resident of Pittsburg, California who worked for Employers in Contra Costa County, California as an hourly-paid, non-exempt employee from approximately May 2022 to approximately October 2022.

During Employee's employment for Employers, Employers paid Employee an hourly wage and classified Employee as non-exempt from overtime. Employers typically scheduled Employee to work at least five days in a workweek and at least eight hours per day, but Employee also worked more than eight hours in a workday and more than forty (40) hours in a workweek.

Throughout Employee's employment, Employers failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Employee with legally compliant meal periods, failed to authorize and permit Employee to take rest periods, failed to timely pay all final wages to Employee when Employers terminated Employee's employment, failed to furnish accurate wage statements to Employee, failed to indemnify Employee for business expenditures, and failed to timely produce Employee's requested employment records. As discussed below, Employee's experience working for Employers was typical and illustrative.

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Failure to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Employers at times failed to pay Employee and the Aggrieved Employees, or some of them, for all hours worked, including minimum, straight time, and overtime wages. Employers at times required Employee and the Aggrieved Employees, or some of them, to work “off-the-clock,” uncompensated, by, for example, requiring Employee and the Aggrieved Employees to perform work during uncompensated meal periods and rest periods, and requiring Employee and the Aggrieved Employees to perform work before clocking in and/or after clocking out. Some of this unpaid work should have been paid at the overtime rate. California Labor Code § 510 requires that employers compensate employees 1.5 times their regular rate of pay when employees work over eight hours per day, 40 hours per week, or when employees work up to eight hours on any seventh day of a workweek. Employers at times failed to properly calculate Employee’s regular rate of pay when paying overtime, by failing to include all compensation in Employee’s overtime calculations. In failing to pay for all hours worked, Employers also failed to maintain accurate records of the hours Employee and the Aggrieved Employees, or some of them, worked.

Throughout the statutory period, Employers also engaged, at times, in a practice of improper rounding. Under *Camp v. Home Depot U.S.A., Inc.* (2022) 84 Cal.App.5th 638, because Employers could and did track the exact time in minutes that Employee worked, they must pay for all time worked. When an employer uses an electronic timekeeping system to record time worked, this ability to “precisely capture time worked” means that “the employer must pay the employee for that worktime when due.” (*Id.* at 671.) As a result of Employers’ rounding policy, Employee consistently was not compensated at least minimum wage for all hours that Employee worked.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal periods no later than the start of sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period no later than the start of the eleventh hour of work in the workday. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Despite these legal requirements, Employers at times wrongfully failed to provide

Employee and the Aggrieved Employees, or some of them, with their legally mandated 30-minute, uninterrupted, and duty-free meal period in a manner required by law (and also including but not limited to failing at times to provide Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take meal periods). Employers also continued to assert control over Employee and the Aggrieved Employees, or some of them, by, among other things, requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Employee and the Aggrieved Employees, or some of them, permission to take a meal period under the conditions required by law, and without properly compensating Employee and the Aggrieved Employees, or some of them, for meal periods that were not provided as required by law. Employers also did not inform Employee of Employee's right to, nor permitted Employee to take, all of Employee's second meal periods when Employee worked at least ten hours of work in a workday and otherwise unlawfully pressured Employee to waive such breaks. Accordingly, Employers at times failed to provide meal periods to Employee and the Aggrieved Employees, or some of them, in compliance with California law.

Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday they were not provided with all required meal period(s). Employers, however, at times failed to pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for meal periods that were not provided.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e., more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Employers at times have wrongfully failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take legally compliant rest periods in a manner required by law (and also including but not limited to failing, at times, to authorize and permit Plaintiff, the Class, and the Aggrieved Employees, or some of them, the opportunity to leave the work premises to take rest periods). Employers at times required Employee and the Aggrieved Employees, or some of them, to work in excess of four consecutive hours a day without Employers' authorizing and permitting Employee to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Employee and the Aggrieved Employees, or some of them, for rest periods that were not authorized or permitted. Instead, Employers at times continued to assert control over Employee and the Aggrieved Employees, or some of them, by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or at times by denying Employee and the Aggrieved Employees, or some of them, permission to take a rest period. Accordingly, Employers at times failed to authorize and permit Employee and the Aggrieved Employees, or some of them, to take rest periods in compliance with California law. Employee and the Aggrieved Employees, or some of them, are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Employers, however, at times failed to

pay Employee and the Aggrieved Employees, or some of them, the additional wages to which they were entitled for rest periods that they were not authorized and permitted to take.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Pay All Earned Wages Twice Per Month

Based on Employers' failure at times to pay Employee and the Aggrieved Employees, or some of them, for all wages as discussed above, Employers also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, at times, Employers failed and refused to pay the Employee all wages due, and failed to pay those wages twice a month, in that Employee was not paid all wages for all meal periods not provided by Employers, all wages for all rest periods not authorized and permitted by Employers, and all wages for all hours worked. As a result, Employers owe Employee the legally required wages for unpaid wages, and Employee and the Aggrieved Employees, or some of them, suffered damages in those amounts.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Employee seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Employers, however, at times failed to maintain accurate records of hours worked and all meal periods taken or missed by Employee and the Aggrieved Employees, or some of them.

Employers' failure to provide and maintain records required by the California Labor Code and the applicable IWC Wage Orders deprived Employee and the Aggrieved Employees, or some of them, the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Employers' records. Therefore, Employee and the Aggrieved Employees, or some of them, had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Employers. As a direct result, Employee and the Aggrieved Employees, or some of them, have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorneys' fees in seeking to compel Employers to fully perform their obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Employers' knowing failure, at times, to comply with the California Labor Code and applicable IWC Wage Orders, Employee and the Aggrieved Employees, or some of them, have also suffered

an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Employee and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Employers at times failed, and continue at times to fail, to pay Employee and terminated Aggrieved Employees, or some of them, without abatement, all wages required to be paid by Labor Code sections 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Employers' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Employers' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Employee and the Aggrieved Employees, or some of them, are entitled to recover from Employers their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Employers at times failed to, and continue at times to fail, to timely furnish Employee and the Aggrieved Employees, or some of them, with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Employers at times violated Labor Code § 226, Employee and similarly Aggrieved Employees, or some of them, suffered injury and damage to their statutorily protected rights. Accordingly, Employee and similarly Aggrieved Employees, or some of them, are entitled to recover from Employers the greater of their actual damages caused by Employers’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee. Moreover, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code § 226.3 for failing to timely furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify their employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Employers at times wrongfully required Employee and the Aggrieved Employees, or some of them, to pay expenses that they incurred in direct discharge of their duties for Employers. Employee and the Aggrieved Employees, or some of them, at times paid out-of-pocket for necessary employment-related expenses. Employee and the Aggrieved Employees, or some of them, incurred substantial expenses as a direct result of performing their job duties for Employers, but Employers failed to indemnify Employee and the Aggrieved Employees, or some of them, for these employment-related expenses.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Employee and the Aggrieved Employees, or some of them, for necessary business expenditures.

Failure to Produce Requested Employment Records

Labor Code § 226 provides that current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request. Labor Code § 1198.5(a) also provides that every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employees’ performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer

must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the employer receives the written request, subject to some limited exceptions. Labor Code § 432 provides that if an employee or applicant signs any instrument relating to the obtaining or holding of employment, he or she shall be given a copy of the instrument upon request. On information and belief, Employee and the Aggrieved Employees, or some of them, submitted written request(s) to Employers for their payroll records, timecards, and personnel records but did not timely receive them as required by the Labor Code.

As a result, Employers are liable to Employee and the Aggrieved Employees, or some of them, for the civil penalties provided for in Labor Code §§ 226(f), 1198.5(k), and 2699 for failing to timely produce the requested records.

Recordkeeping Requirement Violations

California Labor Code section 1174 requires employers to keep “accurate and complete” payroll records showing, among other things, the hours worked daily by Employees and Aggrieved Employees. All applicable IWC Wage Orders, section 7 similarly requires employers to keep accurate time records reflecting the times during which all owed meal periods were provided each day.

Based on information and belief, Employers at times failed, and continue at times to fail, to keep accurate and complete payroll records as required by law, including but not limited to the following records: total daily hours worked, applicable rates of pay, time records showing when Employee and other Aggrieved Employees began and ended each work period, time records of meal periods, and accurate itemized wage statements.

Based on information and belief, Employers at times failed and continue at times to fail to keep accurate and complete records showing total hours worked by Employee and Aggrieved Employees, or some of them, by virtue of Employers’ time rounding and/or auto deduction policies and practices and/or other off-the-clock work policies and practices.

Employers failed at times and continue at times to fail to keep accurate and complete records showing total hours worked by virtue of Employers’ failure to relieve Employee and Aggrieved Employees, or some of them, of all duties and Employers’ control for unpaid meal periods, resulting in unpaid hours worked.

Based on information and belief, Employers further failed at times, and continue at times to fail, to record the true start and end times of Employee’s and Aggrieved Employees’ meal periods, or some of them.

Based on further information and belief, Employers further failed at times and continue at times to fail, to record the true start and end times of Employee’s and Aggrieved Employees’ work shifts, or some of them.

Additionally, Employers at times failed, and continue at times to fail, to keep accurate records and issue accurate wage statements by not documenting accrued sick time for Employee and Aggrieved Employees, or some of them. Employers’ failure to keep “accurate and complete” payroll records for Employee and Aggrieved Employees, or some of them, violates Labor Code sections 1174, 1198, 1199, and all applicable IWC Wage Orders, section 7. These violations subject Employers to civil penalties under Labor Code sections 558.1, 226.6, 1174.5 and 2699. Each violation of each

Labor Code section and Wage Order provision, for each Aggrieved Employee (or some of them), results in a separate civil penalty.¹

Violation of Wage Theft Protection Act of 2011

Based on information and belief, Employers failed at times, and continue at times to fail, to comply with the notice requirements of Labor Code section 2810.5 (*i.e.*, the Wage Theft Protection Act of 2011) by, among other things, failing to provide Employee and Aggrieved Employees, or some of them, with the rates of pay and overtime rates of pay applicable to their employment, allowances claimed as part of the minimum wage, the regular payday designated by Employers, the name of the employer, including any “doing business as” names used, the name, address and telephone number of the workers’ compensation insurance carrier, information regarding paid sick leave, and other pertinent information required to be disclosed by Employers under Labor Code section 2810.5. Employee is informed and believes that failure to provide such information, including rates of pay that are in effect, has permitted Employers to pay Aggrieved Employees, or some of them, at rates of pay that were not agreed upon and violate minimum wage and overtime wage laws in California. Employee is additionally informed and believes that the notice requirement of Labor Code section 2810.5 involves a mandatory payroll or workplace injury reporting. Among other relief, Aggrieved Employees, or some of them, may collect from Employers in connection with these violations’ civil penalties pursuant to Labor Code sections 558 and 2699.

Violation of California Labor Code §§ 245-248.5

Throughout the relevant time period, Employers at times failed to provide proper paid sick leave to Employee and other Aggrieved Employees, or some of them. Employers either failed at times to provide paid sick leave at all or improperly calculated the sick leave accrual and the sick leave rate of pay owed to Employee and other Aggrieved Employees, or some of them, by failing at times to base the accrued sick leave hours on the correct number of hours worked (as a result of the rounding/automatic deduction policies and practices for meal periods and/or shift start and end times/other required off-the-clock work including but not limited to unpaid meal periods that were restricted to Employers’ premises) and by failing at times to incorporate multiple rates of pay and/or all non-discretionary remuneration, including but not limited to, non-discretionary bonuses, shift differential pay and/or other non-discretionary compensation into the sick leave pay rate calculation.

Based on information and belief, Employers further failed at times to provide notice of the correct sick leave amount balance available to Employee and other Aggrieved Employees, or some of them, on their wage statements or other written statement.

Based on information and belief, Employers at times failed to put Aggrieved Employees, or some of them, on notice of their paid sick leave rights, thereby failing at times to put their entitlement to sick leave in a Labor Code section 2810.5 notice. In addition, Employers at times failed to maintain accurate records of used sick leave and the balance of paid sick leave left to the Aggrieved Employees, or some of them..

Based on information and belief, Employers at times failed to provide notice of sick leave amount balance left for Employee and other Aggrieved Employees, or some of them, thus affecting their

¹ See Lab. Code §2699(f)(2) (establishing that the civil penalty is “for each aggrieved employee per pay period”).

intelligent exercise of their paid sick leave. But for this failure, Employee and other Aggrieved Employees, or some of them, would have used their paid sick leave at least prior to their respective separations, for as on several occasions thereafter, he or she would have been entitled to use the banked sick leave and earn appropriate compensation.

This illegal retention of paid sick leave is unlawful, and Employee seeks all forms of injunctive relief, restitution, and declaratory relief as permitted by California law, on behalf of Employee and the Aggrieved Employees, or some of them.

In violation of Labor Code section 247.5, Employers at times failed to maintain records documenting the hours worked and paid sick days accrued and used by Employee and Aggrieved Employees, or some of them, permitting the presumption that Employee and these Aggrieved Employees, or some of them, were entitled to the maximum number of hours accruable under this article.

Upon information and belief, Employers at times further failed and continue at times to fail to comply with Labor Code section 246, by failing to provide Employee and Aggrieved Employees, or some of them, with a Labor Code section 226 wage statement, or separate writing containing the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, at the time it pays wages.

Employers at times unlawfully retained and continue at times to retain paid sick leave that should have been paid but was not, as a result of Employers' failure, at times, to properly institute a paid sick leave program.

On information and belief, Employee alleges that these practices at times were experienced and continue to be experienced at times by other Aggrieved Employees, or some of them.

Employee requests all appropriate relief under the PAGA and these statutes, including but not limited to the restitution of earned paid sick leave that could have been used, but was not due to Employers' sole failure to institute such a paid sick leave entitlement or paid sick leave bank as required by California law.

Accordingly, Employee and other Aggrieved Employees, or some of them, are entitled to injunctive relief, attorneys' fees, declaratory relief, restitution, and penalties as permitted by law. Employee requests all relief pursuant to the aforementioned code provisions, including but not limited to Labor Code sections 233 and 234, which incorporates the paid sick leave requirements.

Failure To Provide Supplemental Paid Sick Leave

Labor Code section 248.2 provides that all employers with 26 or more employees are required to provide up to 80 hours for covered employees to take 2021 COVID-19 Supplemental Paid Sick Leave to care for themselves, to care for a family member or if it is vaccine-related. Based on information and belief, Employers at times violated Labor Code section 248.2 by not providing Aggrieved Employees, or some of them, with required 2021 COVID-19 Supplemental Paid Sick Leave.

Refusal to Make Payment

Labor Code section 216 declares unlawful an employer's refusal to pay wages due and payable and/or denial of the validity of any claim to wages due.

Employers at times violated and continue at times to violate Labor Code section 216 by failing to pay Employee and Aggrieved Employees, or some of them, for all hours worked at the proper wage rate and by failing to pay Employee and Aggrieved Employees, or some of them, an additional hour of pay for each meal and/or rest period not provided or that was invalid. *Gould v. Maryland Sound Industries, Inc.* (1995) 31 Cal.App.4th 1137, 1154-1155.

These violations subject Employers to civil penalties under Labor Code section 225.5. Each violation results in a *separate* civil penalty, for each Aggrieved Employee (or some of them) so affected, for each pay period (or some of them) during which the statute's provisions were violated.²

Seating Violations

Per section 14(A-B) of all applicable IWC Wage Orders, employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats and when they are not actively engaged in the work duties that would not permit them to be seated.

All applicable IWC Wage Orders, Section 14(A-B) provides:

(A) All working employees shall be provided with suitable seats when the nature of the work reasonably permits the use of seats.

(B) When employees are not engaged in the active duties of their employment and the nature of the work requires standing, an adequate number of suitable seats shall be placed in reasonable proximity to the work area and employees shall be permitted to use such seats when it does not interfere with the performance of their duties.

Suitable seating is one of the worker protections covered by California's Wage Orders, which have the same dignity as statutes, are remedial in nature and are to be broadly construed to effectuate the goal of protecting the comfort and welfare of employees. *Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1027 (2012).

Based on information and belief, Employers at times failed to provide Aggrieved Employees, or some of them, with suitable seating, and when such employees, or some of them, were not engaged in duties which required them to stand, at times no seating was placed in reasonable proximity to their workstations.

Moreover, based on information and belief, the nature of the work reasonably permitted the use of seats for at least part of the time that Aggrieved Employees were working. Lastly, based on information and belief, Aggrieved Employees at times were not engaged in active duties of their employment, yet at times there were no suitable seats in reasonable proximity to the work area, and use of seats would not have interfered with the performance of their duties.

² Labor Code § 225.5 (establishing that “[i]n addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of sections 212, 216, 221, 222, or 223 shall be subject to a civil penalty...for each failure to pay each employee”) (emphasis added).

Employers' Aggrieved Employees worked in various positions. The nature of Employee's and other Aggrieved Employees' work, or some of them, reasonably permitted the use of seats. However, Employers at times failed to provide suitable seating in reasonable proximity to Aggrieved Employees' work areas, or some of them, in violation of section 14(A-B) of applicable Wage Orders, and Labor Code sections 1198 and 1199, subjecting Employers to civil penalties under Labor Code sections 1199 and 2699. Each violation of each Labor Code section and IWC Wage Order provision, for each Aggrieved Employee, or some of them, results in a separate civil penalty.³

Statutory Wage Violations

Labor Code section 223 makes it unlawful for an employer to secretly pay wages lower than required by statute while purporting to pay legal wages.

As described above, Employers at times willfully and systematically denied Employee and other Aggrieved Employees, or some of them, of minimum and overtime wage compensation for all hours worked which resulted in the payment of less than statutorily required wages owed to them. Employers at times acted with the intent to deprive some or all of them of statutory wages, including, but not limited to, overtime wages and minimum wages, to which they were entitled to under California law.

Thus, Employers at times paid Employee and other Aggrieved Employees, or some of them, lower wages than those to which they were entitled, while purporting that Employee and all Aggrieved Employees were properly paid. As such, Employee and Aggrieved Employees, or some of them, are entitled to recover penalties, attorneys' fees, costs, and interest thereon, pursuant to Labor Code § 2699(f)-(g).

Failure to Pay Vested Vacation/Paid Time Off

California Labor Code section 227.3 provides that when an employer policy provides for paid vacations and/or paid time off, and an employee is terminated without having taken off his, her, or their vested vacation time, all vested vacation shall be paid to the employee as wages at the employee's final rate in accordance with such contract of employment or employer policy respecting eligibility or time served and that there shall be no forfeiture of vested vacation time or paid time off upon termination. Based on information and belief, Employers at times had and continue at times to have a policy and/or practice of failing to allow Aggrieved Employees, or some of them, and Exempt Aggrieved Employees, or some of them, to use their earned vacation/paid time off during their employment and failing at times to pay all vested, accrued paid time off to Aggrieved Employees, or some of them, and/or Exempt Aggrieved Employees, or some of them, upon separation of employment, in violation of California law, including but not limited to, Labor Code section 227.3.

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³ See Lab. Code §2699(f)(2) (establishing that the civil penalty is "for each aggrieved employee per pay period").

Failure to Timely Provide Temporary Workers with Owed Wages

On information and belief, Employers at times had and have failed to provide temporary workers, or some of them, with owed wages weekly by not later than the regular payday of the following week. As a result, pursuant to Labor Code section 201.3, Employers would be liable for civil penalties pursuant to Labor Code sections 201.3.

Unlawful Agreements/ Unlawful Criminal History Inquiries

Unlawful Agreements

Labor Code section 432.5 provides that “no employer ... shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer ... to be prohibited by law.” Based on information and belief, Employers at times required Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to unlawful conditions of employment including but not limited to unlawful non-compete and/or non-solicitation agreements as well as unlawful criminal and/or financial checks as a condition of obtaining and/or continuing employment in violation of Labor Code section 432.5.

The California Labor Code places certain procedural and substantive limits on employers’ ability to conduct employee background checks and on how employers can use the information they obtain through those background checks. Labor Code section 1024.5 states that employers, except for financial institutions, may order a credit check only if the individual works (or is applying to work) in certain positions (e.g., managerial positions, financially-related positions, and certain government positions). Additionally, the Investigative Consumer Reporting Agencies Act (ICRAA - CA Civil Code section 1786, *et seq.*) and the Fair Credit Reporting Act (FCRA - 15 U.S.C. section 1681, *et seq.*) mandate several requirements prior to and following an employee background check, including but not limited to identifying an appropriate reason for the background check, a separate consent form with required disclosures and certain formatting requirements, additional forms such as a summary of rights, a way by which to request a copy of the report, as well as proper notice of adverse actions taken, among other statutory requirements.

Based on information and belief, Employers at times ordered unlawful financial credit checks on Aggrieved Employees and Exempt Aggrieved Employees, or some of them, in violation of Labor Code section 1024.5, and at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to provide ongoing written consent to the unlawful credit checks as a condition of employment, in violation of California and Federal law, which results in a further violation of Labor Code section 432.5.

Based on information and belief, Employers also at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to submit and/or agree to submit in writing to unlawful criminal background checks as a condition of obtaining and/or holding employment in violation of the ICRAA and the FCRA. For example, based on information and belief, Employers required Employee to submit and/or agree to submit in writing to an unlawful background check as a condition of obtaining and/or holding employment in violation of, including but not limited to, Labor Code section 432.5.

Based on information and belief, Employers at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to a background check which failed to abide by the requirements set forth in California Civil Code section 1786, *et seq.* and 15 U.S.C. section 1681, *et seq.*, including but not limited to by failing, at times, to provide a clear and

conspicuous disclosure (and/or failing to provide any disclosure at all), failing at times to provide disclosures free of extraneous information, failing at times to provide a lawful purpose for the background check, failing at times to provide a summary of rights under the ICRAA and/or the FRCA, failing at times to provide a way by which the individual could request a copy of the report, failing at times to disclose the name, address, and telephone number of the third party preparing the report, and failing at times to properly obtain authorization or consent to such a background check, and thus was an unlawful background check.

By at times requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to unlawful criminal and/or financial checks not in conformance with the applicable laws, Employers violated Labor Code section 432.5.

Based on information and belief, Employers also at times required Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to provide ongoing consent to Employers to conduct background checks throughout the duration of employment, in violation of the ICRAA and/or FCRA and/or other applicable laws, resulting in a further violation of Labor Code section 432.5, by at times requiring applicants and employees, or some of them, to agree to an unlawful provision as a condition of employment.

Based on further information and belief, Employers knew that requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree at times to unlawful criminal and/or financial background checks as a condition of obtaining and/or holding employment was unlawful.

By requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree at times in writing to unlawful provisions as a condition of employment, Employers violated Labor Code section 432.5.

Unlawful Inquires into Criminal History

Labor Code section 432.7 prohibits an employer from asking applicants about past arrest(s) unless they resulted in conviction(s) and even then, certain limitations apply. Based on information and belief, Employers at times asked Aggrieved Employees and Exempt Aggrieved Employees, or some of them, about arrests not resulting in convictions on their employment application, in violation of California law.

Upon information and belief, Employers, in violation of California law, including but not limited to the Fair Chance Act/the California Fair Employment and Housing Act (“FEHA”), at times asked Aggrieved Employees and Exempt Aggrieved Employees, or some of them, about convictions prior to extending an offer of employment and/or otherwise impermissibly inquired into criminal history on their employment application in violation of California law.

By asking, at times, about arrests not resulting in convictions, Employers violated Labor Code section 432.7. By asking, at times, about convictions at the application phase or prior to extending an employment offer, Employers violated California’s Fair Chance Act, and thereby violated Labor Code section 432.5 by unlawfully requiring Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to disclose arrests and/or convictions as a condition of employment.

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Unlawful PAGA Waiver

Additionally, Employers at times violated Labor Code section 432.5 by requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to other unlawful agreements, including but not limited to an unlawful waiver of PAGA and or representative actions, as a condition of employment.

An action pursuant to PAGA “...is a representative action on behalf of the state” *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87. It is well settled that agreements purporting to waive an employee’s right to a trial of PAGA claims is contrary to California law and unenforceable. *See Iskanian v CLS Transportation Los Angeles, LLC* (2014) 59 Cal. 4th 348, 384 (“We conclude that where, as here, an employment agreement compels the waiver of representative claims under the PAGA, it is contrary to public policy and unenforceable as a matter of state law.”).

Moreover, the California Supreme Court has ruled that a court cannot compel arbitration of an aggrieved employee’s individual PAGA claim because there is no such thing as an individual PAGA claim. *Kim v Reins Int’l California, Inc.*, (2020) 9 Cal. 5th 73, 86-87 (“There is no individual component to a PAGA action because ‘every PAGA action ... is a representative action on behalf of the state.’”).

Upon information and belief, Employers at times required Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree in writing to waive their right to a trial of PAGA claims in violation of California law. By at times requiring Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, to agree, in writing, to an unlawful PAGA waiver, Employers at times required written agreement to an unlawful provision as a condition of employment, which is a violation of labor code section 432.5.

As such, Employee, Aggrieved Employees and Exempt Aggrieved Employees, or some of them, continue to be subject at times to various unlawful provisions as a condition of employment.

Preventing Employees from Using or Disclosing Skills, Knowledge, and Experience

On information and belief, Employers at times have prevented Employee and/or other Aggrieved Employees, or some of them, from using or disclosing the skills, knowledge, and experience they obtained at Employers for purposes of competing with Employers, including, without limitation, preventing Employees, or some of them, from disclosing their wages in negotiating a new job with a prospective employer, and from disclosing who else works at Employers and under what circumstances they might be receptive to an offer from a rival employer. As such, Employee is informed and believes, this violates Business and Professions Code sections 17200, 16600 and 16700 and, by virtue thereof, various provisions of the Labor Code, including Labor Code sections 232, 232.5, and 1197.5, subdivision (k). Employers would be liable for civil penalties pursuant to Labor Code section 2699.

Whistleblower Violations

On information and belief, Employers at times have prevented Employee and/or other Aggrieved Employees, or some of them, from disclosing violations of state and federal law, either within Employers to their managers or outside Employers to private attorneys or government officials, among others, in violation of Business and Professions Code section 17200, and thus in violation of Labor Code section 1102.5. In addition, Employee is informed and believes that these policies and/or practices at times prevent Employee and/or other Aggrieved Employees, or some of them,

from disclosing information about unsafe or discriminatory working conditions, or about wage and hour violations in violation of Labor Code sections 98.6, 232, and 232.5. These violations of the Labor Code would expose Employers to liability for civil penalties pursuant to Labor Code section 2699.

Workplace Health and Safety Violations

On information and belief, Employers at times have failed to furnish and use safety devices and safeguards, and adopt and use practices, means, methods, operations and processes which are reasonably adequate to render such employment and place of employment safe and healthful, pursuant to, including but not limited to, Labor Code section 6401. Employee is informed and believes, and based thereon alleges, that Employers at times have required or permitted employees, or some of them, to go or be in any employment or place of employment which is not safe and healthful, pursuant to Labor Code section 6402. Employee is informed and believes, and based thereon alleges, that Employers at times have failed or neglected to provide and use safety devices and safeguards reasonably adequate to render the employment and place of employment safe; adopt and use methods and processes reasonably adequate to render the employment and place of employment safe; and do every other thing reasonably necessary to protect the life, safety, and health of employees, pursuant to Labor Code section 6403. Employee is informed and believes, and based thereon alleges, that these failures include, without limitation, at times failing to disinfect time clocks and other surfaces after use by Employee and/or other Aggrieved Employees, or some of them; at times failing to provide adequate protection equipment to Employee and/or other Aggrieved Employees, or some of them; and at times failing to provide adequate distance in working conditions between Employee and/or other Aggrieved Employees, or some of them.

On information and belief, Employers violated section 1527, 3366, 3457 and 8397.4 by failing at times to provide adequate and readily accessible sanitation facilities; a regular schedule for servicing, cleaning, and supplying each facility to ensure it is maintained in a clean, sanitary and serviceable condition; an adequate supply of suitable cleansing agents, water, single-use towels or blowers; and a sufficient number of toilets to be used by each sex of employee.

Action for Civil Penalties Under PAGA

In light of the above, Employee alleges that Employers at times violated the following provisions of the Labor Code with respect to the Aggrieved Employees, or some of them:

1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing at times to pay for all hours worked, including minimum wages, straight time wages, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing at times to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing at times to authorize and permit rest periods;
4. Labor Code § 204 by failing at times to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing at times to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing at times to pay all wages owed at termination;
7. Labor Code § 226 by failing at times to provide accurate itemized wage statements;

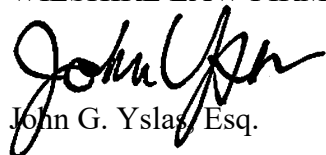
8. Labor Code § 2802 by failing at times to indemnify for necessary expenditures;
9. Labor Code §§ 226, 432, and 1198.5 by failing at times to timely produce requested payroll records, timecards, and personnel records;
10. Labor Code § 1174 by failing at times to keep accurate and complete payroll records;
11. Labor Code §§ 245-248.5 by failing at times to provide proper sick leave and supplemental paid sick leave;
12. Labor Code § 216 for refusal at times to pay wages due and payable and/or denial at times of the validity of any claim to wages due;
13. Labor Code § 223 for at times secretly paying wages lower than required by statute while purporting to pay legal wages;
14. Labor Code § 227.3 for failure at times to pay vested vacation and/or paid time off;
15. Section 14(A-B) of all applicable IWC Wage Orders for failure at times to provide suitable seating;
16. Labor Code § 432.5 for unlawful agreements;
17. Labor Code § 201.3 for failure at times to timely provide temporary workers, or some of them, with wages;
18. Labor Code §§ 98.6, 232, 232.5, 1102.5, and 1197.5 for at times preventing employees, or some of them, from using or disclosing the skills, knowledge and experience they obtained at Employers, and whistleblower violations;
19. Labor Code § 432.7 for unlawful inquiries at times into criminal histories; and
20. Labor Code §§ 1527, 3366, 3457, 8397.4, 6401, and 6401 for workplace health and safety violations.

Therefore, on behalf of potentially Aggrieved Employees, Employee seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

Employee has placed Employers on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM



John G. Yslas, Esq.

EXHIBIT 3

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and Building Materials Co. and Dolans of Concord

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF CONTRA COSTA**

JOSHUA RICCABONA, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

DOLANS OF PINOLE LUMBER AND
BUILDING MATERIALS CO., California
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. C22-02810

*Assigned for all purposes to Hon. Charles S.
Treat*

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT**

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between
2 Plaintiff Joshua Riccabona (“Plaintiff”) and Defendants Dolans of Pinole Lumber and Building
3 Materials Co. and Dolans of Concord (“Defendants”). The Agreement refers to Plaintiff and
4 Defendants collectively as “Parties,” or individually as “Party.”

5 1. **DEFINITIONS.**

6 1.1 “Actions” means Plaintiff’s lawsuits alleging class and representative action wage and
7 hour violations against Defendants captioned *Joshua Riccabona v. Dolans of Pinole Lumber and*
8 *Building Materials Co., et al.*, Contra Costa Superior Court, Case No. C22-02810 filed on
9 December 29, 2022 (“Class Action”) and Case No. C23-02758 filed on October 30, 2023 and
10 amended on January 26, 2024 (“PAGA Action”).

11 1.2 “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to
12 appoint to administer the Settlement.

13 1.3 “Administration Costs” means the amount the Administrator will be paid from the Gross
14 Settlement Amount to reimburse its reasonable fees and expenses in accordance with the
15 Administrator’s “not to exceed” bid submitted to the Court in connection with Preliminary
16 Approval of the Settlement.

17 1.4 “Aggrieved Employee” means all persons who worked for Defendant in California as an
18 hourly-paid or non-exempt employee at any time during the PAGA Period.

19 1.5 “Class” means all persons who worked for Defendants in California as an hourly-paid
20 or non-exempt employee at any time during the Class Period.

21 1.6 “Class Counsel” means John G. Yslas, Jeffrey Bils, Aram Boyadjian, Andrew Sandoval
22 of Wilshire Law Firm, PLC.

23 1.7 “Class Counsel Fees Payment” means an award of attorneys’ fees granted to Class
24 Counsel and paid from the Gross Settlement Amount. The Parties have agreed Plaintiff will
25 request approval from the Court of up to one-third (1/3) of the GSA, currently \$220,666.67 (Two-
26 Hundred Twenty Thousand Six-Hundred and Sixty-Six Dollars and Sixty-Seven Cents).

27 1.8 “Class Counsel Litigation Expenses Payment” means the amount allocated to Class
28 Counsel for reimbursement of reasonable expenses and costs incurred to prosecute the Actions,

not to exceed \$47,000.00 (Forty Seven Thousand Dollars and zero cents) and paid from the Gross Settlement Amount.

1.9 “Class Data” means Class Member identifying information in Defendants’ possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Workweeks and PAGA Pay Periods.

1.10 “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).

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

1.12 “Class Notice” means the Court approved Notice of Settlement and hearing date for Final Approval, to be mailed to Class Members in English in the form, without material variation, attached as Exhibit A and incorporated by reference into this Agreement.

1.13 “Class Period” or “Class Settlement Period” means the period from December 29, 2018 to December 23, 2024.

1.14 “Class Representative” means the named Plaintiff Joshua Riccabona in the Actions.

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

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

1.17 “Defendants” mean named Defendants Dolans of Pinole Lumber and Building Materials Co. and Dolans of Concord.

1.18 “Defense Counsel” means Michael Blankinship of Rosasco Law Group, APC.

1.19 “Effective Date” means the date by which all of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; (b) Class Counsel has served Defense Counsel with a signed copy of the Court’s Order Granting Final

Approval; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

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

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

1.22 “Final Judgment” means the Judgment entered by the Court upon granting Final Approval of the Settlement.

1.23 “Gross Settlement Amount” or “GSA” means \$662,000.00 (Six-Hundred Sixty-Two Dollars and Zero Cents), which is the total amount Defendants agree to pay under the Settlement, except as provided in Paragraph 8 below.

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

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

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

1.27 “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i) (2016).

1.28 “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i) (2016).

1.29 “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Penalties payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and

the Administration Costs Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.30 “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.

1.31 “Operative Complaint” means the operative class complaint filed in the class action.

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

1.33 “PAGA Period” means the period from August 31, 2023 to December 23, 2024.

1.34 “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Labor Code §§ 2698, *et seq.*).

1.35 “PAGA Notices” mean Plaintiff’s August 31, 2023 and October 27, 2023 letters to the LWDA and Defendants providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.36 “PAGA Penalties” means the total amount of \$30,000.00 in PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% (\$7,500.00) to the Aggrieved Employees and 75% (\$22,500.00) to the LWDA in settlement of PAGA claims.

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

1.38 “Plaintiff” means Joshua Riccabona, the named plaintiff in the Actions.

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

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

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

1.42 “Released Parties” means Defendants.

1.43 “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.

1.44 “Response Deadline” means sixty (60) days after the Administrator mails Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) 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 fourteen (14) calendar days beyond the Response Deadline has expired.

1.45 “Settlement” means the disposition of the Actions effected by this Agreement and the Judgment.

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

2. **RECITALS.**

2.1 On December 29, 2022, Plaintiff filed a Class Action Complaint alleging causes of action against Defendants for (1) Failure to Pay Minimum and Straight Time Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Timely Pay Final Wages at Termination; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Indemnify Employees for Expenditures; and (8) Unfair Business Practices.

2.2 On August 30, 2023 and October 27, 2023, pursuant to Labor Code §2699.3, subd.(a), Plaintiff gave notice to the LWDA and Defendants that Plaintiff intended to proceed with a representative action under PAGA (LWDA-CM-978704-23). On October 30, 2023, Plaintiff filed a separate complaint for penalties pursuant to Labor Code § 2699, *et seq.*, Case No. C23-02758. On January 26, 2024, Plaintiff filed a First Amended PAGA Representative Action Complaint.

2.3 Defendants deny the allegations in the Actions, deny any failure to comply with the laws identified in the Actions, and deny any and all liability for the causes of action alleged in the Actions.

2.4 On December 23, 2024 and June 5, 2025, the Parties participated in mediation presided over by mediator Mark Lehocky Esq. On June 5, 2025, the Parties accepted a mediator’s proposal

1 and agreed on general settlement terms. The Parties memorialized their agreement in a
2 Memorandum of Understanding on June 6, 2025.

3 2.5 In advance of mediation, Class Counsel conducted a thorough investigation into the facts
4 of, and applicable law to, the Actions. Prior to mediation, Plaintiff obtained and analyzed a
5 representative sampling of time and payroll data for Class Members and the necessary policy
6 documents through informal discovery to properly evaluate the strengths and weakness of the
7 claims and engage in meaningful settlement discussions. Plaintiff's investigation was sufficient
8 to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th
9 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130
10 ("Dunk/Kullar").

11 2.6 The Court has not granted class certification because the Parties engaged in mediation
12 before any class certification motion was brought.

13 2.7 The Parties, Class Counsel and Defense Counsel represent that they are not aware of any
14 other pending matters or actions asserting claims that will be extinguished or affected by the
15 Settlement.

16 3. **MONETARY TERMS.**

17 3.1 Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,
18 Defendants will pay \$662,000.00 (Six-Hundred Sixty-Two Dollars and Zero Cents) to fully settle,
19 resolve, and extinguish all claims asserted in the Actions, including without limitation all claims
20 asserted in the PAGA Notice. The Gross Settlement Amount is non-reversionary and does not
21 include employer payroll taxes owed on the wage portions of the Individual Class Payments,
22 which Defendants will pay separately.

23 3.2 Payments from the Gross Settlement Amount. The Administrator will make and deduct
24 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
25 in the Final Approval:

26 3.2.1 To Plaintiff: A payment for the Class Representative Service Payment to Plaintiff
27 of not more than \$10,000.00 (Ten Thousand Dollars and Zero Cents) in addition to any Individual
28 Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive

1 as a Participating Class Member. Defendants will not oppose Plaintiff's request for a Class
2 Representative Service Payment that does not exceed this amount. As part of the motion for the
3 Class Counsel Fees and Litigation Expenses Payments, Plaintiff will seek Court approval for any
4 Class Representative Service Payment no later than sixteen (16) court days prior to the Final
5 Approval Hearing, or as otherwise ordered by the Court. If the Court approves a Class
6 Representative Service Payment less than the amount requested, the Administrator will retain the
7 remainder in the Net Settlement Amount to be distributed to Participating Class Members. The
8 Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff
9 assumes full responsibility and liability for employee taxes owed on the Class Representative
10 Service Payment and holds Defendants harmless from any controversy regarding the tax
11 characterization of the Class Representative Service Payment.

12 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than one-third of the
13 Gross Settlement Amount, which is currently estimated to be \$220,666.67 (Two-Hundred Twenty
14 Thousand Six-Hundred and Sixty-Six Dollars and Sixty-Seven Cents) and a Class Counsel
15 Litigation Expenses Payment for actual costs, not to exceed \$47,000.00 (Forty Seven Thousand
16 Dollars and Zero Cents). Defendants will not oppose requests for these payments. Plaintiff and/or
17 Class Counsel will file a motion for Class Counsel Fees and Litigation Expenses Payment no later
18 than sixteen (16) court days prior to the Final Approval Hearing, or as otherwise ordered by the
19 Court. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation
20 Expenses Payment less than the amounts requested, the Administrator will allocate the remainder
21 to the Net Settlement Amount for distribution to Participating Class Members. Released Parties
22 shall have no liability to Class Counsel or any other Plaintiff's counsel arising from any claim to
23 any portion of Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment.
24 The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses
25 Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and
26 liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation
27 Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute
28 or controversy regarding any division or sharing of any of these Payments.

1 3.2.3 To the Administrator: An Administrator Costs Payment not to exceed \$7,750.00
2 (Seven Thousand Seven Hundred Fifty Dollars and Zero Cents) except for a showing of good
3 cause and as approved by the Court. To the extent the Administration Costs are less or the Court
4 approves payment of less than \$7,750.00, the Administrator will retain the remainder in the Net
5 Settlement Amount to be distributed to Participating Class Members.

6 3.2.4 To Each Participating Class Member: An Individual Class Payment is calculated by
7 (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all
8 Participating Class Members during the Class Period, and (b) multiplying the result by each
9 individual Participating Class Member's Workweeks.

10 3.2.4.1 Tax Allocation of Individual Class Payments. Twenty percent (20%) of
11 each Participating Class Member's Individual Class Payment will be allocated to the Settlement
12 of wage claims (the "Wage Portion"). The Wage Portion is subject to tax withholding and will be
13 reported on an IRS W-2 Form. The remaining eighty percent (80%) of each Participating Class
14 Member's Individual Class Payment will be allocated to the settlement of claims for interest,
15 reimbursement, and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject
16 to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members
17 assume full responsibility and liability for any employee taxes owed on their Individual Class
18 Payment.

19 3.2.4.2 Effect of Non-Participating Class Members on Calculation of Individual
20 Class Payments. Non-Participating Class Members will not receive any Individual Class
21 Payments. The Administrator will retain amounts equal to their Individual Class Payments in the
22 Net Settlement Amount for distribution to Participating Class Members on a pro-rata basis.

23 3.2.5 To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
24 \$30,000.00 to be paid from the Gross Settlement Amount, with 75% (\$22,500.00) allocated to the
25 LWDA PAGA Payment and 25% (\$7,500.00) allocated to the Individual PAGA Payments.

26 3.2.5.1 The Administrator will calculate each Individual PAGA Payment by (a)
27 dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties of \$7,500.00 by
28 the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the

1 PAGA Period, and (b) multiplying the result by each individual Aggrieved Employee's PAGA
2 Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on
3 their Individual PAGA Payment.

4 3.2.5.2 If the Court approves PAGA Penalties of less than the amount requested,
5 the Administrator will allocate the remainder to the Net Settlement Amount to be distributed to
6 Participating Class Members. The Administrator will report the Individual PAGA Payments on
7 IRS 1099 Forms.

8 4. **SETTLEMENT FUNDING AND PAYMENTS.**

9 4.1 Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of their
10 records, Defendants represent there are 260 Class Members who collectively worked a total of
11 29,110 workweeks during the Class Period.

12 4.2 Class Data. Not later than fifteen (15) days after Class Counsel serves Defense Counsel
13 with the Court's signed order granting Preliminary Approval of the Settlement, Defendant will
14 deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To
15 protect Class Members' privacy rights, the Administrator must maintain the Class Data in
16 confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and
17 restrict access to the Class Data to Administrator employees who need access to the Class Data
18 to effect and perform under this Agreement. Defendants have a continuing duty to immediately
19 notify Class Counsel if it discovers that the Class Data omitted class member identifying
20 information and to provide corrected or updated Class Data as soon as reasonably feasible.
21 Without any extension of the deadline by which Defendants must send the Class Data to the
22 Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to
23 reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

24 4.3 Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement
25 Amount and the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting
26 the funds to the Administrator no later than the later of fifteen (15) days after the Effective Date,
27 and five (5) days after the Administrator has established and provided instructions for deposit of
28 the GSA into the QSF. Defendants shall have the right, but not the obligation, to pre-fund part or

all of the GSA in a reversionary trust account with the Administrator before Final Approval of the Settlement, to be automatically used to fund the QSF upon final approval.

4.4 Payments from the Gross Settlement Amount. Within ten (10) days after Defendants fully fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Costs 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. The face of each check shall prominently state the date (180 days after the date of mailing) when the check will be voided (“Void Date”). 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 the 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 seven (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

1 replacement check to any Class Member whose original check was lost or misplaced, requested
2 by the Class Member prior to the void date.

3 4.4.3 For any Class Member whose Individual Class Payment check or Individual PAGA
4 Payment check is uncashed and canceled after the void date, the Administrator shall transmit the
5 funds represented by such checks to the California Controller's Unclaimed Property Fund in the
6 name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of
7 California Code of Civil Procedure Section 384, subd. (b).

8 4.4.4 The payment of Individual Class Payments and Individual PAGA Payments shall
9 not obligate Defendants to confer any additional benefits or make any additional payments to
10 Class Members (such as 401(k) contributions or bonuses) beyond those specified in this
11 Agreement.

12 5. **RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the Gross
13 Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual
14 Class Payments, Plaintiff, Class Members, and Class Counsel will release claims against all
15 Released Parties as follows:

16 5.1 **Plaintiff's Release.** Plaintiff discharges Released Parties from all claims,
17 transactions, or occurrences, that occurred before the execution of this Agreement, including all
18 claims that were, or reasonably could have been, alleged, based on the facts contained in the
19 Operative Complaint; and claims under the Fair Employment and Housing Act, Americans with
20 Disabilities Act, Title VII of the Civil Rights Act of 1964, the California Labor Code, and all
21 equivalent claims under federal law ("Plaintiff's Release"). Plaintiff's Release does not extend to
22 any claims or actions to enforce this Agreement, or to any claims for vested benefits,
23 unemployment benefits, disability benefits, social security benefits, workers' compensation
24 benefits that arose at any time, or based on occurrences that occurred after the execution of this
25 Agreement. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in
26 addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless,
27 that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different
28 or additional facts or Plaintiff's discovery of them.

1 5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
2 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights,
3 and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

8 5.2 Released Class Claims: All Participating Class Members will release all claims, rights,
9 demands, liabilities, and causes of action, alleged or which could have reasonably been alleged
10 based on the facts alleged in the operative Complaint, including but not limited to: (1) failure to
11 pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197
12 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194, and
13 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 226.7 and 512); (4)
14 failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 226.7); (5) failure to
15 timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201-203); (6) failure to
16 provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to
17 indemnify employees for expenditures (pursuant to Cal. Labor Code §§ 2802); and (8) unfair
18 business practices (pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.*). The enumeration of
19 these specific claims shall neither enlarge nor narrow the scope of *res judicata* based on the claims
20 that were asserted in the Actions or could have been asserted in the Actions based on the facts
21 and circumstances alleged in the Complaint. The Released Class Claims are those that accrued
22 during the Class Period.

23 5.3 Released PAGA Claims: All Aggrieved Employees will release all claims for PAGA
24 civil penalties that are alleged or reasonably could have been alleged based on the facts alleged
25 in the PAGA Action and in Plaintiff's PAGA Notices, including but not limited to: (1) failure to
26 pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 210, 510, 1194,
27 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510,
28 1194 and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 210, 226.7

1 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 210 and
2 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201
3 – 203 and 213(d)); (6) failure to provide accurate itemized wage statements (pursuant to Cal.
4 Labor Code §§ 226 and 226.3); (7) failure to indemnify employees for expenditures (pursuant to
5 Cal. Labor Code § 2802); (8) failure to produce requested employment records (pursuant to Cal.
6 Labor Code §§ 226, 432, and 1198.5); (9) failure to pay all earned wages twice per month and
7 unlawfully withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (10)
8 failure to maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor
9 Code §§ 1174, and 1174.5); (11) recordkeeping requirement violations (pursuant to Cal. Labor
10 Code §§ 226.6, 558.1, 1174, 1174.5, 1198 and 1199); (12) willful misclassification (pursuant to
11 Cal. Labor Code § 226.8); (13) retaliation (pursuant to Cal. Labor Code § 1102.5); and (14) civil
12 penalties for wage and hour violations (pursuant to Cal. Labor Code § 558). The Released PAGA
13 Claims are those that accrued during the PAGA Period.

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

16 6.1 **Defendants’ Declaration in Support of Preliminary Approval.** Within ten (10) days of
17 the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel a
18 signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any
19 actual or potential conflicts of interest with the Administrator. In their Declaration, Defense
20 Counsel and Defendants shall aver that they are not aware of any other pending matter or action
21 asserting claims that will be extinguished or adversely affected by the Settlement.

22 6.2 **Plaintiff’s Responsibilities.** Plaintiff will prepare all documents necessary for obtaining
23 Preliminary Approval, including: (i) a draft of the notice, and memorandum in support, of the
24 Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar*
25 and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2))
26 (2016); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA
27 Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from Plaintiff confirming
28 willingness and competency to serve and disclosing all facts relevant to any actual or potential

1 conflicts of interest with Class Members, and/or the Administrator; (v) a signed declaration from
2 Class Counsel firm attesting to its competency to represent the Class Members; its timely
3 transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor
4 Code section 2699.3, subd. (a) (2016)), Operative Complaint (Labor Code section 2699, subd.
5 (l)(1) (2016)), this Agreement (Labor Code section 2699, subd. (l)(2) (2016)); and (vi) all facts
6 relevant to any actual or potential conflict of interest with Class Members, and/or the
7 Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware
8 of any other pending matter or action asserting claims that will be extinguished or adversely
9 affected by the Settlement.

10 6.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
11 for expeditiously finalizing the Motion for Preliminary Approval. Class Counsel will obtain a
12 prompt hearing date for the Motion for Preliminary Approval, file the Motion for Preliminary
13 Approval no later than sixteen (16) court days before the hearing, unless otherwise ordered by the
14 Court, and deliver the Court's Preliminary Approval Order to the Administrator.

15 6.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
16 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
17 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
18 or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
19 Preliminary Approval or conditions Preliminary Approval on any material change to this
20 Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of
21 the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and
22 otherwise satisfy the Court's concerns.

23 **7. SETTLEMENT ADMINISTRATION.**

24 7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve
25 as the Administrator and verified that, as a condition of appointment, the Administrator agrees to
26 be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement
27 in exchange for payment of Administration Costs. The Parties and their Counsel represent that
28

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 for the funding of the GSA. Any interest that accrues on the GSA sums paid into the QSF prior to distribution by the Administrator will become part of the NSA for distribution to Participating Class Members.

7.4 Notice to Class Members.

7.4.1 No later than five (5) calendar 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, Aggrieved Employees, Workweeks, and Pay Periods in the Class Data.

7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 (fourteen) 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. 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 Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

7.4.3 Not later than five (5) calendar days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further

1 attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the
2 USPS a second time.

3 7.4.4 The deadlines for Class Members' written objections, challenges to Workweeks
4 and/or Pay Periods, and Requests for Exclusion will be extended an additional fourteen days (14)
5 days beyond the sixty (60) days otherwise provided in the Class Notice for all Class Members
6 whose notice is re-mailed. The Administrator will inform the Class Member of the extended
7 deadline with the re-mailed Class Notice.

8 7.4.5 If the Administrator, Defendant, or Class Counsel is contacted by or otherwise
9 discovers any persons who believe they should have been included in the Class Data and should
10 have received Class Notice, the Parties will expeditiously meet and confer in person or by
11 telephone, and in good faith in an effort to agree on whether to include them as Class Members.
12 If the Parties agree, such persons will be Class Members entitled to the same rights as other Class
13 Members, and the Administrator will send, via email or overnight delivery, a Class Notice
14 requiring them to exercise options under this Agreement not later than fourteen (14) days after
15 receipt of Class Notice, or the deadline dates in the Class Notice, whichever are later.

16 7.5 Requests for Exclusion (Opt-Outs).

17 7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement
18 must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not
19 later than sixty (60) days after the Administrator mails the Class Notice (plus an additional
20 fourteen (14) days for Class Members whose Class Notice is re-mailed). A Request for Exclusion
21 is a letter from a Class Member or his/her representative that reasonably communicates the Class
22 Member's election to be excluded from the Settlement and includes the Class Member's name,
23 address and email address or telephone number. To be valid, a Request for Exclusion must be
24 timely faxed, emailed, or postmarked by the Response Deadline.

25 7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails
26 to contain all the information specified in the Class Notice. The Administrator shall accept any
27 Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the
28 person as a Class Member and the Class Member's desire to be excluded. The Administrator's

determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

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

7.5.5 Defendants shall have the option to opt out of this Settlement if more than 10% of Class Members opt out of the Settlement. Should Defendants exercise this option, the Settlement shall be void ab initio.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have sixty (60) days after the Administrator mails the Class Notice (plus an additional fourteen (14) days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's

1 allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise
2 susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the
3 calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the
4 Administrator's determination of the challenges.

5 **7.7 Objections to Settlement.**

6 7.7.1 Only Participating Class Members may object to the class action components of the
7 Settlement and/or this Agreement, including contesting the fairness of the Settlement, and/or
8 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses
9 Payment and/or Class Representative Service Payment.

10 7.7.2 Participating Class Members may send written objections to the Administrator, by
11 fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire
12 an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A
13 Participating Class Member who elects to send a written objection to the Administrator must do
14 so not later than sixty (60) days after the Administrator's mailing of the Class Notice (plus an
15 additional fourteen (14) days for Class Members whose Class Notice was re-mailed).

16 7.7.3 Non-Participating Class Members have no right to object to any of the class action
17 components of the Settlement.

18 **7.8 Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
19 performed or observed by the Administrator contained in this Agreement or otherwise.

20 7.8.1 Website, Email Address and Toll-Free Number. The Administrator will establish,
21 maintain and use an internet website to post information of interest to Class Members including
22 the date, time and location for the Final Approval Hearing and copies of the Settlement
23 Agreement; Motion for Preliminary Approval; Preliminary Approval Order; Class Notice;
24 Motion for Final Approval; Motion for Class Counsel Fees Payment, Class Counsel Litigation
25 Expenses Payment and Class Representative Service Payment; the Final Approval Order; and the
26 Judgment. The Administrator will also maintain and monitor an email address and a toll-free
27 telephone number to receive Class Member calls, faxes and emails.
28

1 7.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
2 promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later
3 than five (5) days after the expiration of the deadline for submitting Requests for Exclusion, the
4 Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names
5 and other identifying information of Class Members who have timely submitted valid Requests
6 for Exclusion (“Exclusion List”); (b) the names and other identifying information of Class
7 Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
8 Exclusion from Settlement submitted (whether valid or invalid).

9 7.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide written reports
10 to Class Counsel and Defense Counsel that, among other things, tally the number of: Class
11 Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether
12 valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods
13 received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA
14 Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment
15 of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and
16 objections received.

17 7.8.4 Workweek and/or Pay Period Challenges. The Administrator has the authority to
18 address and make final decisions consistent with the terms of this Agreement on all Class Member
19 challenges over the calculation of Workweeks and/or Pay Periods. The Administrator’s decision
20 shall be final and not appealable or otherwise susceptible to challenge.

21 7.8.5 Administrator’s Declaration. Not later than fourteen (14) days before the date by
22 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
23 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
24 for filing in Court attesting to its due diligence and compliance with all of its obligations under
25 this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices
26 returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the
27 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
28 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.

7.8.6 Final Report by Settlement Administrator. Within ten (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 fifteen (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 their records, Defendants represent there are 260 Class Members who collectively worked a total of 29,110 Workweeks during the Class Period. If, on final calculation, the total number of Workweeks is greater than 15% higher than 29,110 Workweeks (i.e. greater than 33,476 Workweeks), Defendants shall have the option to (1) increase the Gross Settlement Amount by a proportional amount (or \$19.77) for each Workweek in excess of 33,476 or (2) change the end of the Class Period to a date on which the number of Workweeks is equal to, but does not exceed, 15% (i.e., end the Class Period on the date in which the Workweek count reaches but does not exceed 32,021 Workweeks). Defendants shall verify the total workweeks and select an option prior to the filing for preliminary approval. If this provision is triggered so as to increase the Gross Settlement Amount, the Parties agree that the portion of the Gross Settlement Amount allocated to attorneys' fees will increase proportionally such that the total amount of attorneys' fees remains one-third of the Gross Settlement Amount after the upward adjustment required by this provision is implemented.

9. **MOTION FOR FINAL APPROVAL.** Not later than sixteen (16) court days before the calendared Final Approval Hearing, unless otherwise scheduled by the Court, 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. (l) (2016); a Proposed Final Approval

Order; and a proposed Judgment (collectively “Motion for Final Approval”). Plaintiff shall provide drafts of these documents to Defense Counsel 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.

9.1 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 (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

9.2 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 Costs Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

9.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, the Actions, 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.

9.4 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 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

1 right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties'
2 obligations to perform under this Agreement will be suspended until such time as the appeal is
3 finally resolved and the Judgment becomes final, except as to matters that do not affect the amount
4 of the Net Settlement Amount.

5 9.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
6 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
7 modification of this Agreement (including, but not limited to, the scope of release to be granted
8 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
9 expeditiously work together in good faith to address the appellate court's concerns and to obtain
10 Final Approval and Entry of Judgment, sharing, on a 50-50 basis, any additional Administration
11 Costs reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the
12 Court's award of the Class Representative Service Payment or any payments to Class Counsel
13 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
14 as long as the Gross Settlement Amount remains unchanged.

15 10. **AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
16 Procedure §384, the Parties will work together in good faith to jointly submit a proposed amended
17 judgment.

18 11. **ADDITIONAL PROVISIONS.**

19 11.1 No Admission of Liability, Class Certification or Representative Manageability for
20 Other Purposes. This Agreement represents a compromise and settlement of highly disputed
21 claims. Nothing in this Agreement is intended or should be construed as an admission by
22 Defendants that any of the allegations in the Operative Complaint has merit or that Defendants
23 have any liability for any claims asserted; nor should it be intended or construed as an admission
24 by Plaintiff that Defendants' defenses in the Actions have merit. The Parties agree that class
25 certification and representative treatment is for purposes of this Settlement only. If, for any
26 reason, the Court does grant Preliminary Approval, Final Approval, or enter Judgment,
27 Defendants reserve the right to contest certification of any class for any reason, Defendants
28 reserve all available defenses to the claims in the Actions, and Plaintiff reserves the right to move

1 for class certification on any grounds available and to contest Defendants' defenses. The
2 Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on,
3 and will not be admissible in connection with, any litigation (except for proceedings to enforce
4 or effectuate the Settlement and this Agreement).

5 11.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants, and
6 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
7 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
8 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
9 or indirectly, specifically or generally, to any person, corporation, association, government
10 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
11 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
12 extent necessary to report income to appropriate taxing authorities; (4) in response to a court order
13 or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government
14 agency. Each Party agrees to immediately notify the other Party of any judicial or agency order,
15 inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants, and Defense
16 Counsel separately agree not to, directly or indirectly, initiate any conversation or other
17 communication, before the filing of the Motion for Preliminary Approval, with any third party
18 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
19 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
20 communications with Class Members in accordance with Class Counsel's ethical obligations
21 owed to Class Members.

22 11.3 No Solicitation. The Parties separately agree that they and their respective counsel and
23 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
24 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability
25 to communicate with Class Members in accordance with Defense Counsel's and Class Counsel's
26 ethical obligations and Class Counsel's fiduciary duties owed to Class Members.

27 11.4 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
28 together with its attached exhibits shall constitute the entire agreement between the Parties

1 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
2 inducements made to or by any Party.

3 11.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
4 represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate
5 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
6 its terms, and to execute any other documents reasonably required to effectuate the terms of this
7 Agreement including any amendments to this Agreement.

8 11.6 Cooperation. The Parties and their counsel will cooperate with each other and use their
9 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
10 Settlement Agreement, submitting supplemental evidence and supplementing points and
11 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
12 or content of any document necessary to implement the Settlement, or on any modification of the
13 Agreement that may become necessary to implement the Settlement, the Parties will seek the
14 assistance of a mediator and/or the Court for resolution.

15 11.7 No Prior Assignments. The Parties separately represent and warrant that they have not
16 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
17 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
18 action, or right released and discharged by the Party in this Settlement.

19 11.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
20 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
21 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
22 Part 10, as amended) or otherwise.

23 11.9 Modification of Agreement. This Agreement, and all parts of it, may be amended,
24 modified, changed, or waived only by an express written instrument signed by all Parties or their
25 representatives, and approved by the Court.

26 11.10 Agreement Binding on Successors. This Agreement will be binding upon, and inure
27 to the benefit of, the successors of each of the Parties.
28

1 11.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will be
2 governed by and interpreted according to the internal laws of the state of California, without
3 regard to conflict of law principles.

4 11.12 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation
5 of this Agreement. This Agreement will not be construed against any Party on the basis that the
6 Party was the drafter or participated in the drafting.

7 11.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
8 entered during Action and in this Agreement relating to the confidentiality of information shall
9 survive the execution of this Agreement.

10 11.14 Headings. The descriptive heading of any section or paragraph of this Agreement is
11 inserted for convenience of reference only and does not constitute a part of this Agreement.

12 11.15 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement
13 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
14 weekend or federal legal holiday, such date or deadline shall be on the first business day
15 thereafter.

16 11.16 Notice. All notices, demands, or other communications between the Parties in
17 connection with this Agreement will be in writing and deemed to have been duly given as of the
18 third business day after mailing by United States mail, or the day sent by email or messenger,
19 addressed as follows:

20 To Plaintiff:

21 John G. Yslas (SBN 187324)
22 john.yslas@wilshirelawfirm.com
23 Jeffrey C. Bils (SBN 301629)
24 jeffrey.bils@wilshirelawfirm.com
25 Aram Boyadjian (SBN 334009)
26 aram.boyadjian@wilshirelawfirm.com
27 Andrew Sandoval (SBN 346996)
28 andrew.sandoval@wilshirelawfirm.com
WILSHIRE LAW FIRM
660 S. Figueroa St., Sky Lobby
Los Angeles, California 90017
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

To Defendants:

Michael Blankinship, Esq.
ROSASCO LAW GROUP, APC
6540 Lonetree Boulevard, Suite 100
Rocklin, California 95765
mike@rosascolawgroup.com
(916) 672-6552

11.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or by 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.

11.18 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 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.

IT IS SO AGREED.

By the Parties:

DATED: _____

Plaintiff JOSHUA RICCABONA

DATED: 10/31/2025

Defendants DOLANS OF PINOLE LUMBER

AND BUILDING MATERIALS CO. and

DOLANS OF CONCORD

By: Eugene Dolan

Position: President

To Defendants:

Michael Blankinship, Esq.
 ROSASCO LAW GROUP, APC
 6540 Lonetree Boulevard, Suite 100
 Rocklin, California 95765
 mike@rosascolawgroup.com
 (916) 672-6552

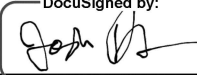
11.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or by email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same 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.

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IT IS SO AGREED.

By the Parties:

DATED: 10/27/2025

DocuSigned by:

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Plaintiff JOSHUA RICCABONA

DATED: _____

Defendants DOLANS OF PINOLE LUMBER
 AND BUILDING MATERIALS CO. and
 DOLANS OF CONCORD

By: _____

Position: _____

1 Approved by counsel:

2 DATED: October 27, 2025

WILSHIRE LAW FIRM

3
4 BY: 
5 John G. Yslas
6 Jeffrey C. Bills
7 Aram Boyadijian
8 Andrew Sandoval
9 Counsel for Plaintiff Joshua Riccabona

10 DATED:

ROSASCO LAW GROUP, APC

11
12 BY: _____
13 Michael Blankinship
14 Counsel for Defendants
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Approved by counsel:

2 DATED:

WILSHIRE LAW FIRM

3
4 BY: _____

5 John G. Yslas

6 Jeffrey C. Bils

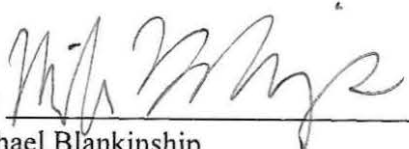
7 Aram Boyadijian

8 Andrew Sandoval

Counsel for Plaintiff Joshua Riccabona

9 DATED:

10 ROSASCO LAW GROUP, APC

11
12 BY:  _____

13 Michael Blankinship

14 Counsel for Defendants

EXHIBIT A

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

*Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al.,
Case Nos. C22-02810 and C23-02758 (Contra Costa County Superior Court)*

***The Contra Costa County Superior Court authorized this notice.
It is not junk mail, spam, an advertisement, or solicitation by a lawyer.
Please read it carefully! You are not being sued.***

You may be eligible to receive money from employee class and representative action lawsuits (“Actions”) against Dolans of Pinole Lumber and Building Materials Co. and Dolans of Concord (“Defendants”) filed by former Employee Joshua Riccabona. .

The Actions allege that Defendants failed to comply with the California Labor Code and seek (1) statutory penalties and payment of back wages for a class of all persons currently or formerly employed by Defendants as hourly-paid, non-exempt employees in the State of California (“Class Members”) who worked for Defendants during the Class Period (December 29, 2018 to December 23, 2024); and (2) civil penalties under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) for all Class Members who worked for Defendant during the PAGA Period (August 31, 2023 to December 23, 2024) (“Aggrieved Employees”). Defendants deny the allegations in the Actions, and that they owe any wages or penalties to any Class Members, but have agreed to the Settlement to avoid the costs of further litigation. The Court has not ruled on the merits of the Actions, but has preliminarily approved the settlement as fair and reasonable.

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

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendants’ records showing that **you worked [REDACTED] Workweeks during the Class Period and you worked [REDACTED] Pay Periods during the PAGA Period**. If you believe that you worked more during either period, you can submit a challenge by the deadline date.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval of the Settlement. Your legal rights are affected whether you act or not act. READ THIS NOTICE CAREFULLY. You will be deemed to have read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Defendants to make

payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against Defendants.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	Receive money. Give up rights to sue Defendant for claims released in the Settlement.
EXCLUDE YOURSELF	Receive no money from the Class settlement. You will retain the right to pursue your own legal claims against Defendants. However, even if you exclude yourself from the Class settlement, you will still receive a portion of the PAGA settlement and be bound by it if you worked during the PAGA Period.
OBJECT	Write to the Court about why you object to the Settlement. If the Settlement receives Final Approval, you will receive money and give up rights to sue Defendants for claims released in the Settlement.
CHALLENGE YOUR NUMBER OF WORKWEEKS AND/OR PAY PERIODS	Challenge your number of Workweeks or Pay Periods listed in this Notice and provide supporting evidence. If you challenge your workweeks or pay periods, you will still be part of the Settlement and will give up rights to sue Defendants for claims released in the Settlement.

BASIC INFORMATION

1. WHY AM I RECEIVING THIS NOTICE?

Defendants' records indicate that you worked for Defendants at some point(s) between December 29, 2018 to December 23, 2024, and are therefore a member of the Class for purposes of this Settlement.

You received this Notice because you have a right to know about a proposed Settlement of the Action, and about all of your options, before the Court decides whether to finally approve the Settlement. The Settlement will resolve all Class Members' claims, which are described below, during the Class Period. The Settlement will also resolve claims for civil penalties brought under the California Labor Code Private Attorneys General Act of 2004 ("PAGA"). If you are a Class Member, you are also an "Aggrieved Employee" if you worked for Defendants during the "PAGA Period," which is August 31, 2023 to December 23, 2024.

If the Court grants Final Approval to the Settlement, a settlement Administrator appointed by the Court will issue the payments provided for by the Settlement to Class Members. You are encouraged to always keep your address up to date with the Administrator (the Administrator's contact information can be found in Section 12, below).

This Notice package explains the allegations and background regarding the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to receive those benefits.

The Court in charge of the Actions is the Contra Costa County Superior Court, and the cases are titled, *Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al.*, Case Nos. C22-02810 and C23-02758. The person who sued, Joshua Riccabona, is the Plaintiff, and the company sued, Dolans of Pinole Lumber and Building Materials Co. and Dolans of Concord are the Defendants.

QUESTIONS? CALL [1-800-XXX-XXXX](tel:1-800-XXX-XXXX) TOLL FREE

2. WHAT IS THE LAWSUIT ABOUT?

The Plaintiff in the lawsuit alleges wage and hour violations against Defendants for: (1) Failure to Pay Minimum and Straight Time Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Meal Periods; (4) Failure to Authorize and Permit Rest Periods; (5) Failure to Timely Pay Final Wages at Termination; (6) Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Indemnify Employees for Expenditures; and (8) Unfair Business Practices. In addition, Plaintiff is seeking to recover civil penalties pursuant to PAGA (“PAGA Penalties”) based on the alleged violations of the California Labor Code listed above. Defendants deny Plaintiff’s claims and denies any wrongdoing.

3. WHY IS THIS A CLASS ACTION?

In an employment class action, one or more people called “Class Representatives” (in this case, the Plaintiff) sue on behalf of all workers who they contend have similar claims. All of these workers are a Class or Class Members. Bringing one lawsuit, as opposed to many small ones, saves money, time and court resources. The court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of the Plaintiff or Defendants on the merits of the claims alleged in the lawsuit. Plaintiff believes Plaintiff would win at trial. Defendants think that Plaintiff’s lawsuit would not proceed to a trial and/or that Plaintiff would not win at trial. However, there has been no trial. Instead, in acknowledgement of the risk that both Parties face should the case proceed, the Parties have agreed to a negotiated settlement. This way, all Parties avoid the cost of preparing for and conducting a trial, the risk of losing the right to a trial, and the workers affected by the alleged violations receive compensation. The Settlement represents a compromise and settlement of highly disputed claims. The Plaintiff, as well as Plaintiff’s lawyers (called “Class Counsel”), believes the Settlement is fair and reasonable and in the best interests of all Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. WHO IS INCLUDED IN THE SETTLEMENT?

If you received this Notice, you are a Class Member for settlement purposes. The Class includes: All employees of Defendants who were classified as non-exempt and worked within the State of California at any time from December 29, 2018 to December 23, 2024.

6. ARE THERE EXCEPTIONS TO BEING INCLUDED?

You are not a Class Member if you already have resolved the claims asserted in this lawsuit, whether by settlement or a separate legal proceeding (i.e., another lawsuit).

THE SETTLEMENT BENEFITS—WHAT YOU GET

7. WHAT DOES THE SETTLEMENT PROVIDE?

Defendants have agreed to pay a Gross Settlement Amount (“GSA”) of \$662,000.00 (Six-Hundred Sixty-Two Dollars and Zero Cents) to settle the lawsuit. From the GSA, Class Counsel will apply to the Court for attorneys’ fees of up to one-third of the GSA, currently \$220,666.67, and up to \$47,000.00 in costs; a Class Representative Service Payment of \$10,000.00 to Plaintiff (for Plaintiff’s work and efforts prosecuting this case); a PAGA Penalties payment of \$30,000.00 to resolve the PAGA claims; and Settlement Administration Costs to ILYM Group, Inc. not to exceed \$7,750.00. The exact amount of the Class Counsel’s Fees and Litigation Expenses, Class Representative Service Payment, and Administration Costs will be determined by the Court at the Final Approval hearing. The remaining portion of the Settlement amount, the “Net Settlement Amount” or the “NSA,” is currently estimated to be approximately \$XXXXXXX. The NSA will be apportioned and paid out as Individual Class Payments to the Settlement Class Members, who are the Class Members that do not request to be excluded (“opt out”) of the Settlement.

PAGA Penalties payment: As part of the PAGA portion of the Settlement, the Parties will ask the Court to approve a \$30,000.00 PAGA Penalties payment in settlement of claims for civil penalties under PAGA. As required under PAGA, 75% of the PAGA Penalties payment, or \$22,750.00, will be paid to the California Labor and Workforce Development Agency. The remaining 25% of the PAGA Penalties payment, or \$7,500.00, will be distributed to the Aggrieved Employees as Individual PAGA Payments.

8. HOW MUCH WILL MY PAYMENT BE?

An approximation of your Individual Class Payment appears on the first page of this Notice. If you are also an Aggrieved Employee, an approximation of your Individual PAGA Payment will also appear on the first page of this Notice.

Individual Class Payment: Your Individual Class Payment is based on the number Workweeks you worked, as represented in Defendants’ records, in comparison to the total number of Workweeks worked by all Class Members during the Class Period (December 29, 2018 to December 23, 2024). Eighty percent (80%) of each Class Member’s Individual Class Payment will be treated as a payment in settlement of the alleged claims for penalties and interest and will be reported on a Form 1099 by the Settlement Administrator, and twenty percent (20%) of each Class Member’s Individual Class Payment will be treated as a payment in settlement of alleged claims for unpaid wages. The 20% allocated as unpaid wages will be reduced by applicable payroll tax withholdings and deductions and reported on a Form W-2.

Individual PAGA Payment: If you worked for Defendants from August 31, 2023 to December 23, 2024 (“PAGA Period”), you are also an “Aggrieved Employee” and will receive an Individual PAGA Payment in addition to your Individual Class Payment. The Individual PAGA Payments are based on the number of PAGA Pay Periods worked by each Aggrieved Employee in comparison to the total amount of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period. One hundred percent (100%) of each Aggrieved Employees’ Individual PAGA Payment will be characterized as penalties and will not be reduced by payroll tax withholdings and deductions. The Individual PAGA Payment will be reported on a Form 1099 by the Settlement Administrator. An approximation of your anticipated Individual PAGA Payment appears on the first page of this Notice.

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

For the Class Members who are also Aggrieved Employees, their Individual Class Payment will be combined with their Individual PAGA Payment, and they will receive a single check for the combined payments. If a Class Member chooses to opt-out of the Settlement, they will still receive an Individual PAGA Payment, as Aggrieved Employees cannot opt-out of the PAGA portion of the Settlement under California law.

HOW YOU GET A PAYMENT

9. HOW DO I RECEIVE A PAYMENT?

You do not need to do anything to receive a payment. However, if you believe that the number of Workweeks or PAGA Pay Periods you worked is incorrect, please correct it and provide any supporting evidence to the settlement Administrator, whose contact information is listed in Section 12 below.

10. WHEN WOULD I GET MY PAYMENT?

The Court will hold a Final Fairness Hearing on [REDACTED], to decide whether to approve the Settlement. If the Judge approves the Settlement, and anyone objects, there may be appeals. It is always uncertain when these objections and appeals can be resolved and resolving them can take time. If there is no objection, the Effective Date of the Settlement will be the date of entry of the Court's Order granting final approval.

Following the Effective Date, Individual Class Payments and Individual PAGA Payments will be mailed to Participating Class Members and Aggrieved Employees approximately 30 days after the Court's approval of the Settlement becomes final so long as there are no appeals.

Settlement checks should be cashed promptly upon receipt. Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b). If your settlement check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

For an update on the status of payments, please contact the Settlement Administrator (see Section 12).

11. WHAT AM I GIVING UP TO GET A PAYMENT?

If the Court approves this Settlement and unless you exclude yourself, you will become a Participating Class Member, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants concerning the legal claims being resolved in this Settlement. Specifically, you will be giving up or "releasing" the Released Class Claims described below against Defendants and all of Defendants' subsidiaries, affiliates, shareholders, members, agents, predecessors, successors, owners, and assigns ("Released Parties"). The releases become effective once the GSA is fully funded by Defendants.

Released Class Claims: All Participating Class Members will release all claims, rights, demands, liabilities, and causes of action, alleged or which could have reasonably been alleged based on the facts

alleged in the operative Complaint, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194, and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201-203); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code §§ 2802); and (8) unfair business practices (pursuant to Cal. Bus. & Prof. Code §§ 17200, *et seq.*). The enumeration of these specific claims shall neither enlarge nor narrow the scope of *res judicata* based on the claims that were asserted in the Actions or could have been asserted in the Actions based on the facts and circumstances alleged in the Complaint. The Released Class Claims are those that accrued during the Class Period.

Released PAGA Claims: All Aggrieved Employees will release all claims for PAGA civil penalties that are alleged or reasonably could have been alleged based on the facts alleged in the PAGA Action and in Plaintiff's PAGA Notices, including but not limited to: (1) failure to pay minimum and straight time wages (pursuant to Cal. Labor Code §§ 204, 210, 510, 1194, 1194.2, 1197 and 1197.1); (2) failure to pay overtime wages (pursuant to Cal. Labor Code §§ 510, 1194 and 1198); (3) failure to provide meal periods (pursuant to Cal. Labor Code §§ 210, 226.7 and 512); (4) failure to authorize and permit rest periods (pursuant to Cal. Labor Code §§ 210 and 226.7); (5) failure to timely pay final wages at termination (pursuant to Cal. Labor Code §§ 201 – 203 and 213(d)); (6) failure to provide accurate itemized wage statements (pursuant to Cal. Labor Code §§ 226 and 226.3); (7) failure to indemnify employees for expenditures (pursuant to Cal. Labor Code § 2802); (8) failure to produce requested employment records (pursuant to Cal. Labor Code §§ 226, 432, and 1198.5); (9) failure to pay all earned wages twice per month and unlawfully withholding accrued wages (pursuant to Cal. Labor Code §§ 204, 210 and 216); (10) failure to maintain accurate records of hours worked and meal periods (pursuant to Cal. Labor Code §§ 1174, and 1174.5); (11) recordkeeping requirement violations (pursuant to Cal. Labor Code §§ 226.6, 558.1, 1174, 1174.5, 1198 and 1199); (12) willful misclassification (pursuant to Cal. Labor Code § 226.8); (13) retaliation (pursuant to Cal. Labor Code § 1102.5); and (14) civil penalties for wage and hour violations (pursuant to Cal. Labor Code § 558). The Released PAGA Claims are those that accrued during the PAGA Period.

EXCLUDING YOURSELF FROM THE SETTLEMENT

12. HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT?

To exclude yourself from the Settlement, you must send the Settlement Administrator a written and signed request for exclusion which must be postmarked no later than 60 days after Class Notice is Mailed. Be sure to include your name, address, and telephone number, and any other information you think would be helpful to the settlement Administrator to identify you. You can send your request for exclusion to the settlement Administrator at:

ILYM Group, Inc.
Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al., Settlement

XXXXXX

City, State, XXXXX

Email:

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

If you ask to be excluded from the Settlement, you will not be legally bound by anything that happens in the Action, except as it relates to settlement of the PAGA claim. If you ask to be excluded from the Settlement you will not be able to object to the Settlement and you will not receive an Individual Class Payment, but you will still receive an Individual PAGA Payment if you worked for Defendants during the PAGA Period (August 31, 2023 to December 23, 2024). If you ask to be excluded, you may be able to sue (or continue to sue) Defendants in the future.

13. IF I DON'T EXCLUDE MYSELF, CAN I SUE DEFENDANT FOR THE SAME THING LATER?

No. Unless you exclude yourself, you give up any right to sue Defendants for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is [60 days after Class Notice is Mailed.

14. IF I EXCLUDE MYSELF, CAN I GET MONEY FROM THIS SETTLEMENT?

No. If you exclude yourself, you will not receive any money from this Settlement. However, if you timely exclude yourself from the Settlement, you will retain the right to pursue your own legal action against Defendants, if you desire.

THE LAWYERS REPRESENTING YOU IN THIS LAWSUIT

15. DO I HAVE A LAWYER IN THIS CASE?

The Court has determined that Wilshire Law Firm is qualified to represent you and the Class Members in the lawsuit. These lawyers are called Class Counsel and their contact information is listed below. If you want to be represented by your own lawyer, you may hire one at your own expense.

John G. Yslas
john.yslas@wilshirelawfirm.com
Jeffrey C. Bils
jeffrey.bils@wilshirelawfirm.com
Aram Boyadjian
aram.boyadjian@wilshirelawfirm.com
Andrew Sandoval
andrew.sandoval@wilshirelawfirm.com
WILSHIRE LAW FIRM
660 S. Figueroa St., Sky Lobby
Los Angeles, California 90017
Telephone: (213) 513-5205
Facsimile: (213) 381-9989

16. HOW WILL THE LAWYERS BE PAID?

Class Counsel will ask the Court to approve up to 1/3 of the GSA (currently \$220,666.67) for attorneys' fees incurred in investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel will also seek Court-approval of up to \$47,000.00 in litigation expenses incurred in this matter. The Court may award Class Counsel less than what they request. Class Counsel will also ask the Court to approve

QUESTIONS? CALL **1-800-XXX-XXXX** TOLL FREE

payment to Plaintiff Joshua Riccabona in the amount of \$10,000 in addition to Plaintiff's Individual Class Payment and Individual PAGA Payment for the initiative, risk, and time and energy Plaintiff has spent in service to the Class as the Class Representative. The Court may award the Class Representative less than what is requested.

OBJECTING TO THE SETTLEMENT

You can and have the right to tell the Court you do not agree with the Settlement or some part of it.

17. HOW DO I TELL THE COURT THAT I OBJECT TO THE SETTLEMENT?

If you don't think the Settlement is fair, you can object to some or all of the Settlement. You can either object to the Settlement in person at the Final Approval Hearing or you can submit a written objection. Written objections and notices of intent to appear at the Final Approval Hearing must be mailed to the Settlement Administrator and postmarked on or before [REDACTED], at the following address:

ILYM Group, Inc.
Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al. Settlement

[REDACTED]

[REDACTED]
City, State, [REDACTED]

[REDACTED]
Email: [REDACTED]

The written objection should state your name and address and describe all legal and factual reasons that you object to the terms of the Settlement. You should also include or attach any documents upon which your objection is based. If the Court overrules the objection at the Final Approval hearing, the Settlement Agreement will be approved, and you will receive your payment. If you do not submit a written objection, you may still appear at the Final Approval hearing to voice your objection or to otherwise observe the proceedings.

18. WHAT'S THE DIFFERENCE BETWEEN OBJECTING AND REQUESTING EXCLUSION?

Objecting is simply telling the Court that you do not agree with something about the Settlement. You can object only if you stay in the Class.

Requesting exclusion is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you, and you do not get any money from this Settlement. If you submit both an objection and a request to be excluded from the settlement, the request to be excluded will control and you will not get any money from this settlement.

THE COURT'S FAIRNESS HEARING

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

19. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court will hold a Final Approval Hearing at [REDACTED] on [REDACTED] in Department 12 of the Contra Costa County Superior Court located at 725 Court Street, Contra Costa, California 94553 to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. If there are objections, the Court will consider them at that time. The Court will also be asked to approve the requests for the Class Representative Service Payment and the Class Counsel Fees and Litigation Expenses Payments.

20. DO I HAVE TO COME TO THE HEARING?

No. Class Counsel will answer questions the Court may have. However, you are welcome to attend. If you send an objection, you do not have to come to the Court to talk about it. As long as you mailed your written objection to the settlement administrator on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

IF YOU DO NOTHING

21. WHAT IF I DO NOTHING AT ALL?

If you do nothing, you will receive a Settlement payment, and you will be bound by the terms of Settlement, which means that you will not be able to start a lawsuit, continue a lawsuit, or be a part of any other lawsuit against the Defendant about the legal issues in the Action.

GETTING MORE INFORMATION

22. HOW DO I GET MORE INFORMATION?

You may contact Class Counsel at the contact information listed above in Section 15 if you have any questions about the Settlement. You may also contact the Court-appointed Settlement Administrator, ILYM Group, Inc. by calling toll free 1-800 [REDACTED], or you can write to the Administrator at the following address:

ILYM Group, Inc.

Joshua Riccabona v. Dolans of Pinole Lumber and Building Materials Co., et al. Settlement

[REDACTED]

City, State, [REDACTED]

Email: [REDACTED]

PLEASE DO NOT TELEPHONE THE COURT OR DOLANS OF PINOLE LUMBER AND BUILDING MATERIALS CO. AND DOLANS OF CONCORD'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. YOU MAY, HOWEVER, CALL CLASS COUNSEL OR THE SETTLEMENT ADMINISTRATOR, LISTED ABOVE.

QUESTIONS? CALL 1-800-XXX-XXXX TOLL FREE

EXHIBIT 4

Evette Padilla

From: no-reply@formassembly.com
Sent: Monday, February 23, 2026 12:18 PM
To: Evette Padilla
Subject: Thank you for your Proposed Settlement Submission

02/23/2026 12:17:19 PM

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

Item submitted: Proposed Settlement

On 02/23/2026 12:17:19 PM your Proposed Settlement was successfully processed for case number LWDA-CM-978704-23

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

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam12.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C02%7Cevette.padilla%40wilshirelawfirm.com%7C198f0b4cb4a047bcdd7708de7318948a%7C9ada260a4f194da187b814d372333753%7C1%7C0%7C639074746608585107%7CUnknown%7CTWFpbGZsb3d8eyJFbXB0eU1hcGkiOnRydWUsIlYiOiwlLjAuMDAwMCIslIAiOiJXaW4zMilslkFOljoiTWFpbGlldUljoyfQ%3D%3D%7C0%7C%7C%7C&sdata=cyPbMWzw5w%2FtWKfgtJ4OmrU2to%2Bvwk8waybtvfl4aE%3D&reserved=0

EXHIBIT 5

ILYM | GROUP, Inc.

C L A S S A C T I O N A D M I N I S T R A T I O N

Case Name: Riccabona v. Dolans of Pinole Lumber

Monday, October 13, 2025

Requesting Attorney:

Andrew Sandoval, Esq.
Wilshire Law Firm, PLC
lisa.iturriaga@wilshirelawfirm.com
213.381.9988

ILYM Group Contact:

Lisa Mullins
ILYM Group, Inc.
Lisa@ilymgroup.com
714.878.8836

Estimate For Administrative Solutions: Class & PAGA

KEY ASSUMPTIONS	
Total Number of Class Members	260
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	Yes
Case Duration (Years)	1

Summary of ILYM Group, Inc.'s Fees & Expenses

Case Startup:	\$325.00
Project Management:	\$2,780.00
Notification & Mailing:	\$848.60
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$2,781.40
Case Conclusion:	\$1,015.00

Estimated ILYM Fees & Expenses: \$7,750.00

ILYM | GROUP, Inc.

CLASS ACTION ADMINISTRATION

Case Name: Riccabona v. Dolans of Pinole Lumber

Monday, October 13, 2025

Requesting Attorney's Name: Andrew Sandoval, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	1	\$150.00
Programming of Class Database	Hourly	\$175.00	1	\$175.00
<i>*ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.</i>				
Subtotal				\$325.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	3	\$360.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	1	\$70.00
Staff Hours for Processing Opt-Outs, Disputes & Objection(s)	Hourly	\$70.00	1	\$70.00
Report Processing	Hourly	\$70.00	1	\$70.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
NCOA	Flat Rate	\$85.00	1	\$85.00
Toll Free Customer Service Representative	Flat Fee	\$125.00	1	\$125.00
Weekly Reports	Flat Rate	\$750.00	1	Waived
Subtotal				\$2,780.00

NOTIFICATION & MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	260	\$390.00
USPS First Class Postage	Per Piece	\$0.85	260	\$221.00
Re-Mails (Forward/Skip trace Undeliverables)	Per Piece	\$2.00	39	\$78.00
Storage, Photocopies, Deliveries	Flat Fee	\$159.60	1	\$159.60
Subtotal				\$848.60

ILYM | GROUP, Inc.

C L A S S A C T I O N A D M I N I S T R A T I O N

Case Name: Riccabona v. Dolans of Pinole Lumber

Monday, October 13, 2025

Requesting Attorney's Name: Andrew Sandoval, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	2	\$300.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	2	\$250.00
Check, Stub & Release - Print & Mail (W2/1099)	Per Check	\$1.00	260	\$260.00
USPS First Class Postage	Per Piece	\$0.74	260	\$192.40
Re-Mails (Forward/Skip trace Undeliverables up to 10%)	Per Piece	\$1.50	26	\$39.00
Preparation of Taxes	Hourly	\$120.00	2	\$240.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal **\$2,781.40**

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Project Manager Final Reporting	Hourly	\$120.00	2	\$240.00
Process Unclaimed Funds to the State	Flat Fee	\$550.00	1	\$550.00
Declaration	Hourly	\$125.00	1	\$125.00

Subtotal **\$1,015.00**

Estimated ILYM Fees & Expenses: \$7,750.00

ILYM Group's Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the permissible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.