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DE ORNELAS and MARGARITA URRUTIA,  
on behalf of themselves and others similarly situated

*[Additional counsel on following page]*

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO**

MARISELA MARTINEZ DE ORNELAS  
and MARGARITA URRUTIA, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

MAGNOLIA FOODS, LLC, a California  
limited liability company; and DOES 1 to 10,  
inclusive,

Defendant.

ELECTRONICALLY FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
11/7/2024 7:08 PM  
By: Stephanie Garcia, DEPUTY

CASE NO. CIVSB2308953

[Consolidated with CASE NO. CIVSB2324321]

*Assigned to Hon. Christian Towns, Department S-26*

**CLASS ACTION**

**DECLARATION OF MARCUS J. BRADLEY IN  
SUPPORT OF MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION AND PAGA  
SETTLEMENT**

*(Filed concurrently with Notice of Motion and Motion,  
Declarations of Paul K. Haines, Sean M. Blakely,  
Plaintiff Marisela Martinez de Ornelas, Plaintiff  
Margarita Urrutia, and Lisa Mullins; [Proposed]  
Order)*

**Date: December 3, 2024**

**Time: 8:30 A.M.**

**Dept: S-26**

Action Filed: March 29, 2023

Trial Date: None Set

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17 Attorneys for Plaintiffs MARISELA MARTINEZ  
18 DE ORNELAS and MARGARITA URRUTIA,  
19 on behalf of themselves and others similarly situated  
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**DECLARATION OF MARCUS J. BRADLEY**

I, Marcus J. Bradley, hereby declare as follows:

1. I am an attorney at Bradley/Grombacher, LLP, co-counsel of record for Marisela Martinez de Ornelas ("Plaintiff Ornelas") and Plaintiff Margarita Urrutia ("Plaintiff Urrutia") in this consolidated matter. The following statements are based on my personal knowledge and review of the files. If called on to do so, I could and would testify competently thereto.

2. I am submitting this Declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Action and PAGA Settlement. I am familiar with the file, the documents, and the history related to this case.

3. A true and correct copy of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT ("Settlement Agreement") is attached to this Declaration as **Exhibit 1**. The proposed class notice, subject to court approval and formatting by the Settlement Administrator, is attached as an Exhibit to the Settlement Agreement.

4. I am not aware of any other class, representative or collective actions in any other court in this or any other jurisdiction that asserts claims similar to those asserted in this action on behalf of the class or group of individuals who would also be members of the class defined in this action.

**I. CASE BACKGROUND AND PROCEDURAL HISTORY**

5. This case alleged that Defendant knew or had reason to know that its employees work off the clock and through meal and rest breaks. The case alleged 1) Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198; 2) Failure to pay all Wages and Minimum Wages in Violation of Labor Code sections 221,223, 1182, 1194, 1197, and 1198; 3) Failure to Provide Meal Periods in Violation of Labor Code sections 226.7, 512, 516 and 1198; 4) Failure to Provide Rest Periods in Violation of Labor Code sections 226.7, 516, 1198; 5) Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a) and Failure to Maintain Accurate Records; 6) Failure to Provide Suitable Seating in Violation of Labor Code section 1198; 7) Failure to Provide Sick Pay at the regular rate in Violation of Labor Code Section 246; 8) Failure to Reimburse for All Necessary Business Expenditures in Violation of Labor Code section 2802, 2804; (9) Failure to Timely Pay Wages During Employment in Violation of Labor Code Section 204; 10) Waiting Time

1 Penalties Pursuant to Labor Code sections 201 and 203; 11) Violations of Business & Professions  
2 Code section 17200 et seq.

3 6. Plaintiffs also asserted a claim under the Private Attorney General Act of 2004  
4 (“PAGA”), California Labor Code section 2699 *et seq.*, and the Business and Professions Code sections  
5 17200 *et seq.*, based on the same allegations. The class claims were based on complaints we received  
6 from the named Plaintiffs, Marisela Martinez de Ornelas, and Margarita Urrutia. After initial  
7 investigations, we were confident about the merits of the case and that class-wide evidence would  
8 support the “pattern and practice” claims.

9 7. On March 28, 2023, Plaintiff Ornelas submitted a Private Attorneys General Act  
10 (“PAGA”) Notice to the Labor and Workforce Development Agency, alleging violations of the  
11 California Labor Code and the Industrial Welfare Commission Wage Order.

12 8. On March 29, 2023, Plaintiff Ornelas filed her case in the Superior Court of California,  
13 County of San Bernardino.

14 9. On June 7, 2023, Plaintiff Ornelas filed the operative First Amended Complaint adding  
15 a PAGA claim.

16 10. On or about June 23, 2023, the Parties submitted a stipulation to stay this action,  
17 including a stay all formal discovery in order to focus on an informal resolution to this matter with  
18 data and information to be exchanged informally in advance of the mediation.

19 11. On September 27, 2023, Plaintiff Margarita Urrutia filed her lawsuit against Magnolia  
20 Foods, LLC in Superior Court of California, San Bernadino County, titled *Margarita Urrutia v.*  
21 *Magnolia Foods, LLC, et al.* Case No. CIVSB2324321 (“the Urrutia Action”). On December 4, 2023,  
22 Plaintiff Margarita Urrutia filed a First Amended Complaint adding a claim for PAGA Penalties. The  
23 Urrutia Action alleged nearly identical claims as the Ornelas Action, but included an additional claim  
24 for unpaid business expenses.

25 12. To prepare for the mediation, Plaintiffs requested, and Defendant provided, timekeeping  
26 and compensation figures and data and documents reflecting Defendant’s wage and hour policies that  
27 assisted us in assessing the value of Plaintiffs’ claims and estimating damages. We also prepared a  
28 detailed mediation statement, which included excerpts from declarations from putative class members,

1 and citations to documentary evidence.

2 13. On March 14, 2024, the parties engaged in mediation before Steve Pearl, Esq., an  
3 experienced and well-regarded mediator in this area of law. Mr. Peral explored and challenged the  
4 Parties and Counsel on many issues. At the close of the mediation, Plaintiffs and Defendant agreed  
5 on the principal terms of a settlement, which was reached after arms' length negotiations.

6 14. On October 11, 2023, the Parties agreed to all of the key terms of the settlement and  
7 executed a memorandum of understanding.

8 15. Thereafter the Parties began preparing the long-form settlement agreement, which was  
9 fully executed in October 2024 and is presented with this motion.

10 16. On November 4, 2024, the Parties submitted a Joint Stipulation to Consolidate the  
11 *Ornelas* and *Urrutia* actions. The Court granted the stipulation, and on November 6, 2024, the Parties  
12 filed the Operative Consolidated Complaint.

## 13 **II. EXPERIENCE OF COUNSEL**

### 14 **Bradley/Grombacher, LLP**

15 17. Bradley/Grombacher LLP is a national law firm with extensive experience litigating  
16 wage and hour class and representative actions, as well as complex consumer class actions. Details on  
17 the work, experience and accomplishments of the firm can be found at [www.bradleygrombacher.com](http://www.bradleygrombacher.com).  
18 In just the past few months, two federal district courts have commented on excellent results obtained  
19 by Bradley/Grombacher LLP, attributable to our skilled advocacy and determination. *See, In re*  
20 *Johnson & Johnson Aerosol Sunscreen Mktg., Sales Pracs. & Prod. Liab. Litig.*, (S.D. Fla. Feb. 28,  
21 2023) 2023 WL 2284684, at \*9 (“The Court has observed class counsel’s diligence, ability, and  
22 experience in pleadings and motion practice; in their presentation of the settlement to this Court; and  
23 in their attention to matters of notice and administration after the announcement of the settlement. The  
24 excellent job Class Counsel have done for the class is also demonstrated in the benefits afforded by the  
25 Settlement.”); *Razo v. AT&T Mobility Servs., LLC*, (E.D. Cal. Apr. 26, 2023) 2023 WL 3093845, at  
26 \*24, \*26 (commenting on the skill class counsel displayed faced with complex issues and significant  
27 uncertainty as to the viability of the claims throughout much of the case).

### 28 **Experience of Marcus J. Bradley Esq.**

1           18. I have been Counsel for Plaintiff and the proposed class throughout this case. I  
2 personally have represented plaintiffs in consumer and employment class actions since I began  
3 practicing law in 1994. In 2000, I joined Mazursky, Schwartz & Angelo as an associate and became a  
4 partner in January 2005 at which time the firm was renamed Schwartz, Daniels & Bradley. I remained  
5 as a partner handling primarily wage and hour class actions until the dissolution of the firm effective  
6 December 31, 2008. In January 2009, I moved my existing practice transferring a number of wage and  
7 hour cases to become a partner with the law firm of Marlin & Saltzman, a long-established firm with  
8 whom I had been co-counsel on dozens of wage and hour class actions during my tenure at Schwartz,  
9 Daniels & Bradley. On September 1, 2016, I formed Bradley/Grombacher LLP along with a former  
10 associate at Marlin & Saltzman, Kiley Grombacher.

11           19. I have been responsible for all facets of class action employment and other complex  
12 litigation, from pre-filing investigation through trial and appeal. Since approximately May 2000, I have  
13 spent most of my time representing workers in wage and hour matters. I, along with my current and  
14 former partners, have litigated these issues in class actions to favorable settlements that have recouped  
15 over \$800,000,000.00 in unpaid wages, including the following more notable cases:

- 16           a. *Gutierrez v. State Farm Mutual*, Los Angeles Superior Court (BC236552). Class action  
17 mis-classification case seeking overtime compensation for approximately 2,600  
18 insurance claims adjusters employed by State Farm. The class was certified, and  
19 summary adjudication was granted as to liability in favor of the class. The case settled  
20 for \$135 million just prior to trial, with final approval granted with no objections filed.
- 21           b. *Bednar v. Allstate Insurance Company*, Los Angeles Superior Court (BC240813). Class  
22 action mis-classification case seeking overtime compensation for approximately 1,200  
23 insurance claims adjusters employed by Allstate. The class was certified, and summary  
24 adjudication was granted as to liability in favor of the class. The case settled for \$120  
25 million just prior to trial, with final approval granted with no objections filed.
- 26           c. *Roberts v. Coast National Insurance*, Orange County Superior Court (01CC08478).  
27 Class action mis-classification case seeking overtime compensation for insurance  
28 claims adjusters employed by Coast National Insurance. Certification granted, and then

1 the matter was tried before a binding arbitrator. The case settled during the arbitration  
2 for an excess of \$18 million.

3 d. *CNA Class Action Litigation*, Los Angeles Superior Court (JCCP 4230). Class action  
4 mis-classification case seeking overtime compensation for insurance claims adjusters  
5 employed by Defendant. The case settled for \$33 million, with final approval granted  
6 with no objections filed.

7 e. *Dotson v. Royal SunAlliance*, Orange County Superior Court (02CC01787). Class  
8 action mis-classification case seeking overtime compensation for insurance claims  
9 adjusters employed by Royal SunAlliance. The case settled for \$12.3 million, with final  
10 approval granted with no objections filed.

11 f. *Parris v. Lowe's Home Improvement*, Los Angeles County Superior Court (BC260702).  
12 Class action seeking payment of "off-the-clock" hours worked by all hourly employees  
13 of Lowe's Home Improvement stores in the State of California. The class was certified  
14 by the Court of Appeal and remanded to the trial court for further proceedings. Shortly  
15 thereafter, a \$29.5 million settlement was reached and approved without objection.

16 g. *Pardo v. Toyota Motor Sales, et al.*, Los Angeles County Superior Court (BC372781).  
17 Class action mis-classification of workers with claims for overtime and missed meal  
18 and rest breaks. The case settled for \$7.75 million and was approved with no objections.

19 h. *Smith/Ballard v. Wal-Mart Stores, Inc.* United States District Court for the Northern  
20 District of California (Case No. 4:06-cv-05411-SBA). Wage and hour class action  
21 seeking unpaid vacation and personal time, unpaid wages, and related penalties on  
22 behalf of over 245,000 employees. The action was certified and settled for \$86 million  
23 while Defendants' appeal of the certification was pending in the Ninth Circuit Court of  
24 Appeals.

25 i. *Hoyng v. AON*, Los Angeles County Superior Court (BC377184). Wage and hour class  
26 action seeking overtime and related compensation for mis-classification on behalf of  
27 Relationship and Account Specialists. The case settled for \$10.5 million which was  
28 approved with no objections filed.

- j. *In RE Bank of America Wage and Hour Employment Practices Litigation*, MDL 2138, United States District Court for the District of Kansas. California state and FLSA wage and hour litigation for various violations including unpaid overtime and “off-the-clock” work. Settled for \$73 million.
- k. *Lemus v. H & R Block Litigation*, United States District Court for the Northern District of California (Case No. 3:09-cv-03179-SI) Class certified, and settlement reached prior to trial. Total settlement of \$35 million.
- l. *Harris v. Vector Marketing Corporation*, United States District Court for the Northern District of California (Case No. 3:08-cv-05198-EMC). Class action case on behalf of approximately 70,000 employees misclassified as “trainees.”
- m. *Bickley v. Schneider National Trucking*, United States District Court for the Northern District of California (Case No. 4:08-cv-05806-JSW). Wage and hour class action on behalf of approximately 6,000 truck drivers. Settled for \$29.5million.
- n. *Roberts v. TJX*, United States District Court for the Northern District of California (Case No. 13-CV-04731-MEJ). Wage and hour violations on behalf of approximately 82,000 employees. Settled for \$8.5 million.
- o. *Oprychal v. New York Life Insurance*, United States District Court for the Central District of California (Case No. 2:07-cv-00518-VBF). Class action for the failure to pay commissions pursuant to a compensation plan. Settled for \$10 million.
- p. *Neuvenheim v. GameStop Corp.*, United States District Court for the Central District of California (Case No. 2:09-cv-06799-ODW). Class action on behalf of nonexempt employees for wage and hour violations.
- q. *Hightower v. JP Morgan Chase*, United States District Court for the Central District of California (Case No. 2:11-cv-01802-PSG). Class action on behalf of nonexempt employees for wage and hour violations. Settled for \$12 million.

20. On many of the above cases, I was either lead or co-lead counsel including cases in multi-district litigation or coordinated proceedings where I worked collaboratively and cooperatively with co-counsel to bring about an efficient and beneficial resolution for all class members, as the above

1 results demonstrate.

2       21. I have argued cases in trial courts as well as before courts of appeal. My writings on  
3 legal topics pertaining to litigating wage and hour class and representative actions have appeared in  
4 professional publications and I have been called upon to speak at conferences and seminars for  
5 professional organizations, including a recent presentation titled “Planning for and Executing Trial in  
6 Class and Collective Wage & Hour Cases.”

7       22. I have also been honored as a Super Lawyer in the area of class actions by Los Angeles  
8 Magazine for multiple years including 2023. I am a member of a number of professional organizations,  
9 including the Consumer Attorneys of Los Angeles, the Consumer Attorneys of California, the  
10 California Employment Lawyers Association, and the American Association for Justice.

11                               **Experience of Kiley L. Grombacher, Esq.**

12       23. My partner, Ms. Grombacher, specializes her practice in complex litigation including  
13 consumer and employment class actions. She has litigated hundreds of employment and consumer class  
14 actions throughout her career.

15       24. Ms. Grombacher has been a member of the State Bar of California since 2006. Her  
16 involvement in various forms of class action litigation spans more than a decade during which time she  
17 has litigated hundreds of class actions.

18       25. Ms. Grombacher began her legal career at Arias, Ozzello & Gignac where she  
19 specialized in litigating consumer cases. Thereafter, Ms. Grombacher joined Marlin & Saltzman in  
20 2010 where she focused her practice almost exclusively on wage and hour, collective and representative  
21 actions including the reported case, *Faulkinbury v. Boyd & Associates*, which clarified the holding in  
22 seminal case, *Brinker Restaurant Corp. v. Superior Court*, to establish that legality of certain company  
23 policies could be determined on a class-wide basis even if the application of the policies varies by  
24 individual.

25       26. Ms. Grombacher has been selected by Super Lawyers Magazine as a “Rising Star” in  
26 the field of complex litigation since 2015 and as a Super Lawyer since 2017. She has published articles  
27 on the field of class action litigation including “A Class-Action Primer” which appeared in The  
28 Advocate, which is the Journal of Consumer Attorneys of Southern California.

27. Ms. Grombacher has also lectured on various topics involving complex case management. She is also a member of a number of professional organizations, including the Consumer Attorneys of Los Angeles and the American Association for Justice.

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#### **Experience of Corey S. Smith, Esq.**

28. Corey Smith is an eighth-year, Senior Associate at Bradley/Grombacher, LLP. Mr. Smith earned his Juris Doctor from Pepperdine University. Mr. Smith focuses his practice on employment class action litigation and is a skilled litigator. Before joining Bradley Grombacher, Mr. Smith worked for Marlin & Saltzman, LLP, another prominent wage and hour class action firm, where he helped secure sizeable settlements in numerous class action and PAGA lawsuits, and sat second chair in a class action trial.

### **III. VALUE AND TERMS OF THE SETTLEMENT**

#### **A. Gross and Net Settlement Amount**

29. Defendant has identified approximately 260 current and former employees who are eligible to participate in this settlement.

30. The Settlement Class consists of all persons directly employed by Defendant as non-exempt employees in California during the Class Period (March 29, 2019 through March 15, 2024), and includes Aggrieved Employees – all persons directly employed by Defendants as non-exempt employees in California during the PAGA Period (March 29, 2022 through March 15, 2024). Settlement Agreement. at ¶¶ 1.4, 1.5, 1.9, 1.32. Defendant represented that there were 44,000 workweeks collectively worked by the Class Members during the Class Period. *Id.* at ¶ 4.1

31. The proposed settlement is for a non-reversionary gross settlement fund of \$670,000.00. We estimate that the amount that will be made available for payments to class members will be approximately \$363,900.00 after the following amounts are subtracted: (1) the fees and costs of the third party administrator charged with administering the settlement (not to exceed \$20,000.00); (2) the LWDA payment of \$20,000.00 with \$15,000.00 (75% of the \$20,000.00 PAGA Payment) to be paid to the LWDA and the remainder to be distributed to the aggrieved employees; (3) any service awards approved by the Court for Plaintiffs Ornelas and Urrutia (up to \$20,000.00, a maximum of \$10,000.00

each); and (5) any attorneys' fees and costs approved by the Court (Plaintiffs will seek the 33% of the gross settlement amount for fees (\$221,100.00) and up to \$25,000 actual in costs). Settlement Agreement at ¶ 3.2.2.

32. We estimate that the average net recovery per class member, if all approximately 260 class members participate, will be approximately \$1,399.00. However, each Class Member's award will be proportionally greater or smaller than the average depending upon the Class Member's number of weeks worked during the class period, as set forth in the Settlement Agreement and described in the Class Notice. We believe this is an objective, reasonable measure because the value of an individual's claim will tend to increase proportionally with his or her length of service (e.g., a class member who works twice as long will tend to have twice as many missed meal and rest periods, etc.).

33. In our experience in similar class action settlements, this kind of formula is reasonable to administer. It also is objective and easier to explain to class members than more complicated formulas. The workweeks to input into the formula for each class member will come directly from Defendant's records.

**B. Class Members Will Be Notified of Their Estimated Award and Have the Ability to Challenge Defendant's Workweek Data**

34. The proposed Class Notice is tailored to provide each Settlement Class Member with his or her own approximate workweeks, as well as an estimate of the amount of the settlement payment that he or she will receive if the settlement is approved. This serves two purposes. First, it provides each Class Member with the opportunity to know his or her approximate monetary settlement share before deciding whether to object to or request exclusion from the settlement. Second, the Settlement Agreement and Class Notice also provide Class Members a mechanism to challenge Defendant's records as to their workweeks if they do not believe them to be accurate.

**C. Narrow Release**

35. Class Members who do not opt out of the settlement will have a narrow release that is limited to just those claims that were actually pled or could have been pled based on the alleged facts and/or legal theories in the SAC. Settlement Agreement, at ¶ 9. The Released PAGA Claims with respect to the PAGA Group are binding on the PAGA Group regardless of a valid Opt Out from the

1 Class. *Id.* at ¶ 7.5.4.

2 **D. No Reversion to Defendant and *Cy Pres* Beneficiary**

3 36. Another significant provision of the settlement is that there will be no reversion of any  
4 of the \$670,000.00 Gross Settlement fund to Defendant. Instead, any individual Settlement Payment  
5 that remains uncashed or undistributed in the settlement fund after the payment of all claims, including  
6 any accrued interests thereon, will be paid to the Parties' designated *cy pres* beneficiary. Settlement  
7 Agreement at ¶¶ 4.4.3, 6.2. The designated *cy pres* beneficiary is Legal Aid At Work (LAAW), which  
8 advises, counsels, and represents employees regarding their legal rights, including wage and hour  
9 protections. LAAW has a substantial nexus to the class claims because it seeks to strengthen the same  
10 kind of workplace protections (such as meal and rest periods) that are asserted in this case, on behalf  
11 of employees in California. More information about LAAW is attached to this Declaration as **Exhibit**  
12 **3**, including a webpage describing its efforts to enforce wage and hour protections.

13 **D. PAGA Allocation**

14 37. The SAC also alleged claims under California's Private Attorneys General Act (PAGA),  
15 California Labor Code section 2699 *et seq.* Under the PAGA, private individuals step into the shoes  
16 of the Labor Commissioner to pursue claims for civil penalties, with 75% of the penalties paid to the  
17 LWDA and another 25% to be paid to the aggrieved employees. Here, the parties have allocated  
18 \$20,000.00 for the PAGA claims, with 75% of it earmarked for the LWDA. (The allocation is  
19 explained below.)

20 38. Pursuant to California *Labor Code* § 2699(1)(2), a copy of the Settlement Agreement  
21 was uploaded to the LWDA on October 29, 2024. Confirmation of the submission to LWDA is attached  
22 hereto as **Exhibit 2**.

23 **IV. CERTIFICATION OF SETTLEMENT CLASS**

24 39. The Parties have stipulated to provisional class certification for purposes of settlement  
25 only. Settlement Agreement at ¶ 12.7. Additionally, as discussed further in Plaintiffs' motion, class  
26 certification under California Code of Civil Procedure § 382 is appropriate here.

27 **A. The Proposed Class Is Numerous and Ascertainable**

28 40. Defendant has identified approximately 260 employees who fit the class definition. The

1 Settlement Class consists of all persons directly employed by Defendant as non-exempt employees in  
2 California during the Class Period (March 29, 2019 through March 15, 2024). Joinder of 260 cases  
3 would be impracticable.

4 41. Further, the Class is ascertainable based on Defendant's employment records and is  
5 numerous, therefore satisfying the numerosity requirements in California Code of Civil Procedure §  
6 382.

7 **B. The Central Issues that are Common to all Settlement Class Members Predominate**  
8 **Over Any Individual Issues**

9 42. Here, commonality is satisfied as to all of Plaintiffs' class claims because they turn upon  
10 answers to overarching common questions regarding Defendant's policies and procedures that are  
11 capable of class wide resolution. The claims brought by the proposed Settlement Class all arise from  
12 the same policies and practices. Plaintiffs challenge Defendant's uniform failure to pay their employees  
13 and alleged failure to provide meal and rest breaks or compensation in lieu thereof. *See* Consolidated  
14 Complaint.

15 43. Additionally, Plaintiffs' allegations present common legal and factual questions of, *inter*  
16 *alia*, whether Defendant applied the same compensation, meal period and rest break policies to all Class  
17 Members; whether those policies or their implementation resulted in Labor Code violations; whether  
18 Defendant's conduct was intentional; and whether Class Members are entitled to damages and/or  
19 penalties. These questions can be resolved using Defendant's time and payroll records, corporate  
20 representative testimony, and written policies and practices.

21 44. Plaintiffs allege that they and other Class Members share the same claims stemming  
22 from Defendant's alleged violations of the Labor Code and relevant wage order. In addition,  
23 Defendant's main defenses, including that the wage and hour policies and practices fully comply with  
24 California law, apply equally to the claims of all Class Members.

25 **C. Plaintiffs' Claims Are Typical of the Claims of the Settlement Class**

26 45. Both Plaintiff Ornelas and Plaintiff Urrutia satisfy the typicality requirement because  
27 they assert the same types of injuries arising from the same conduct by Defendant as the absent class  
28 members. Plaintiffs performed the same kind of work and were subject to the same uniform policies

1 and practices as the other members of the proposed Settlement Class, including Defendant's common  
2 policies and practices related to its pay structure. Plaintiffs seek relief for these claims and derivative  
3 claims on behalf of all Class Members. Thus, Plaintiffs' claims arise from the same employment  
4 practices and are based on the same legal theories as those applicable to the other Class Members.

5 **D. Plaintiffs and Their Counsel Adequately Represent the Class**

6 46. As discussed above, Ms. Ornelas and Ms. Urrutia have retained and are represented by  
7 counsel with substantial experience in wage and hour class action litigation. Additionally, there is no  
8 evidence of antagonism between Plaintiffs' interests and those of the Class Members. Plaintiffs have  
9 litigated this case in good faith and their interests are aligned with those of the Settlement Class  
10 Members as they share a common interest in challenging the legality of Defendant's policies and  
11 procedures.

12 47. Throughout this case, Plaintiffs have remained available to, and regularly did, consult  
13 with counsel. In addition, they reviewed documents and provided invaluable information regarding  
14 the workings of the Defendant's operations. Plaintiffs were also actively involved in discussions  
15 regarding the resolution of this matter and approved the settlement terms on behalf of themselves and  
16 the Class.

17 **V. NOTICE OF PROPOSED SETTLEMENT**

18 48. Class Members will be notified of the settlement by first class mail. The Parties have  
19 agreed to request that the Court appoint ILYM Group, Inc. ("ILYM"), as the Settlement Administrator.  
20 ILYM is a well-qualified Settlement Administrator, as demonstrated by the separate declaration being  
21 submitted by its representative, Lisa Mullins.

22 49. The Settlement Administrator will undertake its best efforts to ensure that the notice is  
23 sent to the most current mailing address of each Class Member. Defendant will provide the Settlement  
24 Administrator with a list of all Class Members and their most recently known mailing addresses. The  
25 notice will be provided to the Class Members by First Class U.S. Mail. The Settlement Administrator  
26 will conduct a national change of address search before the mailing, as well as skip tracing and  
27 remailing for any notices or settlement checks returned as undeliverable. Additionally, ILYM will  
28 establish and maintain a webpage on their website dedicated to this settlement on which ILYM will

1 post the Class Notice, a copy of the Settlement Agreement, the documents filed in connection with the  
2 preliminary and final approval motions, and the Court's Orders relating to the settlement.

3 50. The Class Notice will provide, among other things, a description of the case; the total  
4 settlement amount; the categories and amounts of deductions that will be made from the total settlement  
5 amount to get to the net settlement for distribution to the Settlement Class Members; the procedures  
6 for opting out of the settlement, objecting to the settlement, and disputing settlement calculations; an  
7 explanation of how an objecting Class Member may preserve his or her right to appeal a final approval  
8 order and judgment; an explanation of the class release for individuals who do not opt out; a statement  
9 of the amount of attorneys' fees and costs and service award sought; and instructions on how to obtain  
10 copies of the Settlement Agreement and other related documents.

11 51. Each notice also will be individually tailored to provide the Class Member's own  
12 workweeks, as well as a preliminary calculation of the approximate amount of money they will receive  
13 in the event all Settlement Class Members participate in the settlement. The proposed Notice of Class  
14 Action and PAGA Settlement is attached as an exhibit to the Settlement Agreement which is attached  
15 as Exhibit 1 to this declaration.

## 16 **VI. KULLAR ANALYSIS**

### 17 **A. Strengths Risks and Complexities of the Case**

18 52. In reaching the settlement, we considered Defendant's potential exposure in the event  
19 we could prevail on all claims and collect full damages, and then moderated this theoretical exposure  
20 against the risks and delays presented by the case, including risks of class certification, demonstrating  
21 class liability, proving damages, responding to appeals, the possibility that developments in the law  
22 could harm Plaintiffs' position during the pendency of any appeals, as well as the consequences of  
23 further delay to Class Members.

24 53. While we remained confident in, and committed to, the merits of Plaintiffs' case  
25 throughout the litigation and settlement process, we also were realistic regarding the risks at each stage  
26 going forward. First, the parties would have engaged in lengthy and complex motion practice. This  
27 would have included the risk of having class certification denied in whole or in part. Indeed, although  
28 Plaintiffs strongly believe that they would prevail on her motion for class certification, denial of class

1 certification remains a risk. Obtaining class certification of a pattern and practice claim—even when  
2 meritorious—is difficult without facially unlawful policies. *See, e.g., Civil Rights Education and*  
3 *Enforcement Center v. Hospitality Properties Trust*, (9th Cir. 2017) 867 F.3d 1093, 1104 (citing  
4 *Nordstrom v. Ryan*, (9th Cir. 2014) 762 F.3d 903, 911).

5 54. If Plaintiffs’ off-the-clock or meal and rest period claims were not certified, all or many  
6 of those eligible to recover under this settlement would have lost significant compensation and may  
7 have been left with nothing at all. Plaintiffs also faced the risk, post-certification, that they would not  
8 be able to prove class-wide liability on the merits. Further, assuming Plaintiffs would prevail at  
9 summary judgment or trial on the issue of class liability, there still would be uncertainty in terms of the  
10 damages that would be proved and collected. Defendant also strongly disputed that Plaintiffs could  
11 establish willfulness and the Parties had considerable disagreement about the amount of penalties  
12 Plaintiffs could recover even in a best-case scenario for Plaintiffs. Indeed, even if Plaintiffs prevailed  
13 on some or all of their claims, the measure of damages presented further risk.

14 55. Furthermore, one or more appeals would be certain given the nature of this case.  
15 Assuming we prevailed on class certification and liability, Defendant likely would appeal any number  
16 of determinations regarding class action status, liability, evidentiary rulings, and damages, causing  
17 potentially years of delay. Throughout it all, Defendant would maintain that it paid the Class Members  
18 sufficiently under California law.

19 56. Based on our experience in this case and other wage and hour class actions, it is our  
20 judgment that litigating this case through trial and likely appeals would have required 10,000 or more  
21 hours of attorney and paralegal time (per side) and hundreds of thousands of dollars of out-of-pocket  
22 expenses. This additional investment of resources would likely have caused the parties to become more  
23 entrenched in their positions, making the case more difficult to settle at a later stage. These very  
24 practical considerations confirm our judgment, as experienced class action attorneys in cases such as  
25 this, that the proposed settlement provides fair value and an excellent result for the Class.

26 57. In sum, the result after trial and appeals was highly uncertain, except for the fact that it  
27 would potentially mean years of delay. While it is possible that Plaintiffs could have won more than  
28 the current settlement value, it is also possible she could have won less (in either current value or

absolute terms), or nothing at all. In contrast, the total settlement amount of \$670,000.00 will result in definite, immediate and substantial recoveries for the individual Settlement Class Members and the class overall. The proposed Settlement, therefore, offers a guaranteed, significant value to the Settlement Class Members that fairly and reasonably accounts for the very real risks and delays of continued litigation, protracted discovery battles, motion practice, trial, and appeal, as explained further below.

**B. Comparison of Settlement with Exposure Analysis**

58. In our view, the Settlement represents a strong result for the Class. Even after the maximum attorneys' fees and costs that Plaintiffs may seek under the Settlement Agreement, the service awards permitted under the Settlement Agreement, the PAGA allocation, and the estimated costs of settlement administration, an estimated Net Settlement Amount of approximately \$363,900.00 would be distributed to the approximately 260 members of the Settlement Class. This works out to an average share of approximately \$1,399.00 per person. As I explained above, Class Members with longer tenures will receive larger shares in proportion with the number of weeks that they worked during the liability period. This will bring substantial relief to the Class.

59. Although there is uncertainty in projecting trial-ready damages before significant post-certification merits discovery has been conducted, the \$670,000.00 recovery still compares favorably with our estimates of Defendant's exposure.

60. According to the data produced by Defendant, Plaintiffs concluded that there are approximately 260 Class Members; the average pay rate is \$18.84 per hour; and there were 44,000 workweeks during the Class Period.

61. Based upon the analysis of Defendant's records, our expert estimated that the total damages interest, and penalties that the Class would be awarded if successful at trial would be approximately \$2,703,481; \$1,460,293 when excluding PAGA penalties. However, this figure is based on Plaintiffs' assessment of a best-case-scenario. *Ibid.* To have obtained such a result at trial, Plaintiffs would have had to prove, *inter alia*, that all Class Members were denied at least one compliant meal period and at least one compliant rest period on fifty percent of their shifts, and that they incurred unpaid wages, including overtime, as a result of working off-the-clock during meal periods, prove that

1 Defendant's meal waivers were invalid, that all employees incurred unpaid business expenses, all  
2 figures that Defendant strongly disputed

3 **1. Exposure for unpaid wages**

4 62. Our expert calculated the total exposure based on Defendant's failure to pay all wages  
5 including overtime at approximately \$94,262.00 Plaintiffs alleged that Defendant did not pay  
6 employees for time spent working off-the-clock during their meal periods. However, Defendant argued  
7 this claim would not succeed because Defendant did not maintain any policies requiring off-the-clock  
8 work. This justified a substantial compromise on the wage claim for a total of \$26,198.00.

9 **2. Exposure for unpaid meal and rest periods wages**

10 63. We estimated Defendant's exposure for meal and rest period damages could be as high  
11 as \$501,980. Of course, this figure is based on Plaintiffs' assessment of a best-case-scenario. To have  
12 obtained such a result at trial, Plaintiffs would have had to prove that all 260 Class Members worked 5  
13 shifts per week and were denied at least 5 compliant meal period or rest period on fifty percent of the  
14 shifts, —all of which, as discussed, Defendant strongly disputed.

15 64. Defendant raised multiple potential defenses against Plaintiffs' meal and rest break  
16 claims. For instance, Defendant argued its written meal and rest period policies are fully compliant  
17 and that it always provided Class Members with the opportunity to take their meal and rest breaks and  
18 thus met the requirements imposed by California law. Per Defendant, if an employee did not take a  
19 meal, if a meal period was taken late in a shift, or if an employee clocked back in after less than 30  
20 minutes, it was in violation of company policy and a multitude of individual inquiries would be  
21 necessary to determine if the potential violation occurred due to an employee's personal choice or for  
22 some other reason.

23 65. Additionally, regarding Plaintiffs' rest period claim, Defendant further contended that,  
24 since it is not required to maintain a record of rest periods, any evidence of a failure to authorize rest  
25 periods and/or discouragement from taking rest periods would be purely anecdotal, rendering class  
26 certification inappropriate and a trial on this issue unmanageable. In light of Defendant's defenses, it  
27 is entirely possible a jury or the Court could decline to award any amounts for missed or non-compliant  
28 rest periods, which warranted a substantial compromise on the rest period claim.

66. In sum, these defenses, along with the substantial risk achieving certification of the meal and rest period claims (as discussed above) justified a substantial reduction on the meal period and rest period claims. *Id.* Thus, we reduced Defendant’s outside exposure for meal and rest periods to a reasonable settlement value of \$170,158.00.

### **3. Exposure for unpaid business expenses**

67. We estimated Defendant’s exposure for business expenses as \$30,612.00. Of course, this figure is based on Plaintiffs’ assessment of a best-case-scenario. To have obtained such a result at trial, Plaintiffs would have had to prove that all 260 Class Members incurred the expenses and did not seek reimbursement for them. As with the other claims, Defendant argued that this was untenable as Defendant did not maintain illegal policies pertaining to business expense reimbursement. Thus, we reduced Defendant’s outside exposure for unpaid business expenses to \$5,000.00

### **4. Exposure for Wage Statement Violations**

68. Plaintiffs alleged derivative violations Labor Code Section 226 on the grounds that Defendant provided Class Members wage statements that did not accurately reflect all hours worked or all wages earned based on the failure to provide meal and rest periods or premium compensation in lieu thereof. We calculated Defendants’ exposure for non-compliant wage statements at approximately \$157,554. Plaintiffs would have likely been required to demonstrate overtime violations in each workweek to recover wage statement penalties on this scale. Plaintiffs also would have been required to demonstrate that Defendant acted intentionally, which Defendant strongly disputed.

69. Defendant argued that Plaintiffs could not succeed on their Labor Code section 226 claim unless they demonstrated that the failure to issue lawful wage statements was “knowing and intentional.” Defendant argued that a “knowing and intentional” violation cannot be found where the employer presents a “good faith dispute” that it complied with its wage statement obligations. *See Maldonado v. Epsilon Plastics, Inc.* (2018) 22 Cal.App.5th 1308, 1337. The most prominent risk, of course, is that Plaintiffs could only succeed on these derivative claims for the putative class members if he could first achieve certification and then prove underlying violations of the meal and rest break premium asserted in the direct claims. These defenses collectively justified a substantial compromise on the wage statement claim of approximately 54% which brought the settlement value on this claim

1 to \$52,800.

2 **5. Exposure for Waiting Time Penalties**

3 70. We estimated Defendant's exposure for waiting time penalties at \$675,885. As with  
4 wage statement penalties, Plaintiffs faced the risk that Defendant would be able to defeat the waiting  
5 time claim by showing they acted in good faith, as Labor Code § 203 requires a showing of bad faith  
6 by the employer. Labor Code § 203 (authorizing penalty if "an employer willfully fails to pay" full  
7 amounts due at separation). This justified a compromise of approximately 55% on the claim for waiting  
8 time penalties, which resulted in a settlement value of \$203,225.00

9 **6. Exposure for PAGA Penalties**

10 71. Our calculation of Defendant's outside exposure for PAGA penalties was substantial.  
11 Theoretically, Plaintiffs could have recovered as much as \$1,243,188 in PAGA penalties at trial. The  
12 potential maximum exposure was calculated by multiplying the pay periods in the statutory period  
13 times the various initial and subsequent penalty amounts which correspond to each underlying violation  
14 alleged. However, it is unlikely that Plaintiffs would have recovered PAGA penalties this high. This is  
15 because, first, to have triggered such PAGA penalties, Plaintiffs would have had to prevail on all of  
16 their underlying claims. Further, under such circumstances, the Court may well have determined that  
17 awarding full PAGA penalties would have been "unjust, arbitrary and oppressive, or confiscatory"  
18 under California Labor Code section 2699(e)(2) and reduced them accordingly. Moreover, Plaintiffs'  
19 exposure figures for the PAGA penalties were calculated by applying the higher "subsequent" penalty  
20 rate for any violations that occurred after the first violation within the liability period. Defendant would  
21 have strongly challenged this approach by pointing to case law that the subsequent rate is not used until  
22 there is notice of a violation by a court or commissioner. *See, e.g., Jimenez v. Menzies Aviation, Inc.*  
23 (N.D. Cal. 2013) 2013 WL 1411228, at \*4; *Trang v. Turbine Engine Components Techs. Corp.* (C.D.  
24 Cal. Dec. 19, 2012) 2012 WL 6618854, at \*5. While Plaintiffs do not read the language of the statute  
25 this way, these authorities present a risk that the Court might. Plaintiffs also faced the risk that the  
26 Court would follow authority precluding Plaintiffs from "stacking" penalties for the same or similar  
27 underlying violations. The foregoing justified a significant compromise of the PAGA claim to a  
28 settlement value of \$212,619.00.

1           **C. Summary**

2           72. In light of the foregoing, and based on my experience and judgment, the final settlement  
3 amount compares very favorably with Plaintiffs' estimates of Defendant's exposure.

4           **D. The Risk, Expense, And Likely Duration of Further Litigation, As Well As the**  
5           **Risk of Maintaining Class Action Status Through Trial**

6           73. The next *Kullar* factors recognize that settlements also consider the risks and expenses  
7 posed by further litigation and, in the class-action context, the risk of non-certification. Consequently,  
8 it is proper that trial courts should keep these considerations in mind when judging the adequacy of  
9 class action settlements.

10          74. The Class could potentially receive a verdict of \$2,703,481.00 as the maximum  
11 potential exposure, as stated above. However, Plaintiffs believe in the fairness of the Settlement that is  
12 based on factoring the uncertainty and risks to Plaintiffs involved in not prevailing on one or more of  
13 the causes of action or theories alleged in their operative complaint, the possibility of losing at trial and  
14 possible appeals. While Plaintiffs believe that they could prevail, Plaintiffs would need to prove they  
15 and the certified Class are entitled to the full amount of penalties. As Defendant adamantly disputes  
16 that it should not be liable for the full extent of the penalties, and that the PAGA claims are not  
17 procedurally manageable, there is a possibility that Plaintiffs and the Class would be awarded less or  
18 no penalties at trial.

19          75. Further litigation of this case posed real risks for a number of reasons. For instance,  
20 there were the risks of unfavorable rulings on the merits of the various indeterminate legal issues  
21 outlined in the previous section. In that section, it was observed that almost every cause of action was  
22 subject to some unique indeterminacy of its own and that the derivative causes of action were subject  
23 to a double indeterminacy, both their own and those of the causes of action on which they were based  
24 on.

25          76. Next, the Parties disputed the effect of these and other issues on class certification and  
26 decertification. Class Counsel maintained there were several legal and factual questions at issue in this  
27 case that could best be decided on a class wide basis. Class Counsel contended the same policies and  
28 practices applied to all Class Members. In other words, there are common questions predominating

1 over individual inquiries. Defendant disputed these contentions and insisted that the *Brinker* decision  
2 called into question the certifiability of cases such as this one. Defendant also argued its policies were  
3 compliant with the law, that it was never made aware that such alleged violations were occurring, and  
4 that the diversity of their job classifications made individual questions predominate. Plaintiffs, in turn,  
5 disputed that the policies were lawful and argued the lawfulness of such policies would give rise to  
6 common questions amenable to certification. Therefore, the Parties had set positions on the propriety  
7 of certifiability and liability that did not admit of an easy resolution.

8         77. Finally, it is always preferable to reach a relatively early resolution of a dispute. This is  
9 because, in addition to what has already been said, such resolutions save time and money that would  
10 otherwise go to litigation. Most cases settle sooner or later. If this case ended up settling after further  
11 litigation, the settlement amount would have taken into account the additional costs incurred, and there  
12 might have been less available for Class Members after all was said and done. This is not just an abstract  
13 contention. The Parties were moving into the phase of litigation where they would have had to depose  
14 several people, such as managers, supervisors, and employees to establish liability for trial. Discovery  
15 disputes would have undoubtedly arisen. The Parties were also aware a class action and PAGA trial  
16 would be a complicated and expensive proceeding, and there was the likelihood of a long, drawn-out  
17 appeals process. A class action and PAGA trial would have required the retention of expensive expert  
18 witnesses, the accrual of extensive litigation costs, and the Parties would have had to spend a substantial  
19 amount of time. Given the complexity and unsettled nature of the issues, it is likely that any outcome  
20 at trial would have resulted in a lengthy and costly appeal. Finally, an appeal would result in further  
21 delay for the Class Members who have already waited years for resolution in this matter. In contrast,  
22 the Settlement provides real benefits for Class Members in the immediate future. The benefits are not  
23 insignificant for anyone, especially given the current economic climate. The risk and expense of further  
24 litigation largely outweighed any benefit that might have been gained otherwise.

25         **E. Conclusion of The Kullar Analysis**

26         78. The foregoing discussion establishes the fairness of the class-action settlement in the  
27 instant case. It has done this by analyzing the Settlement in light of the appellate decisions in *Clark* and  
28 *Kullar*. This analysis has concluded the Settlement is fair, reasonable, and adequate. Class Counsel

1 conducted a thorough investigation of the subject wage-and-hour practices and engaged in non-  
2 collusive, arm's-length negotiations to reach a settlement. Defendant has agreed to pay fair value to  
3 settle Plaintiffs' claims given the existence of legal uncertainty. From Class Counsel's substantial  
4 experience in wage-and-hour class action lawsuits Class Counsel believe this case could not have  
5 settled on better terms under the circumstances. A request is made the Settlement be granted  
6 preliminary approval so that those persons whom it was intended to benefit shall be afforded the  
7 opportunity to determine its adequacy for themselves.

8         79. As another point of comparison, the class-wide recovery here also compares very  
9 favorably with settlement amounts in several other wage-and-hour class action settlements. *See, e.g.,*  
10 *Osegueda v. N. California Inalliance* (E.D.Cal., Jan. 15, 2020, No. 18-cv-00835 WBS EFB) 2020 WL  
11 230201, at \*6; (preliminary approval of a wage and hour class action settlement with an approximate  
12 recovery of \$328.06 per class member); *Bolton v. U.S. Nursing Corp.* (N.D.Cal., Oct. 18, 2013, No. C  
13 12-4466 LB) 2013 WL 5700403, at \*2 (finally approving class action settlement of California state  
14 law wage and hour class action, with approximate per-person recovery of \$595); *Garnett v. ADT, LLC*  
15 (E.D. Cal. June 28, 2016) 2016 U.S. Dist. LEXIS 84006, at \*9 (approving a class action settlement in  
16 an employment case of approximately \$1.6 million to be distributed among a class of 831 people);  
17 *Saldivar v. Priority One Med. Transp., Inc.* (C.D.Cal., Mar. 22, 2011, No. CV 09-04789 MMM (Ex))  
18 2011 WL 13213889, at \*7 (finally approving class action settlement of wage and hour class claims for  
19 approximate per-person recovery of \$530).

## 20 **VII. PROPOSED SERVICE AWARD**

21         80. Plaintiffs Marisela Martinez de Ornelas and Margarita Urrutia devoted their time and  
22 provided an invaluable service to the prosecution of this case. Plaintiffs have devoted substantial time  
23 and effort to this case by searching for and producing relevant documents, meeting and communicating  
24 with and assisting their attorneys in prosecuting the case, reviewing complex legal documents, and  
25 engaging in settlement negotiations for the benefit of the Class. They have also agreed to a release that  
26 is broader than the class release.

27         81. The Settlement Agreement permits Plaintiffs to seek a service award in an amount not  
28 more than \$10,000.00, each. We believe that this amount fairly reflects Plaintiffs' risks and their

1 contributions to achieve this settlement on behalf of the Class. This will be further discussed when  
2 Plaintiffs file their final approval motion and supporting declaration seeking a service award in  
3 connection with the final fairness hearing.

#### 4 **VIII. ATTORNEYS' FEES AND COSTS**

5 82. Plaintiffs' Counsel will submit support for their request for attorneys' fees and expenses  
6 on the final approval motion on a date to be set by the Court. Under the Settlement, Defendant will not  
7 oppose a fee application of 33% of the Gross Settlement Fund plus reasonable out-of-pocket costs not  
8 to exceed \$25,000. In conjunction with the final approval motion Plaintiffs will provide further detail  
9 and analysis to document the reasonableness of the fee request and show how it falls within the range  
10 of fees awarded in similar class action cases.

11 83. Two firms will be receiving fees pursuant this settlement— Bradley/Grombacher LLP  
12 and Haines Law Group, A.P.C. The fees shall be split as follows: sixty percent (70%) to  
13 Bradley/Grombacher LLP and forty percent (30%) to Haines Law Group, A.P.C. Pursuant to California  
14 Rules of Professional Conduct, rule 1.5.1, the clients were aware of this in advance and gave written  
15 consent. The Joint Prosecution Agreement signed by both Plaintiffs further provides that, although the  
16 fee is shared between firms, the amount of attorneys' fees negotiated between Plaintiffs and their  
17 counsel does not increase.

18 84. Under the settlement agreement, Plaintiffs may recover reasonable costs incurred up to  
19 \$25,000. Any costs, fees or portion of the proposed service award not awarded will be added to the net  
20 settlement amount and distributed to the members of the settlement class.

#### 21 **IX. EXHIBITS**

22 85. Attached as **Exhibit 1** to this Declaration is a true and correct copy of the Settlement  
23 Agreement in this case. The proposed Class Notice to be mailed to the Class Members upon court  
24 approval and formatting by the Settlement Administrator is attached as an exhibit to the Settlement  
25 Agreement.

26 86. Attached as **Exhibit 2** to this Declaration is a true and correct copy of the confirmation  
27 of the submission of the Settlement Agreement, which was uploaded to the LWDA on October 29,  
28 2024.

1           87. Attached as **Exhibit 3** to this Declaration is a true and correct copy of are true and  
2 correct copies of the “Our Mission and How We Work” and “Combating Wage Theft” pages of Legal  
3 Aid At Work—available at <https://legalaidatwork.org/our-mission-and-how-we-work/>, and  
4 <https://legalaidatwork.org/our-programs/combating-wage-theft/>, respectively (retrieved on November  
5 7, 2024).

6  
7 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
8 true and correct and based on my personal knowledge.

9 Executed on November 7, 2024, in Westlake Village, California.

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12 Marcus J. Bradley  
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# **EXHIBIT 1**

# CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Marisela Martinez De Ornelas and Margarita Urrutia (“Plaintiff”) and Defendant Magnolia Foods LLC (collectively, “Defendant” or Defendants”). The Agreement refers to Plaintiff(s) and Defendant(s) collectively as “Parties,” or individually as “Party.”

## 1. DEFINITIONS.

1.1. “Action” means, collectively, those lawsuits alleging labor and employment claims as described below against Defendants, captioned MARISELA MARTINEZ DE ORNELAS, etc., v MAGNOLIA FOODS LLC, etc., et al., San Bernardino Superior Court Case No. CIVSB 2308953, and as further amended, filed on March 29, 2023 and MARGARITA URRUTIA, etc., v MAGNOLIA FOODS LLC, etc., et al., San Bernardino Superior Court Case No. CIV SB 2324321, filed on September 27, 2023.

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

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

1.4. “Aggrieved Employee” means all persons directly employed by Defendants as non-exempt employees in California during the PAGA Period.

1.5. “Class” means all persons directly employed by Defendants as non-exempt employees by Defendant in California during the Class Period.

1.6. “Class Counsel” means Bradley/Grombacher LLP and Haines Law Group, APC.

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

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

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

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

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

- 1.12. “Class Period” means the period from March 29, 2019 through March 15, 2024.
- 1.13. “Class Representative” means collectively MARISELA MARTINEZ DE ORNELAS and MARGARITA URRUTIA, the named Plaintiffs in the Operative Complaints in the Action seeking Court approval to serve as Class Representatives.
- 1.14. Intentionally Omitted.
- 1.15. “Class Representative Service Payment” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.16. “Court” means the Superior Court of California, County of San Bernardino.
- 1.17. “Defendants” means Defendant MAGNOLIA FOODS, LLC.
- 1.18. “Defense Counsel” means Attorneys Arthur K. Cunningham and Kevin Hambly of Jackson Lewis P.C.
- 1.19. “Effective Date” means the date by when all of the following have occurred: (i) this Settlement has been executed by all Parties and their respective counsel; (ii) the Court has given preliminary approval to the Settlement; (iii) the Class Notice has been given to the Settlement Class, providing them with an opportunity to dispute information contained in the Class Notice, to opt out of the Settlement, or to object to the Settlement; (iv) the Court has held a final approval hearing and entered a final order and judgment certifying the Settlement Class and approving this Settlement; and (v) the later of the following events: sixty-five (65) calendar days following entry of the Court’s final order approving the Settlement; or if any appeal, writ or other appellate proceeding opposing this Settlement has been filed within sixty-five (65) calendar days following entry of the Court’s final order approving the Settlement, then when any appeal, writ or other appellate proceeding opposing the Settlement has been resolved finally and conclusively with no right to pursue further remedies or relief (“Effective Date”). In this regard, it is the intention of the Parties that the Settlement shall not become effective until the Court’s order approving the Settlement is completely final, there is no further recourse by an appellant or objector who seeks to contest the Settlement.
- 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” means \$670,000.00, which is the total amount Defendants agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and the Administration Expenses Payment.
- 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).
- 1.28. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.29. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.30. “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. “PAGA Pay Period” means any pay period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.32. “PAGA Period” means the period from March 29, 2022 through March 15, 2024.
- 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.34. “PAGA Notice” means Plaintiff’s letter to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.35. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount: \$20,000 (25% to the Aggrieved Employees and 75% to LWDA in settlement of PAGA claims.)
- 1.36. “Participating Class Member” means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.37. “Plaintiff” means Marisela Martinez De Ornelas and Margarita Urrutia, the named Plaintiffs in the Action.
- 1.38. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the Settlement.
- 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary Approval and Approval of PAGA 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 and any affiliated companies, parent companies, subsidiaries, affiliates, shareholders, members, representatives, agents (including, without limitation, any

investment bankers, accountants, insurers, reinsurers, auditors, consultants, attorneys and any past, present or future officers, directors, managers, principals, and employees), predecessors, successors, and assigns.

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 45 days after the Administrator mails Class 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 Objection to the Settlement. Class Members to whom Class Notice is resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.45. “Settlement” means the disposition of the Action 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. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave written notice to Defendants and the LWDA by sending the PAGA Notice on March 29, 2023.

2.2. As referenced in paragraph 1.1, Plaintiffs commenced this Action by filing Complaints alleging causes of action against Defendants for : Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198; Failure to pay all Wages and Minimum Wages in Violation of Labor Code sections 221, 223, 1182, 1194, 1197, and 1198; Failure to Provide Meal Periods in Violation of Labor Code sections 226.7, 512, 516 and 1198; Failure to Provide Rest Periods in Violation of Labor Code sections 226.7, 516, 1198; Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a) and Failure to Maintain Accurate Records; Failure to Provide Suitable Seating in Violation of Labor Code section 1198; Failure to Provide Sick Pay in Violation of Labor Code Section 246; Failure to Timely Pay Wages During Employment in Violation of Labor Code Section 204; Waiting Time Penalties Pursuant to Labor Code sections 201 and 203; Failure to Reimburse for Business Expenses in Violation of Labor Code section 2802; Civil Penalties Pursuant to PAGA, Labor Code sections 2698, et seq., and Violations of Business & Professions Code section 17200 et seq. (“Complaint”).

2.3 Defendant timely filed their Answer to the Complaint, denying the allegations in the Complaint, denying any failure to comply with the laws identified in the Complaint, and denying any and all liability for the causes of action alleged.

2.4. On March 14, 2024, the Parties participated in a mediation presided over by Steven Pearl which led to this Agreement to settle the Action.

2.5. Prior to mediation, Plaintiff obtained, through informal discovery, Class Member and Aggrieved Employee information for the Class Period and PAGA period, time and wage records for the Class Members, Plaintiff’s personnel file, and information regarding Defendants’ policies and practices during the Class period, to aid in preparation of Plaintiff’s evaluation of the claims and formulation of a damages model. Plaintiff’s investigation was sufficient to satisfy the criteria for Court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

2.6. The Court has not granted class certification in the Action.

2.7. Intentionally Omitted.

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

### **3. MONETARY TERMS.**

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$670,000.00, and no more, as the Gross Settlement Amount and to separately pay any and all employer payroll taxes, only, owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative(s) of not more than \$10,000 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiffs' request for Class Representative Service Payments that do not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiff assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33% of the Gross Settlement Amount of \$670,000, and Class Counsel Litigation Expenses Payment of up to \$25,000. Defendants will not oppose requests for these payments provided they do not exceed this amount. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment no later than 16 days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments.

3.2.3. To the Administrator: An Administration Expenses Payment not to exceed \$20,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration

Expenses are less or the Court approves payment less than \$20,000.00, the Administrator will retain the remainder in the Net Settlement Amount.

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

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

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

3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$20,000.00 to be paid from the Gross Settlement Amount, with 75% (\$15,000.00) allocated to the LWDA PAGA Payment and 25% (\$5,000.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$18,750.00) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

#### **4. SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Class Workweeks. Based on a review of its records to date, Defendants estimates that the Class Members collectively worked a total of 44,000 Workweeks during the Class Period.

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

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Administrator no later than 21 days after the Effective Date.

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

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

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

4.4.3. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to Legal Aid At Work, the *cy pres* beneficiary in the name of the Class Members thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

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

## **5. RELEASES OF CLAIMS.**

Effective on the date when Defendants fully fund the entire Gross Settlement Amount and all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff, Class Members, Aggrieved Employees and Class Counsel will release claims against all Released Parties as follows:

5.1 Plaintiffs' Release. Plaintiffs and their respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained, in the Action and/or Operative Complaint; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Action and/or Operative Complaint, Plaintiffs' PAGA Notice, or ascertained during the Action and released under 5.2, below ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.

5.1.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs Marisela Martinez De Ornelas and Margarita Urrutia expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

5.2 Released Class Claims by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action, including but not limited to, failure to pay wages including minimum wages and overtime, failure to provide meal and rest periods, waiting time penalties, failure to provide accurate itemized wage statements, unfair competition based on these claims, and other associated penalties. This release shall apply to claims arising during the Class Period. Except as set forth in Section 5.3 of this Agreement, Participating Class Members, other than the Class Representatives, do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3 Released PAGA Claims: All Non-Participating Class Members and Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice, and/or ascertained in the course of the Action. This release shall apply to claims arising during the PAGA Period.

## **6. MOTION FOR PRELIMINARY APPROVAL.**

The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion for Preliminary Approval").

6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and memorandum in

support, of the Motion for Preliminary Approval that includes an analysis of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting to: its willingness to serve; competency; operative procedures for protecting the security of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members; and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members and the Administrator; (vi) a signed declaration from each Class Counsel firm attesting to: its competency to represent the Class Members; its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); and (vii) and all facts relevant to any actual or potential conflict of interest with Class Members and the Administrator. In their Declarations, Plaintiff and Class Counsel shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.

6.2 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later than 30 days after the full execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the Administrator.

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

## **7. SETTLEMENT ADMINISTRATION.**

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

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

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

#### 7.4 Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA 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 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 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 (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

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

#### 7.5 Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member’s election to be excluded from the Settlement and includes the Class Member’s name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any

Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. 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 claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

7.6 Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after the Administrator mails the Class Notice (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

#### 7.7 Objections to Settlement.

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

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than 45 days after the Administrator's mailing of the Class Notice (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

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

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

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

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

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

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

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

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

declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

## **8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.**

For purposes of mediation, Defendants represented that there are approximately 44,000 workweeks during the Class Period. In the event the total work weeks in the Class Data exceeds this amount by more than 5% of 44,000 (i.e., if there are 46,200 or more total workweeks), Defendants will have the option of increasing the Gross Settlement Amount proportionally for any workweeks above 44,000 or shortening the class period to cover the time period encompassing 44,000 workweeks.

## **9. RIGHT TO WITHDRAW.**

The parties agree to an opt-out period of forty-five (45) days. Notwithstanding any other provision of this Agreement, Defendants shall retain the right, in the exercise of its sole discretion, to nullify the settlement within 30 days after expiration of the opt-out period if more than 5% of the Class Members opt out of this Settlement.

## **10. MOTION FOR FINAL APPROVAL.**

Not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 5 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

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

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

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

10.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver

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

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

## **11. AMENDED JUDGMENT.**

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

## **12. ADDITIONAL PROVISIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

To Plaintiff: Marcus J. Bradley, Bradley/Grombacher LLP, 31365 Oak Crest Drive, Suite 240, Westlake Village, California 91361.

To Defendants: Arthur K. Cunningham, Jackson Lewis P.C., 3390 University Ave., Suite 110, Riverside, CA 92501.

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

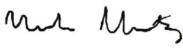
12.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a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

12.20. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Action and over all Parties and Settlement Class members, to the fullest extent to enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any claimed breaches of this Settlement Agreement. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this settlement or to declare rights and/or obligations under this settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties

reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Dated: 9/3/2024 \_\_\_\_\_

Plaintiff

Firmado por:  
  
10B7DA527C0F49B...

\_\_\_\_\_  
Marisela Martinez de Ornelas

Dated: \_\_\_\_\_

Plaintiff

\_\_\_\_\_  
Margarita Urrutia

Dated: \_\_\_\_\_

DEFENDANT MAGNOLIA FOODS LLC

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Dated: \_\_\_\_\_

Plaintiff

\_\_\_\_\_  
Marisela Martinez de Ornelas

Dated: 090524

Plaintiff

  
\_\_\_\_\_  
MargaritaUrruti (Sep 5, 2024 14:08 PDT)

Margarita Urrutia

Dated: \_\_\_\_\_

DEFENDANT MAGNOLIA FOODS LLC

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

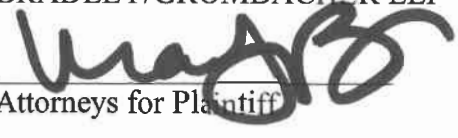
Dated: \_\_\_\_\_

HAINES LAW GROUP, APC

\_\_\_\_\_  
Attorneys for Plaintiff

Dated: 9/3/2024

BRADLEY/GROMBACHER LLP

  
\_\_\_\_\_  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

JACKSON LEWIS P.C.

\_\_\_\_\_  
Arthur K. Cunningham  
Kevin Hambly

Attorneys for Defendant  
MAGNOLIA FOODS LLC

**APPROVED AS TO FORM:**

Dated: 9/05/2024

HAINES LAW GROUP, APC



\_\_\_\_\_  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

BRADLEY/GROMBACHER LLP

\_\_\_\_\_  
Attorneys for Plaintiff

Dated: \_\_\_\_\_

JACKSON LEWIS P.C.

\_\_\_\_\_  
Arthur K. Cunningham  
Kevin Hambly

Attorneys for Defendant  
MAGNOLIA FOODS LLC

reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Dated: \_\_\_\_\_

Plaintiff

\_\_\_\_\_  
Marisela Martinez de Ornelas

Dated: 090524

Plaintiff

\_\_\_\_\_  
  
MargaritaUrruti (Sep 5, 2024 14:08 PDT)

\_\_\_\_\_  
Margarita Urrutia

Dated: 09-09-2024

DEFENDANT MAGNOLIA FOODS LLC

\_\_\_\_\_  
Signature

By:



Name: Armando Strozzi

Its: President and General Manager

**APPROVED AS TO FORM:**

Dated: 9/05/2024

HAINES LAW GROUP, APC



Attorneys for Plaintiff

Dated: \_\_\_\_\_

BRADLEY/GROMBACHER LLP

Attorneys for Plaintiff

Dated: 10/29/2024

JACKSON LEWIS P.C.



Arthur K. Cunningham  
Kevin Hamby

Attorneys for Defendant  
MAGNOLIA FOODS LLC

reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

Dated: \_\_\_\_\_

Plaintiff

\_\_\_\_\_  
Marisela Martinez de Ornelas

Dated: 090524

Plaintiff

\_\_\_\_\_  
  
MargaritaUrruti (Sep 5, 2024 14:08 PDT)

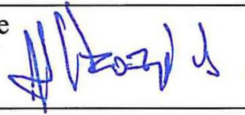
\_\_\_\_\_  
Margarita Urrutia

Dated: 09-09-2024

DEFENDANT MAGNOLIA FOODS LLC

\_\_\_\_\_  
Signature

By:



Name: Armando Strozzi

Its: President and General Manager

**APPROVED AS TO FORM:**

Dated: 9/05/2024

HAINES LAW GROUP, APC



Attorneys for Plaintiff

Dated: \_\_\_\_\_

BRADLEY/GROMBACHER LLP

Attorneys for Plaintiff

Dated: 10/29/2024

JACKSON LEWIS P.C.



Arthur K. Cunningham  
Kevin Hamby

Attorneys for Defendant  
MAGNOLIA FOODS LLC

# EXHIBIT A

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

**MARISELA MARTINEZ DE ORNELAS, etc., v MAGNOLIA FOODS LLC, etc., et al.,  
San Bernardino Superior Court Case No. CIVSB 2308953**

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

**You may be eligible to receive money** from a class action lawsuit (“Action”) against Magnolia Foods, LLC (“Defendants” is used herein as a placeholder) for alleged wage and hour violations. The Action was filed by former employees of Defendants, Marisela Martinez de Ornelas and Margarita Urrutia (collectively, “Plaintiff”), and seeks payment of (1) unpaid minimum wages and overtime, meal and rest period premiums, civil penalties, and other relief for a class of non-exempt employees who worked directly for Magnolia Foods, LLC in California at any time from March 29, 2019 through March 15, 2024 (“Class Period”) (“Class Members”), and (2) penalties under the California Private Attorneys General Act (“PAGA”) for all non-exempt employees who worked directly for Magnolia Foods, LLC in California at any time from March 29, 2022 through March 15, 2024 (“PAGA Period”) (“Aggrieved Employees”).

Defendants deny liability and believe all appropriate wages were paid and that it otherwise complied with all Labor Code obligations, including providing its non-exempt hourly employees with legally mandated meal period and rest breaks. However, Plaintiff and Defendants have agreed to settle the case rather than continuing the expensive and time-consuming process of litigation.

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 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 Class Period workweeks or PAGA Period pay periods, you can submit a challenge by **[deadline date]**. See Section 4 of this Notice.

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

If you worked for Magnolia Foods LLC at any time during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

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

#### **SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

|                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>You Don't Have to Do Anything to Participate in the Settlement</b>                                                                                                                                                       | If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendants that are covered by this Settlement (Released Claims).                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b><br><b>The Opt-out Deadline is</b> <span style="background-color: yellow;">                    </span>                                            | <p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p> |
| <b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b><br><br><b>Written Objections Must be Submitted by</b> <span style="background-color: yellow;">                    </span> | All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or                                                                              |

|                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                                                         | Plaintiff if you think they are unreasonable. See Section 7 of this Notice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>You Can Participate in the [REDACTED] Final Approval Hearing</b>                                                                     | The Court's Final Approval Hearing is scheduled to take place on [REDACTED]. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.                                                                                                                               |
| <b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b><br><br><b>Written Challenges Must be Submitted by [REDACTED]</b> | The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many pay periods you worked at least one day during the PAGA Period, respectively. The number of Class Period Workweeks and the number of PAGA Period Pay Periods you worked according to Defendants' records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by [REDACTED]. See Section 4 of this Notice. |

## 1.WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failure to pay overtime wages; failure to pay all wages and minimum wages; failure to provide meal periods; failure to provide rest periods ; failure to timely furnish accurate itemized wage statements and failure to maintain accurate records; failure to provide suitable seating; failure to provide sick pay; failure to timely pay wages during; waiting time penalties; failure to reimburse for business expenses; and unfair competition. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the PAGA.

Plaintiff is represented by Marcus J. Bradley, Bradley/Grombacher LLP, 31365 Oak Crest Drive, Suite 240, Westlake Village California 91361.

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws at all relevant times.

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

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

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

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

1. Defendants will pay \$670,000.00 as the Gross Settlement Amount (“Gross Settlement”). Defendants have agreed to deposit the Gross Settlement into an account controlled by **ILYM Group, Inc.**, the Court-appointed settlement administrator of the Settlement (“Administrator”). The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Administration Expenses Payment, and penalties to be paid to the LWDA. Assuming the Court grants Final Approval, Defendants will fund the Gross Settlement not more than 14 days after the Effective Date of the Settlement. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

A. **Up to \$223,311.00 (or 33.33%) of the Gross Settlement to Class Counsel for attorneys’ fees and up to \$25,000.00 for litigation expenses.** To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Up to \$10,000.00 as Class Representative Service Payments for filing the Action, working with Class Counsel and representing the Class. The Class Representative Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs Individual Class Payment and any Individual PAGA Payment.

C. Up to \$20,000.00 to the Administrator for services administering the Settlement.

D. Up to \$20,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period pay periods.

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

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

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of **20%** of each Individual Class Payment to taxable wages (“Wage Portion”) and **80%** to penalties and interest (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax

purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Defendants have agreed to these allocations, neither side is giving you any advice on whether your Settlement payment(s) are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Settlement payment(s) received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the California Controller's Unclaimed Property Fund for instructions on how to retrieve your money.

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

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

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

8. Administrator. The Court has appointed a neutral company, **ILYM Group, Inc.**, to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member challenges over Class Period workweeks or PAGA Period pay periods, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for wages based on the Class Period facts and PAGA penalties based on the PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release, as set forth under the terms of the proposed Settlement:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint and ascertained in the course of the Action, including but not limited to, failure to pay wages including minimum wages and overtime, failure to provide meal and rest periods, waiting time penalties, failure to provide accurate itemized wage statements, unfair competition based on these claims, and other associated penalties. This release shall apply to claims arising during the Class Period. Except as set forth in Section 5.3 of [the] Agreement, Participating Class Members, other than the Class Representative, do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

The Aggrieved Employees' Release is as follows, as set forth under the terms of the proposed Settlement:

All Non-Participating Class Members and Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, the PAGA Notice, and ascertained in the course of the Action. This release shall apply to claims arising during the PAGA Period.

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

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$5,000.00 (25% of the PAGA Penalties) by the total number of PAGA Period pay periods worked by all Aggrieved Employees, and (b) multiplying the result by the number of PAGA Period pay periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Period workweeks you worked and the number of PAGA Period pay periods you worked, as determined from Defendants' records, are stated on the first page of this Notice. You have until [REDACTED] to challenge the number of Class Period workweeks and/or PAGA Period pay periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

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

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

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request to be excluded. Be sure to personally sign your request, identify the Action as " , et al., Case No. CIVSB 2308953," and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by [redacted], or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

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

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

A Participating Class Member who disagrees with any aspect of the proposed Settlement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for

example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is** [redacted]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action and include your name, current address, telephone number, and approximate dates of employment for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [redacted] at [redacted] (time) in Department \_\_ of the San Bernardino Superior Court, located at 351 N. Arrowhead Avenue, San Bernardino, CA 92415. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via [redacted]. Check the Court's website for the most current information.

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

## 9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to [redacted] (specify entity)'s website at [redacted] (url). You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Superior Court website by going to its website and entering the Case Number for the Action, Case No. CIVSB2308953.

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

#### Class Counsel:

Name of Attorney: Marcus J. Bradley  
Email Address: mbradley@bradleygrombacher.com  
Name of Firm: Bradley/Grombacher LLP  
Mailing Address: 31365 Oak Crest Drive, Suite 240, Westlake Village, California 91361  
Telephone: (805) 270-7100

#### Settlement Administrator:

Name of Company: [redacted]  
Email Address: [redacted]  
Mailing Address: [redacted]  
Telephone: [redacted]  
Fax Number: [redacted]

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

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds. You will have no other way to recover the money.

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

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

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# **EXHIBIT 2**

**Suzette Boucher**

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**From:** DIR PAGA Unit <no-reply@formassembly.com>  
**Sent:** Tuesday, October 29, 2024 1:09 PM  
**To:** Suzette Boucher  
**Subject:** Thank you for your Proposed Settlement Submission

10/29/2024 01:08:26 PM

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

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)

# **EXHIBIT 3**



About Us ▾

Our Programs ▾

Get Involved ▾

Donate

News

Get Legal Help ▾



# Our mission and how we work

We partner with people to help them understand and assert their workplace rights, and we advocate for employment laws and systems that empower low-paid workers and marginalized communities.



## Free Clinics and Helplines

Our legal clinics and helplines provide free direct, and individualized help for people across California.

## Free Legal Info

We offer know-your-rights trainings and 180+ fact sheets, do-it-yourself guides, sample letters, instructional videos, and other resources online and in person.

## Litigation

We bring class and individual actions, limited representations, and impact litigation. This work enforces and strengthens the civil and employment rights of low-wage workers in California and across the country.

## Policy Advocacy

We draft and promote laws, regulations, and policies to strengthen civil and workplace rights at the local, state, and federal level.

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### Resources

[Guided Help](#)[Self-Help Library](#)[Clinics & Helplines](#)

### About

[Our Mission](#)[Our Commitment to Equity](#)[Our Finances](#)[Contact](#)[Accessibility Statement](#)

### Get Involved

[Ways to Donate](#)[Annual Event](#)[Annual Fund](#)[Cy Pres](#)[Donate Now](#)

### Connect With Us

To receive news about our organization and our work, please subscribe to our mailing list.

First Name

Last Name

Email Address \*

Fields marked with \* are required

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# Wage Protection

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## Our Focus

The Wage Protection Program aims to help build a just economy where all workers are empowered to win fair wages and dignified workplaces through legal representation and advocacy.

We believe that building worker power is fundamental to achieving our mission. As lawyers, we strive to ground our legal advocacy in community-led efforts because we know that without the strength and backing of organized and informed workers, legal gains will not last. For this reason, we often work in partnership with worker centers and other community-based organizations. Our commitment to our clients includes not just legal representation but ensuring that they are educated and empowered through the process. We strive to center and prioritize the most marginalized workers in predominately low-wage industries, because an economy that works for them will help all workers.

We believe that the fight for dignified workplaces is about more than just the hourly wage a worker receives, and therefore our advocacy encompasses:

- the right to a fair schedule and breaks;
- the ability to receive sick pay;
- a safe workplace;
- and the enforcement of these rights without fear of retaliation.

Moreover, a just economy is one in which people are able to survive and thrive even when they are without a job. This informs our commitment to

We believe that the fight for dignified workplaces is about more than just the hourly wage a worker receives, and therefore our advocacy encompasses:

- the right to a fair schedule and breaks;
- the ability to receive sick pay;
- a safe workplace;
- and the enforcement of these rights without fear of retaliation.

Moreover, a just economy is one in which people are able to survive and thrive even when they are without a job. This informs our commitment to making the unemployment insurance system more accessible and inclusive.

## Highlights of Our Work

[→ View All Work](#)

APR 14, 2023

**Hundreds of Advocates Rallied at the State Capitol to Support Unemployment Insurance for Undocumented Workers**

[→ Read More](#)

JAN 29, 2023

**LAAW Client Maria Arroyo Speaks with CBS News About the Real-World Impact of Lengthy Delays in the Labor Commissioner's Wage Claim Process**

[→ Read More](#)



**LEGAL  
AID AT  
WORK**

JAN 12, 2023

**California Orders Prominent Burger King Franchise Owners to Pay Workers \$2.2 Million in Stolen Wages and Penalties**

[→ Read More](#)

## Featured Resources

[→ View All Resources](#)



### Fact Sheet

MINIMUM WAGE PROTECTIONS IN CALIFORNIA



### Fact Sheet

OVERTIME IN CALIFORNIA



### Fact Sheet

EXEMPTIONS FROM OVERTIME PAY



### Fact Sheet

MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT CONTRACTORS



### Fact Sheet

REST BREAKS AND MEAL BREAKS



### Fact Sheet

EMPLOYMENT RIGHTS OF UNDOCUMENTED WORKERS

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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite 240, Westlake Village, CA 91361.

- 1) NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT;**
- 2) DECLARATION OF MARCUS J. BRADLEY;**
- 3) DECLARATION OF PAUL HAINES;**
- 4) DECLARATION OF SEAN M. BLAKELY;**
- 5) DECLARATION OF PLAINTIFF MARISELA MARTINEZ DE ORNELAS;**
- 6) DECLARATION OF PLAINTIFF MARGARITA URRUTIA;**
- 7) DECLARATION OF LISA MULLINS OF ILYM GROUP, INC. (PROPOSED ADMINISTRATOR); AND**
- 8) [PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION AND PAGA SETTLEMENT**

[X] **(BY ELECTRONIC MAIL)** On the above date, I served the aforementioned document(s) by electronic mail to the parties' email addresses as they are known to me on the attached Service List. My email address is [sboucher@bradleygrombacher.com](mailto:sboucher@bradleygrombacher.com). I did not receive, under a reasonable period of time, any indication that the email did not go through.

Executed November 7, 2024, at Westlake Village, California.

Suzette Boucher

*Marisela Martinez De Ornelas v. Magnolia Foods, LLC*  
San Bernardino County Superior Court Case No. CIV SB 2308953

Service List

|                                                                                                                                                                                                                                     |                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| Arthur Cunningham<br><b>JACKSON LEWIS P.C.</b><br>3390 University Ave., Suite 110<br>Riverside, CA 92501<br>Telephone: (951) 848-7943<br><a href="mailto:Arthur.Cunningham@JacksonLewis.com">Arthur.Cunningham@JacksonLewis.com</a> | Attorneys for<br>Defendant MAGNOLIA FOODS, LLC |
| Janet J. Hur<br><b>JACKSON LEWIS P.C.</b><br>725 South Figueroa Street, Suite 2500<br>Los Angeles, California 90017-5408<br>Telephone: (213) 689-0404<br><a href="mailto:Janet.Hur@Jacksonlewis.com">Janet.Hur@Jacksonlewis.com</a> |                                                |
| Kevin Hambly<br><b>JACKSON LEWIS P.C.</b><br>225 Broadway, 18th Floor,<br>San Diego, CA 92101<br><a href="mailto:kevin.hambly@jacksonlewis.com">kevin.hambly@jacksonlewis.com</a>                                                   |                                                |