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CLERK OF THE SUPERIOR COURT
COUNTY OF CONTRA COSTA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

RICARDO RAMIREZ FUENTES, an
individual, on behalf of himself, the State of
California, as a private attorney general, and all
others similarly situated,

Plaintiff,

v.

GORMAN ROOFING SERVICES INC., an
Arizona corporation; and DOES 1 TO 50,

Defendants.

Case Number: C23-02345

**~~Proposed~~ Order Granting Preliminary
Approval of Class Action Settlement**

Hearing Date:

Time:

Dept.: 39

Judge: Hon.

Complaint Filed: September 18, 2023

FAC Filed: January 18, 2023

Trial Date: None Set

[PROPOSED] ORDER

1 Plaintiff's unopposed Motion for Preliminary Approval of a Class Action Settlement came
2 before this Court on December 12, 2024, in Department 12, the Honorable Charles S. Treat presiding.
3 The Court having considered the papers submitted in support of the application of the parties,
4 HEREBY ORDERS THE FOLLOWING:

5 1. The Court grants preliminary approval of the Settlement and the Settlement Class based
6 upon the terms set forth in the Settlement Agreement and Release of Class Action (the "Settlement
7 Agreement") attached as **Exhibit A** to the Declaration of Jonathan Melmed in support of Plaintiff's
8 Motion for Order Granting Preliminary Approval of Class Action Settlement. All terms used herein
9 shall have the same meaning as defined in the Settlement Agreement. As set forth in the Court's
10 tentative ruling, dated December 11, 2024, and attached herein as **Exhibit 1**, the settlement set forth
11 in the Settlement Agreement appears to be fair, adequate and reasonable to the Class, and the Court
12 preliminarily approves the terms of the Settlement Agreement, including, without limitation:

- 13 a. A non-reversionary Gross Settlement Amount of **\$419,220.00**;
- 14 b. Court approved attorneys' fees to Class Counsel of up to **\$139,740.00**,
15 representing one-third of the Gross Settlement Amount;
- 16 c. Court approved litigation costs to Class Counsel of up to **\$15,000.00**;
- 17 d. Fees and Costs of the Settlement Administrator of up to **\$15,000.00**;
- 18 e. A service award to Plaintiff of up to **\$7,500.00**; and
- 19 f. A PAGA allocation of \$20,000.00, with **\$15,000.00** (i.e., 75%) payable to the
20 California Labor & Workforce Development Agency for its portion of the
21 PAGA penalties.

22 2. This Court has considered the papers in support of the Motion and the Settlement
23 Agreement and finds that, pursuant to California Rules of Court, Rule 3.769(d), the proposed Class
24 should be certified for settlement purposes only. Specifically, the Court finds for settlement purposes
25 only that the proposed Class: (a) is ascertainable; (b) is sufficiently numerous; (c) meets the
26 commonality requirements; (d) the claims of the Class Representative are typical of the claims of the
27 proposed Class Members; (e) Class Counsel has and is able to adequately represent the proposed
28 Class; (f) the Class Representative is adequate to represent the Class; and (g) class-wide treatment of
this dispute is superior to individual litigation because common issues predominate over individual

1 issues for settlement purposes.

2 3. The Settlement falls within the range of reasonableness and appears to be
3 presumptively valid, subject only to any objections that may be raised at the final fairness hearing and
4 final approval by this Court.

5 4. A final fairness hearing on the question of whether the proposed Settlement, attorneys'
6 fees and costs to Class Counsel, and the Class Representative's enhancement award should be finally
7 approved as fair, reasonable and adequate as to the members of the Class is scheduled on the date and
8 time set forth in the implementation schedule in Paragraph 13 below.

9 5. This Court approves, as to form and content, the Notice of Proposed Class Action
10 Settlement ("Class Notice"), in substantially the form attached herein as **Exhibit 2**. The Court
11 approves the procedure for Class Members to participate in, to opt out of, and to object to, the
12 Settlement as set forth in the Settlement Agreement.

13 6. The Court directs the mailing of the Class Notice by first class mail to the Class
14 Members in accordance with the Implementation Schedule set forth below. The Court finds the dates
15 selected for the mailing and distribution of the Notice, as set forth in the Implementation Schedule,
16 meet the requirements of due process and provide the best notice practicable under the circumstances
17 and shall constitute due and sufficient notice to all persons entitled thereto.

18 7. It is ordered that the Settlement Class is preliminarily certified for settlement purposes
19 only.

20 8. The Court preliminary certifies for settlement purposes only the Settlement Class
21 defined as follows: *all individuals who are or were employed by Defendant as non-exempt employees*
22 *in California at any time during the Class Period. (See Settlement Agreement, at § 1.40.)* The Class
23 Period is defined as from September 18, 2019 through April 28, 2024. (*See Settlement Agreement, at*
24 *§ 1.10.*)

25 9. All Settlement Class members who do not timely opt out will release any and all claims,
26 causes of action, damages, wages, benefits, expenses, penalties, debts, liabilities, demands,
27 obligations, attorneys' fees, costs, and any other form of relief or remedy in law, equity, or whatever
28 kind of nature, arising from the claims pled in the Action and any claims arising out of or related to
the allegations set forth in the operative complaint and/or PAGA notice to the California Labor and

1 Workforce Development Agency that arose during the Class Period and/or PAGA Period, including
2 claims for: **(1)** failure to pay minimum wage for all hours worked in violation of Labor Code sections
3 1194 and 1194.2, and the applicable IWC Wage Order(s); **(2)** failure to pay proper overtime wages in
4 violation of Labor Code sections 510, 1197, and 1198, and the applicable IWC Wage Order(s);
5 **(3)** failure to provide compliant rest periods and pay missed rest break premiums in violation of Labor
6 Code section 226.7 and the applicable IWC Wage Order(s); **(4)** failure to provide compliant meal
7 periods and pay missed meal period premiums in violation of Labor Code sections 226.7 and 512, and
8 the applicable IWC Wage Order(s); **(5)** failure to maintain accurate employment records in violation
9 of Labor Code section 1174; **(6)** failure to pay timely wages during employment in violation of Labor
10 Code sections 204, 210; **(7)** failure to pay all contractual wages in violation of Labor Code sections
11 221, 223; **(8)** failure to pay all wages due and owing at separation in violation of Labor Code sections
12 201, 202, and 203; **(9)** failure to reimburse business expenses in violation of Labor Code sections 2802
13 and 2804; **(10)** failure to provide complete and accurate wage statements in violation of Labor Code
14 sections 226 and 226.3; **(11)** deceptive, fraudulent, or otherwise unlawful business practices based on
15 the foregoing in violation of California's Unfair Competition Law (Bus. & Prof. Code, §§ 17200–
16 17210); **(12)** statutory penalties based on the foregoing pursuant to PAGA (Lab. Code, §§ 2698–
17 2699.6); and **(13)** all claims for liquidated damages, penalties, interest, fees, costs based on the
18 foregoing.

19 10. The Court confirms Plaintiff Ricardo Ramirez Fuentes as Class Representative, and
20 Jonathan Melmed, Laura Supanich, and Rebecca Harteker of Melmed Law Group P.C. as Class
21 Counsel.

22 11. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

23 12. To facilitate administration of the Settlement pending final approval, the Court hereby
24 enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative
25 proceedings (including filing claims with the Division of Labor Standards Enforcement of the
26 California Department of Industrial Relations) regarding claims released by the Settlement, unless and
27 until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator
28 and the time for filing claims with the Settlement Administrator has elapsed.

1 13. The Court orders the following **Implementation Schedule** for further proceedings:

2

3	a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	[within 14 days after the Preliminary Approval Date]
4			
5	b.	Deadline for Settlement Administrator to Mail Notice to Class Members	[within 28 days after the Preliminary Approval Date]
6			
7	c.	Deadline for Class Members to Postmark Requests for Exclusion	[45 days after mailing of the Class Notice]
8			
9	d.	Deadline for Class Members to submit any Objections to Settlement	[45 days after mailing of the Class Notice plus an additional 14 days for Class Members whose Class Notice was remailed]
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11			
12	e.	Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	[21 days prior to the Final Approval and Fairness Hearing]
13			
14	f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	[16 Court days prior to Final Approval and Fairness Hearing]
15			
16			
17	g.	Final Approval and Fairness Hearing	April 3, 2025 at 9:00 a.m., Department 39
18			
19			

20 14. If any of the dates in this Implementation Schedule falls on a weekend, bank or court
21 holiday, the time to act shall be extended to the next business day.

22 15. The Court shall retain jurisdiction over the Action for all purposes pursuant to
23 California Rule of Court 3.769 and California Rule of Civil Procedure section 664.6 to enforce the
24 terms of the Settlement.

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IT IS SO ORDERED.

Dated: ~~FEB 11 2025~~

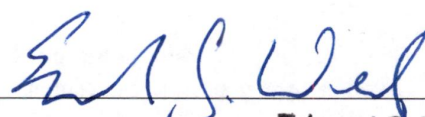

Hon. ~~Charles S. Treat~~ **Edward G. Weil**
Judge of the Superior Court, Contra Costa County

Exhibit 1

Superior Court of California, Contra Costa County

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K. Bieker
Court Executive Officer

MINUTE ORDER	
RICARDO FUENTES VS. GORMAN ROOFING SERVICES INC.	C23-02345
HEARING DATE: 12/12/2024	
PROCEEDINGS: *HEARING ON MOTION IN RE: PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT	
DEPARTMENT 12 JUDICIAL OFFICER: CHARLES S TREAT	CLERK: CHANDRA FORFANG COURT REPORTER: NOT REPORTED
<u>JOURNAL ENTRIES:</u>	
No appearance by or for either party. There being no opposition to the tentative ruling, the tentative ruling becomes the order of the court as follows: Plaintiff Ricardo Fuentes moves for preliminary approval of his class action and PAGA settlement with defendant Gorman Roofing Services, Inc. The motion is granted. A. Background and Settlement Terms Defendant's business is commercial and residential construction. Plaintiff worked at defendant in 2021 and 2023 as a day laborer. The original complaint was filed on September 18, 2023, as a class action. It was later amended to add PAGA claims. The settlement would create a gross settlement fund of \$419,220. The class representative payment to the plaintiff would be \$7,500. Attorney's fees would be \$139,740 (one-third of the settlement). Litigation costs would not exceed \$15,000. The settlement administrator's costs are estimated at \$15,000. PAGA penalties would be \$20,000, resulting in a payment of \$15,000 to the LWDA. The net amount paid directly to the class members would be about \$222,000, not including distribution of PAGA penalties. The fund is non-reversionary. There are an estimated 288 class members. Based on the estimated class size, the average net payment for each class member is approximately \$771. The individual payments will vary considerably, however, because of the allocation formula prorating payments according to the number of weeks worked during the relevant time. The number of aggrieved employees for PAGA purposes is smaller, about 165, because the starting date of the relevant period is later, resulting in an average PAGA penalty distribution of about \$30. The entire settlement amount will be deposited with the settlement administrator within 14 days after the effective date of the settlement. The proposed settlement would certify a class of all current and former non-exempt employees employed at Defendants' California facilities between September 18, 2019 .and April 28, 2024. For PAGA purposes, the period covered by the settlement is September 18, 2022 to April 28, 2024. The class members will not be required to file a claim. Class members may object or opt out of the	

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Court Executive Officer

settlement. (Aggrieved employees cannot opt out of the PAGA portion of the settlement.) Funds would be apportioned to class members based on the number of workweeks worked during the class period.

A list of class members will be provided to the settlement administrator within 14 days after preliminary approval. The administrator will use skip tracing as necessary. Various prescribed follow-up steps will be taken with respect to mail that is returned as undeliverable. Settlement checks not cashed within 180 days will be cancelled, and the funds will be directed to the controller's unclaimed property fund.

The settlement contains release language covering all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the operative pleading, including a number of specified claims. Under recent appellate authority, the limitation to those claims with the "same factual predicate" as those alleged in the complaint is critical. (*Amaro v. Anaheim Arena Mgmt., LLC* (2021) 69 Cal.App.5th 521, 537 ("A court cannot release claims that are outside the scope of the allegations of the complaint.") "Put another way, a release of claims that goes beyond the scope of the allegations in the operative complaint' is impermissible." (*Id.*, quoting *Marshall v. Northrop Grumman Corp.* (C.D. Cal.2020) 469 F.Supp.3d 942, 949.)

Formal discovery was undertaken, resulting in the production of substantial documents. The matter settled after arms-length negotiations, which included a session with an experienced mediator.

Counsel also has provided an analysis of the case, and how the settlement compares to the potential value of the case, after allowing for various risks and contingencies. For example, much of plaintiff's allegations centers on possible off-the-clock work, including missed or skipped meal breaks and rest breaks. It was more specifically alleged that employees were not paid for time between reporting for assignment, and boarding transportation to a job site.

Defendant, however, pointed out that its formal policies prohibit off-the-clock work, and asserted that it would have had no knowledge of employees beginning work before punching in or continuing after punching out. Further, it argued that it was required to make meal and rest breaks available, but not required to ensure that they be taken, so long as no employer policy prevented or discouraged taking such breaks.

As to unreimbursed employee expenses (such as cell phone use), plaintiff would have been called on to show that such expenses were in fact incurred, were reasonably necessary to job performance, and were unreimbursed. Furthermore, the fact-intensive character of such claims would have presented a serious obstacle to class certification.

The potential liability needs to be adjusted for various evidence and risk-based contingencies, including problems of proof. PAGA penalties are difficult to evaluate for a number of reasons: they derive from other violations, they include "stacking" of violations, the law may only allow application of the "initial violation" penalty amount, and the total amount may be reduced in the discretion of the court. (See Labor Code § 2699(e)(2) (PAGA penalties may be reduced where "based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust arbitrary and oppressive, or confiscatory.")) Moreover, recent decisions may make it difficult for PAGA plaintiffs to recover statutory penalties, as opposed to actual missed wages. (See, *e.g.*, *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056.)

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Counsel attest that notice of the proposed settlement was transmitted to the LWDA concurrently with the filing of the motion.

B. Legal Standards

The primary determination to be made is whether the proposed settlement is "fair, reasonable, and adequate," under *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801, including "the strength of plaintiffs' case, the risk, expense, complexity and likely duration of further litigation, the risk of maintaining class action status through trial, the amount offered in settlement, the extent of discovery completed and the state of the proceedings, the experience and views of counsel, the presence of a governmental participant, and the reaction ... to the proposed settlement." (See also *Amaro*, 69 Cal.App.5th 521.)

Because this matter also proposes to settle PAGA claims, the Court also must consider the criteria that apply under that statute. Recently, the Court of Appeal's decision in *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, provided guidance on this issue. In *Moniz*, the court found that the "fair, reasonable, and adequate" standard applicable to class actions applies to PAGA settlements. (*Id.*, at 64.) The Court also held that the trial court must assess "the fairness of the settlement's allocation of civil penalties between the affected aggrieved employees". (*Id.*, at 64-65.)

California law provides some general guidance concerning judicial approval of any settlement. First, public policy generally favors settlement. (*Neary v. Regents of University of California* (1992) 3 Cal.4th 273.) Nonetheless, the court should not approve an agreement contrary to law or public policy. (*Bechtel Corp. v. Superior Court* (1973) 33 Cal.App.3d 405, 412; *Timney v. Lin* (2003) 106 Cal.App.4th 1121, 1127.) Moreover, "The court cannot surrender its duty to see that the judgment to be entered is a just one, nor is the court to act as a mere puppet in the matter." (*California State Auto. Assn. Inter-Ins. Bureau v. Superior Court* (1990) 50 Cal.3d 658, 664.) As a result, courts have specifically noted that *Neary* does not always apply, because "Where the rights of the public are implicated, the additional safeguard of judicial review, though more cumbersome to the settlement process, serves a salutary purpose." (*Consumer Advocacy Group, Inc. v. Kintetsu Enterprises of America* (2006) 141 Cal.App.4th 48, 63.)

The settlement agreement includes an escalator provision, to be triggered in the event that the number of covered employees or work weeks turns out to be materially higher than now estimated. If the clause is triggered and the defendant elects to increase the total payment, no further approval will be needed. The escalator clause includes no option for defendant to opt out of the settlement or cut back the covered period.

C. Attorney Fees

Plaintiff seeks one-third of the total settlement amount as fees, relying on the "common fund" theory. Even a proper common fund-based fee award, however, should be reviewed through a lodestar cross-check. In *Lafitte v. Robert Half International* (2016) 1 Cal.5th 480, 503, the Supreme Court endorsed the use of a lodestar cross-check as a way to determine whether the percentage allocated is reasonable. It stated: "If the multiplier calculated by means of a lodestar cross-check is extraordinarily high or low, the trial court should consider whether the percentage used should be adjusted so as to bring the imputed multiplier within a justifiable range, but the court is not necessarily required to make such an adjustment." (*Id.*, at 505.) Following typical practice,

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however, the fee award will not be considered at this time, but only as part of final approval.

Similarly, litigation and administration costs and the requested representative payment of \$7,500 for the plaintiff will be reviewed at time of final approval. Criteria for evaluation of representative payment requests are discussed in *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-07.

D. Discussion and Conclusion

The Court finds that the settlement is sufficiently fair, reasonable, and adequate to justify preliminary approval.

Counsel will be directed to prepare an order reflecting this tentative ruling, the other findings in the previously submitted proposed order, and to obtain a hearing date for the motion for final approval from the Department clerk. Other dates in the scheduled notice process should track as appropriate to the hearing date. The ultimate judgment must provide for a compliance hearing after the settlement has been completely implemented. Plaintiffs' counsel are to submit a compliance statement one week before the compliance hearing date. Five percent of the attorney's fees are to be withheld by the claims administrator pending satisfactory compliance as found by the Court.

Effective January 6, 2025, this case will be reassigned for all purposes to Department 39.

FUTURE HEARING(S):

12/12/2024 8:04:00 AM

DATED: 12/12/2024

BY: _____

C. FORFANG, DEPUTY CLERK

A handwritten signature in black ink, appearing to be "C. Forfang", written over a horizontal line.

Exhibit 2

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EXHIBIT 1

Notice of Proposed Class Action Settlement

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

RICARDO RAMIREZ FUENTES, an
individual, on behalf of himself, the State of
California, as a private attorney general, and on
behalf of all others similarly situated,

Plaintiff,

v.

GORMAN ROOFING SERVICES, INC., an
Arizona corporation; and DOES 1 TO 50,

Defendants.

Case No.: C23-02345

Notice of Proposed Class Action Settlement

A court authorized this notice. This is not a solicitation from a lawyer.

1 **NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

2 *You may be eligible to receive a settlement payment. Please read this notice carefully as this notice*
3 *may affect your rights.*

4 A proposed class action settlement agreement (the “Settlement”) has been reached between:
5 (1) Plaintiff Ricardo Ramirez Fuentes (“Plaintiff”), individually and in his representative capacity on
6 behalf of a group of prospective class members defined below, and as a private attorney general on
7 behalf of the State of California; and (2) Defendant Gorman Roofing Services, Inc. (“Defendant”). The
8 Settlement resolves disputed claims against Defendant arising out of its wage and hour practices during
9 the period from September 18, 2019, through the date of preliminary approval of the settlement or April
10 28, 2024, whichever occurs first (the “Class Period”) as applied to all individuals who are or were
11 employed by Defendants as non-exempt employees in California at any time during the Class Period
12 (“Class Members”).

13 The Court has granted preliminary approval of the Settlement and ordered this notice to be sent
14 to you because you may be entitled to money under the Settlement and because the Settlement affects
15 your legal rights.

16 **NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE**
17 **SETTLEMENT:** If you are a Class Member (as defined above) and received this notice, you are
18 automatically included in the Settlement and do not need to take any further action to receive a
19 payment. If you do not request exclusion from the Settlement, you will release the claims described
20 below.

21 **1. DESCRIPTION OF THE LAWSUIT**

22 Plaintiff, individually and in his representative capacity on behalf of the Class Members, and
23 as a private attorney general on behalf of the State of California, is pursuing a lawsuit against Defendant
24 in the Superior Court of the State of California for the County of Contra Costa in the matter of ***Ricardo***
25 ***Ramirez Fuentes v. Gorman Roofing Services, Inc.***, case number **C23-02345** (the “Action”). The
26 Action sought recovery for Defendant’s alleged: (1) failure to pay minimum wage for all hours worked;
27 (2) failure to pay proper overtime wages; (3) failure to provide compliant rest periods and pay missed
28 rest break premiums; (4) failure to provide compliant meal periods and pay missed meal period

1 premiums; (5) failure to maintain accurate employment records; (6) failure to pay timely wages during
2 employment; (7) failure to pay all contractual wages; (8) failure to pay all wages due and owing at
3 separation; (9) failure to reimburse business expenses; (10) failure to provide complete and accurate
4 wage statements; (11) deceptive, fraudulent, or otherwise unlawful business practices based on the
5 foregoing in violation of California’s Unfair Competition Law; and (12) statutory penalties based on
6 the foregoing pursuant to PAGA.

7 **Defendant denies all liability, denies all allegations in the Action, and has raised various**
8 **defenses to the claims.** Defendant asserts that it fully complied with all applicable wage and hour laws,
9 and contends that civil penalties under PAGA are not warranted. Defendant also denies that the Action
10 is suitable for class certification. Defendant has entered into the Settlement solely for purposes of
11 resolving this dispute to avoid costly, disruptive, and time-consuming litigation and does not admit to
12 any wrongdoing or liability.

13 The Court has not ruled on the merits in the Action. By approving the Settlement and issuing
14 this notice, the Court is *not* suggesting which side would win or lose the case if it went to trial or
15 whether the claims are suitable for class certification. To avoid the additional expense, inconvenience,
16 and risk of continued litigation, however, Plaintiff and Defendant (collectively, the “Parties”) have
17 concluded that it is in their respective best interests and the interests of the Class Members to settle the
18 Action on the terms summarized in this notice. The Settlement was reached after Defendant provided
19 extensive information and documents to Plaintiff’s counsel, and after lengthy arms-length non-
20 collusive negotiations between the Parties, including mediation with an experienced and well-respected
21 mediator in California. In these negotiations, both sides recognized the substantial risk of the Court
22 deciding against them at trial and determined that the Settlement was a fair, reasonable, and adequate
23 way to resolve the disputed claims.

24 Plaintiff and Plaintiff’s counsel—Jonathan Melmed, Laura Supanich, and Rebecca Harteker of
25 Melmed Law Group P.C. (“Class Counsel”)—support the Settlement. Among the reasons for support
26 are the defenses to liability potentially available to Defendant, the risk of denial of class certification,
27 the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

28

1 Plaintiff and Class Counsel believe that the settlement described in this notice is fair, adequate,
2 reasonable, and in the best interests of Plaintiff and the Class Members.

3 Under the Settlement, the following settlement class will be certified under California law: all
4 individuals who are or were employed by Defendant as non-exempt employees in California at any
5 time during the Class Period. The “Class Period” is defined as the period from September 18, 2019,
6 through the date of preliminary approval of the settlement or April 28, 2024, whichever occurs first.
7 The Settlement provides for a gross settlement amount of \$419,220.00, a share of which is to be
8 distributed to the Class Members based on the pro rata number of weeks worked by the Class Members
9 during the Class Period as a proportion of all weeks worked by all Class Members. In exchange for
10 their share of the settlement amount, all participating Class Members will be deemed to have released
11 Defendant from liability on the terms described in this notice.

12 On [date of preliminary approval], the Court preliminarily approved the Settlement and
13 conditionally certified the settlement class. This notice is being sent to you because Defendant’s records
14 indicate that you worked for Defendant during the Class Period and that you meet the definition
15 required to be treated as a Class Member.

16 **2. IF YOU ARE STILL EMPLOYED BY DEFENDANT, THIS SETTLEMENT WILL**
17 **NOT AFFECT YOUR EMPLOYMENT.**

18 California law strictly prohibits retaliation. Further, Defendant is prohibited by law from taking
19 any adverse action against or otherwise target, retaliate, or discriminate against any Class Member
20 because of the Class Member’s participation or decision not to participate in the Settlement.

21 **3. TERMS OF THE SETTLEMENT**

22 Defendant has agreed to pay \$419,220.00 (the “Gross Settlement Amount”) to resolve the
23 claims in the Action. The Parties agreed to the following payments from the Gross Settlement Amount:

- 24 1. **Settlement Administration Costs.** The Court has approved ILYM Group, Inc. to act
25 as the “Settlement Administrator,” who is sending this notice to you and will perform
26 many other duties relating to the Settlement. Under the Settlement, up to \$15,000.00
27 will be paid from the Gross Settlement Amount to pay the Settlement Administration
28 Costs.

- 1 2. **Attorneys' Fees and Expenses.** Class Counsel have been prosecuting the Action on
2 behalf of the Class Members on a contingency fee basis (that is, without being paid any
3 money to date) and have been paying all litigation costs and expenses. To date, the
4 Parties have aggressively litigated many aspects of the case including investigation,
5 settlement efforts, and a full-day mediation session. The Court will determine the actual
6 amount awarded to Class Counsel as attorneys' fees, which will be paid from the Gross
7 Settlement Amount. Class Members are not personally responsible for any of Class
8 Counsel's attorneys' fees or expenses. Class Counsel will ask for fees of one-third of
9 the Gross Settlement Amount (i.e., \$139,740.00) as reasonable compensation for the
10 work Class Counsel performed and will continue to perform in the Action. Class
11 Counsel also will ask for reimbursement of up to \$15,000.00 for the costs Class Counsel
12 incurred in connection with the Action.
- 13 3. **Service Payment to Class Representative.** Class Counsel will ask the Court to provide
14 a service payment to Plaintiff in the amount of \$7,500.00 for Ricardo Ramirez Fuentes
15 to compensate him for his efforts on behalf of the Class Members in the Action,
16 including assisting in the investigation and consulting with Class Counsel and providing
17 crucial documents to Class Counsel, as well as in exchange for a general release of
18 claims, including a waiver of claims pursuant to Civil Code section 1542. Plaintiff also
19 may receive a share of the Settlement as a Class Member.
- 20 4. **PAGA Payment.** The Parties have agreed on a reasonable sum to be paid in settlement
21 of the PAGA claims included in the Action, which is \$20,000.00. The PAGA Payment
22 is to be approved by the Court pursuant to Labor Code section 2699 and is to be
23 distributed as follows: seventy-five percent (75%) (i.e., \$15,000.00) to the LWDA and
24 twenty-five percent (25%) (i.e., \$5,000.00) to the individuals who come within the
25 definition of an "aggrieved employee" for the purposes of the Settlement (i.e., all
26 individuals who are or were employed by Defendant as non-exempt employees in
27 California at any time during the PAGA Period). The "PAGA Period" is defined for
28

1 these purposes to mean the period from September 18, 2022, through the date of
2 preliminary approval of the settlement or April 28, 2024, whichever occurs first.

3 After deducting the amounts above, the balance of the settlement amount will form the “Net
4 Settlement Amount” for distribution to the Class Members.

5 **4. DISTRIBUTION OF THE SETTLEMENT TO THE CLASS MEMBERS**

6 Each eligible Class Member who does not request exclusion from the Settlement will be deemed
7 a “Class Participant” and will receive a share from the Net Settlement Amount which will be distributed
8 pro rata based on the proportional number of weeks worked by each Class Member during the Class
9 Period (the “Individual Settlement Amount”). If any Class Member requests exclusion from the
10 Settlement, his or her share will be distributed to the remaining Class Participants.

11 Twenty percent (20%) of each Individual Settlement Amount will constitute payment in the
12 form of wages (and each Class Participant will be issued an IRS Form W-2 for such payment to him
13 or her), and Eighty percent (80%) of each Individual Settlement Amount will constitute penalties and
14 interest (and each Class Participant will be issued an IRS Form 1099 for such payment to him or her).

15 Defendant, or its proxies, shall take all usual and customary deductions from the Individual
16 Settlement Amount payments that are distributed as wages, including, but not limited to, state and
17 federal tax withholding, disability premiums, and unemployment insurance premiums. There will be
18 no deduction taken from the interest or penalty distribution—it will, however, be reported on IRS Form
19 1099 as income. Class Participants are responsible for the proper income tax treatment of their
20 Individual Settlement Amount. The Settlement Administrator, Defendant and its counsel, and Class
21 Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors
22 concerning the tax consequences and treatment of payments they receive under the Settlement.

23 The workweeks you worked for Defendant during the Class Period as a non-exempt employee
24 will be calculated based on Defendant’s records. If you feel that you were not credited with the correct
25 number of workweeks worked during the Class Period as a non-exempt employee, you may submit
26 evidence to the Settlement Administrator on or before **[Response Deadline]** with documentation to
27 establish the number of workweeks you claim to have actually worked during the Class Period as a
28 non-exempt employee. **Documentation sent to the Settlement Administrator will not be returned**

1 **or preserved, so do *not* send originals.** The Parties and the Settlement Administrator will promptly
2 evaluate the evidence submitted and discuss in good faith how many workweeks should be credited.
3 The Settlement Administrator will make the final decision as to how many weeks are credited and
4 report the outcome to the Class Participant. If you are unsatisfied with the decision, you may submit
5 an objection, which is explained below.

6 Settlement checks will be mailed to all Class Participants after the Court grants final approval
7 of the Settlement and judgment is entered.

8 **5. THE RELEASE OF CLAIMS**

9 If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind
10 all Class Participants. The Class Participants will then be barred from bringing any “Released Claims”
11 against the “Released Parties” as those terms are defined below.

12 The “Released Parties” are Defendant and all of Defendant’s former, present and future owners,
13 parents, subsidiaries, affiliates, and all of its current, former and future officers, directors, members,
14 managers, employees, consultants, partners, shareholders, joint venturers, agents, customers,
15 successors, predecessors, assigns, accountants, insurers, or legal representatives.

16 The “Released Claims” are any and all claims, causes of action, damages, wages, benefits,
17 expenses, penalties, debts, liabilities, demands, obligations, attorneys’ fees, costs, and any other form
18 of relief or remedy in law, equity, or whatever kind of nature, arising from the claims pled in the Action
19 and any claims arising out of or related to the allegations set forth in the operative complaint and/or
20 PAGA notice to the California Labor and Workforce Development Agency that arose during the Class
21 Period and/or PAGA Period, including claims for: **(1)** failure to pay minimum wage for all hours
22 worked in violation of Labor Code sections 1194 and 1194.2, and the applicable IWC Wage Order(s);
23 **(2)** failure to pay proper overtime wages in violation of Labor Code sections 510, 1197, and 1198, and
24 the applicable IWC Wage Order(s); **(3)** failure to provide compliant rest periods and pay missed rest
25 break premiums in violation of Labor Code section 226.7 and the applicable IWC Wage Order(s);
26 **(4)** failure to provide compliant meal periods and pay missed meal period premiums in violation of
27 Labor Code sections 226.7 and 512, and the applicable IWC Wage Order(s); **(5)** failure to maintain
28 accurate employment records in violation of Labor Code section 1174; **(6)** failure to pay timely wages

1 during employment in violation of Labor Code sections 204, 210; **(7)** failure to pay all contractual
2 wages in violation of Labor Code sections 221, 223; **(8)** failure to pay all wages due and owing at
3 separation in violation of Labor Code sections 201, 202, and 203; **(9)** failure to reimburse business
4 expenses in violation of Labor Code sections 2802 and 2804; **(10)** failure to provide complete and
5 accurate wage statements in violation of Labor Code sections 226 and 226.3; **(11)** deceptive,
6 fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California's
7 Unfair Competition Law (Bus. & Prof. Code, §§ 17200–17210); **(12)** statutory penalties based on the
8 foregoing pursuant to PAGA (Lab. Code, §§ 2698-2699.6); and **(13)** all claims for liquidated damages,
9 penalties, interest, fees, costs based on the foregoing.

10 **6. YOUR OPTIONS**

11 **6.1. DO NOTHING AND RECEIVE YOUR PORTION OF THE SETTLEMENT**

12 If you do nothing, you will be automatically included as a Class Participant in the Settlement
13 and will receive a settlement payment. You do *not* have to take any further action to receive your
14 settlement payment. It is, however, the responsibility of all Class Members to ensure that the Settlement
15 Administrator has your current address on file, or you may not receive important information or a
16 settlement payment. The estimated amount of your settlement payment if you do nothing is included
17 on the attached *Class Action Settlement Share Form*.

18 **6.2. REQUEST EXCLUSION FROM THE CLASS AND THE SETTLEMENT**

19 If you do *not* wish to take part in the class action portion of the Settlement (the “Class
20 Settlement”), you may exclude yourself (i.e., opt out of the Class Settlement) by sending the Settlement
21 Administrator a letter or card postmarked no later than [Response Deadline] that specifically requests
22 exclusion from the Class Settlement in this case. The request for exclusion must include your name,
23 address, telephone number, and signature, and it should state:

24 “I wish to be excluded from the settlement class in the case of *Ricardo Ramirez Fuentes*
25 *v. Gorman Roofing Services, Inc.* I understand that if I ask to be excluded from the
26 settlement class, I will not receive any money from the settlement of this lawsuit (other
27
28

1 than any potential PAGA payment) and will not be releasing any claims I might have
2 other than the PAGA claim.”

3 Send the request for exclusion directly to the Settlement Administrator at the following address
4 **by no later than [Response Deadline]:**

5 ILYM Group, Inc.
6 14751 Plaza Drive, Suite J
7 Tustin, California 92780

8 Any person who submits a timely request for exclusion from the Class Settlement shall, upon
9 receipt, no longer be a Class Member, shall be barred from participating in the Class Settlement, and
10 shall receive no benefits from the class action portion of the Settlement. If you want confirmation of
11 receipt of your request for exclusion, please send it by United States certified mail, return receipt
12 requested, or contact the Settlement Administrator.

13 **Importantly,** Class Members who timely and validly request exclusion from the Class
14 Settlement will *not* be excluded from their share of the PAGA Payment. Requesting exclusion from
15 the Class Settlement applies solely to the Class Members’ entitlement to the class action portion of the
16 Settlement and not their entitlement to the PAGA Payment. If you request exclusion from the Class
17 Settlement you will still be entitled to your share, if any, of the PAGA Payment and will still release
18 the PAGA Claims. You cannot opt out of the PAGA portion of the proposed Settlement.

19 **6.3. OBJECT TO THE SETTLEMENT**

20 You have the right to object to the terms of the Settlement if you do not request exclusion. If,
21 however, the Court rejects your objection, you will still be bound by the terms of the Settlement. If you
22 wish to object to the Settlement, or any portion of it, you may file with the Settlement Administrator
23 and the Court a written objection stating your name, address, telephone number, dates of employment
24 with Defendant, the case name and number, each specific reason in support of your objection, and any
25 legal support for each objection. Objections in writing must be mailed to the Settlement
26 Administrator—ILYM Group, Inc., 14751 Plaza Drive, Suite J, Tustin, California 92780—by no later
27 than **[Response Deadline]** to be considered. **Objections that do not include all required**
28 **information, or that are not timely submitted, might not be considered by the court.**

1 If you choose to object to the Settlement, you may also appear to speak at the final approval
2 and fairness hearing scheduled for [Final Approval Hearing Date], at [Final Approval Hearing Time]
3 in Department [Court Department] of the Superior Court of the State of California for the County of
4 Contra Costa, located at [Court Location]. You have the right to appear either in person or through your
5 own attorney at this hearing.

6 If you object to the Settlement, you will remain a Class Member, and if the Court approves the
7 Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as
8 Class Members who do not object. Any Class Member who does not object in the manner provided
9 above shall have waived any objection to the Settlement, whether by appeal or otherwise.

10 The Court may, at the time of the final approval and fairness hearing, have certain social
11 distancing requirements or procedures for attendance at hearings. If you wish to object to the Settlement
12 by speaking at the final approval and fairness hearing, you may contact Class Counsel, whose
13 information is provided below, for more information about the Court's current social distancing
14 procedures. You may also review the Court's website for the most current information.

15 **7. HOW TO UPDATE OR CHANGE YOUR ADDRESS**

16 If you move after receiving this notice or if it was misaddressed, please contact the Settlement
17 Administrator, ILYM Group, Inc., at (888) 250-6810 or by email at
18 claims@ilymgrouppclassaction.com, as soon as possible. **This is important to ensure that future**
19 **notices and/or the Settlement payment reach you.**

20 **8. NOTICE OF FINAL JUDGMENT IF THE SETTLEMENT IS APPROVED**

21 Within seven (7) days after the Court has held a final approval and fairness approval hearing
22 and entered a final order approving the Settlement, if it chooses to do so, the Settlement Administrator
23 will post a copy of that order and final judgment on its website at the following website address:

24 [Case-Specific Settlement URL (to be added by Settlement Administrator)]

25
26 **9. IF THE SETTLEMENT IS NOT APPROVED**

27 If the Settlement is not approved by the Court, or if any of its conditions are not satisfied, the
28 Settlement may be voided, in which case no money will be paid, and the case will return to litigation.

1 If that happens, there is no assurance: **(1)** that the class will be certified by the Court; **(2)** that any
2 decision at trial would be in favor of Class Members; **(3)** that a trial decision, if any, would be as
3 favorable to the Class Members as the Settlement; or **(4)** that any favorable trial decision would be
4 upheld if an appeal was filed.

5 **10. QUESTIONS OR COMMENTS**

6 **PLEASE DO NOT CALL OR CONTACT THE COURT.** If you have any questions about
7 the settlement, you may contact the Settlement Administrator at: **(888) 250-6810** or by e-mail at
8 **claims@ilymgroupclassaction.com**. You may also contact Class Counsel at the addresses or phone
9 numbers listed below.

10

11 **Lawyers Representing Plaintiff and the Class Members**

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