

Molly DeSario (SBN 230763)
molly.desario@wilshirelawfirm.com
Arsiné Grigoryan (SBN 319517)
arsine.grigoryan@wilshirelawfirm.com
Dorota A. James (SBN 309933)
dorota.james@wilshirelawfirm.com
Bradford Smith (SBN 345879)
bradford.smith@wilshirelawfirm.com

WILSHIRE LAW FIRM

3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

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

JOSE MORENO, on behalf of the State of
California and other aggrieved persons,

Plaintiff,

v.

WILCOX MACHINE CO., a California
corporation; and DOES 1 through 10, inclusive,

Defendants.

Case No.: 23STCV29281

PAGA REPRESENTATIVE ACTION

*[Assigned for all purposes to: Hon. Elihu M.
Berle, Dept. 6]*

**DECLARATION OF MOLLY DESARIO
IN SUPPORT OF PLAINTIFF'S
MOTION TO APPROVE PAGA
SETTLEMENT**

Hearing Date

Date: January 27, 2025
Time: 9:00 a.m.
Dept.: 6

Complaint Filed: November 30, 2023
FAC Filed: April 29, 2024
Trial Date: not set

DECLARATION OF MOLLY DESARIO

I, Molly DeSario, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Jose Moreno (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness.

2. This Declaration is submitted in support of Plaintiff’s Motion to Approve PAGA Settlement.

Background

3. On November 30, 2023, Plaintiff filed a putative wage and hour class action complaint against Defendant Wilcox Machine Co. (“Defendant”) for: (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) violation of California’s Unfair Competition Law, California Business and Professions Code §§ 17200, et seq. On April 29, 2024, Plaintiff amended his complaint by adding a cause of action under the Private Attorneys General Act (“PAGA”) (Labor Code §§ 2699, et seq.). On November 5, 2024, the Parties engaged in a private mediation with Hon. Joan M. Lewis (Ret.). During the mediation, Defendant advised Plaintiff that Defendant had settled and received *Pick-Up Stix* releases from 76 out of 115 putative class members. Bases on that information, Plaintiff agreed to dismiss the class claims without prejudice and continue the mediation negotiations as to the PAGA claims only. On December 2, 2024, Plaintiff filed a Request for Dismissal of the Class Claims in the action. On December 12, 2024, the Court denied Plaintiff’s Request for Dismissal of the Class Claims and instructed Plaintiff to file a Motion for Approval of PAGA Settlement.

4. Defendant is one of the largest machine shops in Southern California specializing in the engineering, precision machining, welding and assembly of large, complex components

1 and systems for a broad range of industries including aerospace, commercial, energy, industrial
2 equipment, and government. Plaintiff worked for Defendant from approximately September
3 2017 to approximately March 2021 as a Parts Driver, Office Clerk, and Porter.

4 5. Plaintiff's PAGA claim stems from Defendant's failure to pay for all hours
5 worked (minimum, straight time, and overtime wages), failure to provide meal periods, failure
6 to authorize and permit rest periods, failure to timely pay final wages, failure to furnish accurate
7 wage statements, failure to indemnify for necessary business expenditures, and unfair business
8 practices.

9 6. On January 30, 2024, Plaintiff provided notice to the California Labor &
10 Workforce Development Agency ("LWDA") and Defendants of the violations described above,
11 as required by Labor Code § 2699.3(a)(1). Pursuant to Labor Code § 2699.3(a)(2)(A), the
12 LWDA had 65 calendar days to notify Plaintiff and Defendant whether it intended to investigate
13 the alleged violations. However, the LWDA did not do so.

14 **Discovery and Investigation**

15 7. After Plaintiff filed his complaint, the Parties engaged in extensive discussions
16 regarding the merits of the claims and the discovery needed thereon if the parties were to engage
17 in meaningful settlement discussions. On Plaintiff's request, Defendant produced a sampling of
18 employee timekeeping and payroll data as well as over 2,880 pages of documents reflecting
19 Defendant's policies, practices and procedures during the relevant time period. Thereafter, the
20 Parties continued to engage in extensive discussions about the factual and legal strengths (and
21 weaknesses) of the claims and defenses.

22 8. On November 5, 2024, the Parties and their counsel participated in private
23 mediation with Hon. Joan M. Lewis (Ret.). The settlement negotiations were at arm's length
24 and, although conducted in a professional manner, were adversarial. The Parties went into the
25 mediation willing to explore the potential for a settlement of the dispute, but each side was also
26 prepared to litigate their or its position through trial and appeal if a settlement had not been
27 reached. During the mediation, Defendant informed Plaintiff that Defendant had settled and
28 received *Chindarah v. Pick-Up Stix* releases for 76 out of 115 putative class members.

9. Ultimately, after an all-day mediation presided over by Hon. Joan M. Lewis (Ret.), the Parties agreed to settle the PAGA claim for \$191,000.00, which includes all persons employed by Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the PAGA Period. Additionally, due to Defendant's *Pick-Up Stix* releases, the Parties agreed to dismiss Plaintiff's class claims without prejudice. Dismissal of the class claims is appropriate as putative class members will not be prejudiced as a class has not been certified and notice has not been provided to putative class members in this action. There are approximately 80 aggrieved employees covered by the settlement. Plaintiff submitted the Settlement to the LWDA on December 30, 2024, pursuant to Labor Code § 2699(1)(2). A true and correct copy of the PAGA Settlement Agreement ["Settlement"] executed by the Parties, along with the confirmation that the Settlement was submitted to the LWDA is attached to this Declaration as **Exhibit 1**. Additionally, attached as **Exhibit 2** is the Settlement Notice that will be sent to the PAGA Employees with payment after the Court enters a Judgement on its Order Approving the PAGA Settlement.

10. Before the Settlement, Plaintiff's counsel conducted an investigation into the claims alleged by Plaintiff, conducted legal research, and engaged in informal discovery. Based upon the information obtained through discovery, Plaintiff's counsel was able to act intelligently and effectively in negotiating the proposed Settlement.

Assessment of Amount in Controversy and Risks of Continued Litigation

11. Plaintiff and my firm remain confident of the merits of Plaintiff's claims. With respect to the meal period allegation, Plaintiff alleges that Defendant did not have fully compliant written meal period policies and had improper automatic deductions of meal periods. Although Plaintiff contends that this allegation is meritorious, there is risk with this underlying claim. With respect to the rest period allegation, Plaintiff contends that employees, including himself, were not provided with California-compliant rest periods, as employees were often cut short or otherwise interrupted or that employees would be forced to skip rest breaks due to a heavy workload. Again, despite Plaintiff's contention that this allegation is credible, proving rest period allegations is particularly difficult because rest periods do not have to be recorded and Defendant can argue that

1 the aggrieved employees chose to voluntarily forego their rest periods. With respect to the
2 unreimbursed business expenses allegation, Plaintiff alleges that Defendant required him and the
3 other aggrieved employees to purchase tools and personal protective equipment, such as safety
4 glasses and steel-toed boots, without being reimbursed. Defendant disputes this claim based on
5 the fact that they provided employees with all the necessary tools required for the performance of
6 their duties and as such, any additional tools purchased by employees were not truly necessary.

7 12. With regard to Plaintiff's wage statement claim, Defendant argues that the wage
8 statements issued to employees meet the requirements of Labor Code § 226(a). Defendant also
9 maintains that any alleged wage statement violation could not be shown to be "knowing and
10 intentional," and that Plaintiff cannot show that he or any other employee "suffer[ed] injury" as a
11 result of the alleged wage statement violations, as required by Labor Code § 226(e) for the
12 imposition of penalties.

13 13. Plaintiff believed there was a legitimate risk of the Court significantly reducing
14 penalties given the technical nature of the alleged violations. Without this settlement, the Parties
15 face preparation for trial, as well as extensive formal discovery efforts and further depositions. As
16 a result, the Parties would incur considerably more attorneys' fees and costs through trial. This
17 settlement avoids those risks and the accompanying expense. Thus, this factor favors settlement
18 approval.

19 14. My expert determined that there were 4,678 pay periods during the relevant time
20 period which presented issues with regard to unpaid wages, meal period violations, rest period
21 violations, and unreimbursed business expenses. Applying the \$100 "initial violation" penalty for
22 each of these pay periods, Defendant's potential PAGA exposure is \$467,800.00 (based on 4,678
23 pay periods). However, Defendant's contention that the underlying allegations lacked merit led to
24 Plaintiff discounting this maximum exposure by 70% to account for the risk of not prevailing on
25 the merits and the Court's discretion in reducing penalties, for a total of \$140,340.00.

26 15. My expert determined that there were 4,678 pay periods at issue with regard to the
27 wage statement violations claim. Because Plaintiff's wage statement theory of liability is
28 predicated on Defendant's issuance of facially deficient wage statements – each of the wage

statements issued would carry a potential PAGA penalty. Accordingly, Defendant's maximum exposure for its wage statement violations is \$320,000.00 (80 aggrieved employees x \$4,000 maximum penalty). However, based on Defendant's counterarguments and because the Court maintains discretion to reduce these penalties, Plaintiff discounted that figure by 70% for a risk of not prevailing on the merits and to account for the Court's discretion to reduce the penalties (given the highly technical nature of the alleged violations), for a total of \$96,000.00.

16. Using these estimated figures, Plaintiff predicted that the realistic total potential recovery for the PAGA Employees and the LWDA would be approximately \$236,340.00. The proposed Settlement of \$191,000.00 therefore represents 81% of Plaintiff's reasonably forecasted total recovery. In this case, continued litigation would delay payment to the LWDA and the PAGA Employees as they await trial and, most likely, appellate proceedings. Furthermore, while Plaintiff is confident in the merits of the case, a legitimate controversy exists as to each of the predicate Labor Code violations. The possibility that the Court finds no liability at the PAGA bench trial is also a risk. In sum, when the risks of litigation, the burdens of proof necessary to establish liability, and the probability of appeal of a favorable judgment are balanced against the merits of Plaintiff's claims, it is clear that the settlement amount is fair. Further, because of the proposed Settlement, the PAGA Employees will receive timely, guaranteed relief and will avoid the risk of an unfavorable judgment. Plaintiff also recognizes that proving the amount of wages due to each employee would be an expensive, time-consuming, and uncertain proposition.

17. If the Court approves the terms of the Settlement, each aggrieved employees' payment will average approximately \$265.10 and approximately \$63,624.00 will go to the LWDA. In reality, some employees will likely receive more, and others may receive less depending on the length of their employment with Defendant.

PAGA Representative Service Payment

18. The Settlement provides for a Service Payment to Plaintiff in an amount not to exceed \$10,000.00. The requested service award is intended to recognize: (1) the substantial time and effort that Plaintiff has expended on behalf of the State and aggrieved employees; (2) the risks faced by Plaintiff as a result of bringing this action; (3) the fact that Plaintiff put the interests of

the State of California and other aggrieved employees ahead of his own; and (4) the substantial benefit conferred upon the State and the aggrieved employees as a result of Plaintiff's actions.

19. Plaintiff has spent numerous hours performing tasks for this case, including, but not limited to, the following: consulting with counsel in-person and over the telephone; searching for and producing relevant documents; reviewing documents produced by Defendant and settlement documents; keeping informed of the developments in the case; and participating in decisions concerning the case, including settlement. As a result of her efforts, the LWDA and about 80 aggrieved employees will receive compensation for civil penalties for underpaid wages and other wage and hour violations.

20. Plaintiff put himself at significant risk in pursuing this action on behalf of the State, as serving as a Plaintiff in a representative action could affect his prospects for future employment. Plaintiff also placed himself at substantial risk because, if Defendant was to prevail in this action, Plaintiff could be liable for Defendant's costs and attorneys' fees.

21. In short, this action would not have been possible without the aid of Plaintiff, who put his own time and effort into this litigation, sacrificed the value of his individual claims by entering into a general release of all known and unknown claims, and placed himself at risk for the sake of the State and the aggrieved employees.

Attorneys' Fees And Costs

22. The Settlement provides for a payment of attorneys' fees in the amount of \$63,666.67 and up to \$25,000.00 in costs to Plaintiff's counsel. As of the filing date, Plaintiff's counsel's total lodestar is \$97,350.00, which is based upon 144.5 hours of attorney time at customary hourly rates. In addition, Plaintiff's counsel incurred \$18,070.89 in litigation costs. Plaintiff's counsel was required to expend the funds prosecuting this case to a successful resolution on, among other things, court filing fees, document service, postage, and copying. Because these costs are reasonable, Plaintiff's counsel respectfully requests that the Court approve the payment. Under these circumstances, Plaintiff's counsel has a negative lodestar of 0.65. Thus, Plaintiff's request for \$63,666.67 in attorneys' fees and costs is reasonable under the lodestar method.

23. The efforts expended by Plaintiff's counsel to achieve this excellent result include,

but are not limited to, the following: interviews with Plaintiff and review of documents provided by Plaintiff and Defendant; preparing and revising the Complaint; filing of the PAGA complaint; investigating and researching the claims; analyzing the timekeeping and payroll records produced by Defendant in advance of mediation; preparing a mediation brief; participating in mediation; drafting, negotiating, and revising the Settlement Agreement; communicating with the proposed Settlement Administrator; and drafting this Motion and supporting papers.

24. The regular and customary practice at Wilshire Law Firm, PLC is for all attorneys to maintain contemporaneous time records setting forth the amount of time spent (rounded to the nearest 0.1 hour) on each task in each case, with explanatory descriptions of each task performed. My colleagues and I followed this practice throughout this litigation. To calculate my firm's lodestar for this case, I reviewed the time records and exercised discretion in eliminating excessive entries. Using these time records, my office derived the following summary chart of timekeeping activities of the attorneys working on this case:

Attorney	Hours	Rate	Lodestar
Molly DeSario	1	\$1,200	\$1,200
Justin F. Marquez	25	\$1,500	\$37,500
Arsiné Grigoryan	30	\$800	\$24,000
Dorota A. James	39	\$600	\$23,400
Bradford Smith	22.5	\$500	\$11,250
Total:144.5			\$97,350.00

25. There are additional hours devoted by me (and by my colleagues) to this litigation that are not reflected in Plaintiff's Counsel's request for attorneys' fees.

26. We can provide complete, detailed billing records in the event the Court requests them, but would request the opportunity to redact attorney-client privileged information and any other privileged information.

27. Additional time will be required by Plaintiff's Counsel to monitor the settlement and respond to inquiries and oversee administration of the settlement and distribution of the fund.

1 I estimate that my office will commit no less than 10 hours to those tasks and have included those
2 hours above.

3 28. As of the drafting of this Motion, my office has incurred \$18,070.89 in expenses
4 litigating this action. These expenses were reasonably necessary to the litigation and were actually
5 incurred by my office. They should be reimbursed in full, up to the maximum amount allowed in
6 the Settlement Agreement. Attached as **Exhibit 3** to this declaration is a breakdown of costs
7 incurred by my office. Additionally, we anticipate incurring \$300.00 in anticipated future costs
8 for filing fees, messenger costs, and copying costs following the Court's Order re: Plaintiff's
9 Motion to Approve PAGA Settlement, and request reimbursement of such as well.

10 **Plaintiff's Counsel's Experience**

11 29. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World
12 Report as one of the nation's Best Law Firms for every year since 2020 and is comprised of over
13 120 attorneys and over 600 employees. Wilshire Law Firm, PLC is actively and continuously
14 practicing in employment litigation, representing employees in both individual and class actions
15 in both state and federal courts throughout California.

16 30. Wilshire Law Firm, PLC is qualified to handle this litigation because its attorneys
17 are experienced in litigating Labor Code violations in both individual, class action, and
18 representative action cases. Wilshire Law Firm, PLC has handled, and is currently handling,
19 numerous wage and hour class action lawsuits, as well as class actions involving consumer rights
20 and data privacy litigation.

21 31. I graduated cum laude from the Carl H. Lindner School of Business at the University
22 of Cincinnati in 1999 and received my Juris Doctor from Northeastern University School of Law
23 in 2003.

24 32. I have over 19 years of experience in litigating class action and mass litigation, and
25 I have spent the past 16 years prosecuting class and PAGA actions at well-known plaintiff-side
26 wage and hour firms in California. In my role as partner, I am currently overseeing the prosecution
27 of hundreds of representative wage and hour actions in California state and federal courts.
28

1 33. Throughout my legal career, I have also donated numerous pro bono hours to many
2 non-profit organizations, including the Whitman-Walker legal Clinic, ABA Coalition for Justice,
3 Alameda Point Collaborative, National Association of Women Judges Storybook Project, and the
4 ACLU. I am also a member of CELA, Queens' Bench, and the San Francisco, Alameda, and
5 Montgomery County (Maryland) bar associations.

6 34. As the attorney responsible for day-to-day management of this matter at the
7 Wilshire Law Firm, PLC, I have over 16 years of experience litigating and settling hundreds of
8 wage and hour class actions. In those class actions, I performed similar tasks as those performed
9 in the course of prosecuting this action. My litigation experience includes:

10 (a) *Navarro v. Floor and Décor Outlets of America, Inc., et al.*, Case No.
11 22CV403852 (Santa Clara County): a gross settlement of \$1,200,000.00 on
12 behalf of approximately 3,500 Aggrieved Employees.

13 (b) *Carr, et al., v. U.S. Security Associates*, Case No. RG18932522 (Alameda
14 County): gross settlement of \$6,500,000.00 on behalf of approximately 14,800
15 Class Members.

16 (c) *Miller, et al., v. Rack Room Shoes, Inc., et al.*, Case No. BCV-22-101870 (Kern
17 County): gross settlement of \$11,143,340.29 for approximately 1,712 non-
18 exempt retail employees.

19 (d) *Madrigal v. Solage Management, Inc., et al.*, Case No. CIV2100081 (Marin
20 County): settlement of \$900,000.00 for approximately 1,279 Class Members and
21 697 Aggrieved Employees.

22 (e) *Lopez v. LG Electronics Alabama, Inc, et al.*, Case No. C22-00686 (Contra
23 Costa County): a \$725,000.00 settlement for non-exempt LG employees.

24 (f) *Ayala v. RHR California Services, LLC, et al.*, Case No. 23-CIV-02830 (San
25 Mateo County): a gross settlement of \$800,000.00 for a class of approximately
26 930 Class Members.

27 (g) *Medina v. Bio-Rad*, Case No. MSC21-00154 (Contra Costa County): a gross
28 settlement of \$2,950,000.00 for approximately 1,170 Class Members.

- (h) *Marshall v. Faneuil, Inc., et al.*, Case No. 34-2017-00216580-CU-OE-GDS (Sacramento County): a gross settlement of \$1,960,000.00 for non-exempt employees.
- (i) *Limon v. Crestline Hotels& Resorts, LLC, et al.*, Case No. 20STCV37266 (Los Angeles County): a \$1,100,000.00 gross settlement for class of hotel employees.
- (j) *Galicía v. M San Ramon, Inc.*, Case No. MSC21-01638 (Contra Costa County): a \$3,500,000.00 gross settlement amount for approximately 7,910 former McDonald's Restaurant employees.
- (k) *Martinez v. Pacific Catch, Inc.*, Case No. 22CV393580 (Santa Clara County): a \$1,926,308.31 gross settlement for a class of approximately 3,192 class members.
- (l) *Garcia v. Norman's Nursery, Inc.*, Case No. STK-CV-UOE-2021-0002804 (San Joaquin County): a settlement of \$1.3 million for non-exempt nursery employees.
- (m) *Navarro v. United Parcel Service, Inc.*, Case No. BC592098 (Los Angeles County): a \$16.5 million dollar settlement for non-exempt UPS employees.
- (n) *Cordero v. Spire Hospitality LLC, et al.*, Case No. 20STCV49475 (Los Angeles County): a \$500,000.00 settlement for non-exempt hotel and hospitality employees.

35. My current contingent billing rate of \$1,200 per hour is consistent with my actual billing rate for my practice area, experience, legal market and accepted hourly rates:

36. The reasonableness of my firm's hourly rates is also supported by several surveys of legal rates, including the following:

- a. The 2022 Real Rate Report survey compiled by Wolters Kluwer, which presents the real market rates of Los Angeles area attorneys who practice litigation. For that category, the third quartile 2022 rate was \$1,045 per hour for partners and \$855 for associates. Likewise, page 32 of the Report describes the rates charged by 183 Los Angeles partners with "21 or more years of experience" and "Fewer than 21 years."

For those categories, the third quartile Los Angeles partner rate in 2022 were \$1,133 per hour for 21 or more years and \$1,075 for attorneys with fewer than 21 years. A true and correct copy of portions of the 2022 Real Rate Report is attached hereto as **Exhibit 3.**

- b. In an article entitled “Big Law Rates Topping \$2,000 Leave Value ‘In Eye of Beholder,’” written by Roy Strom and published by Bloomberg Law on June 9, 2022, the author describes how Big Law firms have crossed the \$2,000-per hour rate. The article also notes that law firm rates have been increasing by just under 3% per year. A true and correct copy of this article is attached hereto as **Exhibit 4.**

37. Arsiné Grigoryan is an Associate Attorney at my office. She earned two Bachelor of Arts degrees from the University of California, Berkeley in (1) Political Science with an emphasis on international relations and (2) Media Studies. She obtained her Juris Doctor degree from Southwestern Law School. She is presently admitted to practice in all state courts of California (admitted in 2017) and before all federal district courts in California. The focus of her practice at Wilshire Law Firm is currently on class action wage-and-hour law, including Private Attorneys General Act of 2004 (“PAGA”) matters. Prior to joining Wilshire Law Firm, PLC, she worked at a law firm specializing in wage-and-hour class action cases. She is also handling more than a dozen active class action matters currently pending and prosecuting multiple PAGA collective action matters in various courts throughout the State of California.

38. Dorota A. James is an Associate Attorney at my office. She earned her master’s degree in law and business administration at the University of Wroclaw, where she received recognition as an outstanding alumna. She also holds a J.S.D. degree in Comparative Law Studies and a master’s degree in German law from the University of Saarland (Germany). She then went on to get an LL.M. degree in Comparative Law at the University of San Diego Law School. She is presently admitted to practice in all state courts of California (admitted in 2016) and before all federal district courts in California. Prior to joining Wilshire Law Firm in May 2024, Ms. James gained invaluable litigation experience working at various Plaintiffs and defense firms, including ShortLegal, APC, Tyson Mendes, LLP, and Dinsmore and Shohl, LLP. Ms. James’ current

1 practice has been primarily focused on wage-and-hour class and representative action litigation
2 brough on behalf of employees. She also litigates discrimination and harassment cases as
3 individual and complex multi-party litigation.

4 39. Bradford Smith is a Law and Motion Attorney at Wilshire Law Firm. He graduated
5 from the University of California, Irvine with a Bachelor of Arts in History and received his Juris
6 Doctor from Loyola Law School, Los Angeles in 2022. He was admitted to practice law in the
7 State of California in 2022. Before joining Wilshire Law Firm, he worked at a law firm
8 specializing in insurance defense litigation.

9 40. Plaintiff's Counsel elected to bear the contingency risk of this litigation for the
10 benefit of the aggrieved employees, as well as for the State of California (who elected not to take
11 the case after receiving the PAGA notice).

12 41. The risk to my office has been very significant, particularly if we would not be
13 successful in pursuing this class action. In that case, we would have been left with no compensation
14 for all the time taken in litigating this case. Indeed, we have taken on a number of class action
15 cases that have resulted in thousands of attorney hours being expended and ultimately having
16 certification denied or the defendant company going bankrupt. The contingent risk in these types
17 of cases is very real and they do occur regularly. Furthermore, we were precluded from focusing
18 on, or taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

19 42. In the high-risk, high-cost practice of class action and PAGA litigation, Wilshire
20 Law Firm, PLC has endured financial losses in several of its cases. I believe that the particular
21 risk of taking on this high-cost, high-risk case supports an upward adjustment of the lodestar
22 calculation.

23 43. Because most individuals cannot afford to pay for representation in litigation on an
24 hourly basis, Wilshire Law Firm, PLC represents all of its employment law clients on a
25 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
26 we prevail at trial or successfully settle our clients' cases. Because Wilshire Law Firm, PLC is
27 taking the risk that we will not be reimbursed for our time unless our client settles or wins his or
28 her case, we cannot afford to represent an individual employee on a contingency basis if, at the

1 end of our representation, we receive less than the amount of attorneys' fees negotiated with
2 defendant. It is therefore essential that we recover our requested fees when we settle cases if we
3 are to remain in practice so as to be able to continue representing other individuals in civil rights
4 employment disputes.

5 44. I am informed and believe that the efforts of my office have resulted in substantial
6 benefits to the aggrieved employees and the State of California. Through the efforts of my office
7 and Plaintiff in this case, a fair and reasonable resolution has been reached. I am informed and
8 believe that, without the efforts of my office, the Labor Code and Wage Order violations alleged
9 in the complaint would have gone completely unremedied. The attorneys' fees award provided for
10 in the settlement is therefore reasonable given the result achieved.

11 45. The Parties propose using ILYM Group, Inc. ("ILYM") to administer the
12 Settlement. The Settlement Administrator Costs in the amount of \$7,500.00 are reasonable, given
13 the tasks to be performed by the Settlement Administrator, including, but not limited to, the
14 following duties: mailing and re-mailing (if necessary) checks to approximately 80 PAGA
15 Employees and the LWDA; establishing a Qualified Settlement Fund; preparing and submitting to
16 PAGA Employees and government entities all appropriate tax filings and forms; distributing the
17 PAGA Representative Service Payment and attorneys' fees and costs; keeping the Parties timely
18 apprised of the performance of all obligations under the Agreement; and voiding uncashed or
19 undeliverable checks to issue those funds to the California Controller's Unclaimed Property Fund.
20 Plaintiff respectfully requests that the Court approve the requested costs. A true and correct copy
21 of ILYM's estimate for administration costs is attached to this Declaration as **Exhibit 4**.

22 I declare under penalty of perjury under the laws of the State of California and the United
23 States that the foregoing is true and correct.

24 Executed on December 30, 2024, at Los Angeles, California.

25
26 
27 Molly A. DeSario
28

Exhibit 1

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Jose Moreno (“Plaintiff”) and defendant Wilcox Machine Co., (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA and putative class action lawsuit alleging wage and hour violations against Defendant captioned *Jose Moreno v. Wilcox Machine Co.*, Case No. 23STCV29281, initiated on November 30, 2023 and pending in Superior Court of the State of California, County of Los Angeles.
- 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 approval of this Settlement.
- 1.4. “Aggrieved Employee” means a person employed by Defendant in California and classified as a non-exempt or hourly-paid employee who worked for Defendant during the PAGA Period.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee 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 Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of Los Angeles.
- 1.8. “Defense Counsel” means John T. Egley and Chris C. Scheithauer of Call & Jensen, APC.
- 1.9. “Effective Date” means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and dismissing the class action and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment assuming no appeal is filed; or (b) if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for writs of certiorari) resulting in final judicial approval of the Settlement.

- 1.10. “Gross Settlement Amount” means \$191,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Representative Service Award, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses Payment.
- 1.11. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. “Judgment” means the judgment entered by the Court based upon the Approval Order.
- 1.13. “LWDA” means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. “Net Settlement Amount” means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Representative Service Award, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments and the LWDA PAGA Payment.
- 1.16. “PAGA Counsel” means Justin F. Marquez, Arsiné Grigoryan and Dorota James of Wilshire Law Firm, PLC, the attorneys representing the Plaintiff in the Action.
- 1.17. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses Payment” mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. “PAGA Period” means the period from January 30, 2023 to November 5, 2024.
- 1.20. “PAGA Representative Service Award” means the payment to the PAGA Representative for initiating the Action and providing services in support of the Action.
- 1.21. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. “PAGA Notice” means Plaintiff’s January 30, 2024 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

- 1.23. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.24. “Plaintiff” means Jose Moreno, the named plaintiff in the Action.
- 1.25. “Approval Order” means the Court Order Granting Approval of PAGA Settlement.
- 1.26. “Released PAGA Claims” means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.
- 1.28. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.29. “Defendant” means named Defendant Wilcox Machine Co.

2. RECITALS.

- 2.1. On November 30, 2023, Plaintiff commenced this Action by filing a Complaint alleging putative class action complaint alleging causes of action against Defendant for (1) failure to pay minimum and straight time wages; (2) failure to pay overtime wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to timely pay final wages at termination; (6) failure to provide accurate itemized wage statements; (7) failure to indemnify employees for expenditures; and (8) violation of California’s Unfair Competition Law, California Business and Professions Code §§ 17200, *et seq.* On April 29, 2024, Plaintiff filed a First Amended Complaint, adding a ninth cause of action for civil penalties under the Private Attorneys General Act (“PAGA”). The First Amended Complaint is the operative complaint in the Action (the “Operative Complaint.”) Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged. The Parties have agreed to dismiss Plaintiff’s class claims (causes of action 1 through eight) as alleged in the operative First Amended Complaint without prejudice.
- 2.2. Pursuant to Labor Code section 2699.3, subd. (a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On November 5, 2024, the Parties participated in an all-day mediation presided over by Hon. Joan M. Lewis (Ret.) which led to this Agreement to settle the Action.

- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, a sampling of time and pay records for the Aggrieved Employees, as well as documents that described Defendant's policies and procedures during the PAGA Period.
- 2.5. The Parties, PAGA 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 8 below, Defendant promises to pay \$191,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount 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 Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Approval Order:
- 3.2.1. To PAGA Representative Plaintiff: PAGA Representative Service Award to Plaintiff of not more than \$10,000.00 (in addition to any Individual PAGA Payment the Plaintiff is entitled to receive as an Aggrieved Employee. Defendant will not oppose Plaintiff's request for a PAGA Representative Service Award that does not exceed this amount. If the Court approves a PAGA Representative Service Award less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the PAGA Representative Service Award using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the PAGA Representative Service Award.
- 3.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33 and 1/3% which is currently estimated to be \$63,666.67 and PAGA Counsel Litigation Expenses Payment of not more than \$25,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA 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 PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and

indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$7,500.00 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 \$7,500.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount to be paid from the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

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

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

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 80 Aggrieved Employees who worked a total of 4,678 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 14 days of the Approval Order, Defendant will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee 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 Aggrieved Employee Data.

4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 14 days

after the Effective Date.

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

4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees 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. 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 an Aggrieved Employee Address Search for all Aggrieved Employees 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 Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee who's Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

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

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

- 5.1. Plaintiff's Release. Plaintiff and his or her respective former and present spouses, representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred up to the Effective Date, including, but not limited to: all claims that were, or reasonably could have been, alleged, based on the

facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time.. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Aggrieved Employees: All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice, but not limited to, any claims for civil penalties based on Defendant's alleged failure to pay minimum, straight time, and overtime wages, failure to provide legally compliant meal periods, failure to authorize and permit rest periods, failure to timely pay final wages at termination, failure to provide accurate itemized wage statements, failure to indemnify employees for expenditure, and unfair business practices.

5.3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement and dismissal of class action; (ii) 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 Aggrieved Employee 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 Aggrieved Employees or the LWDA; and the nature

and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to 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)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA 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 PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA 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 application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA 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 the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA 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 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. 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.

8. **AGGRIEVED EMPLOYEE SIZE ESTIMATES.** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are approximately 80 Aggrieved Employees who worked 4,678 Pay Periods during the PAGA Period.

9. **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.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel 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 another party 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. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral

representations, warranties, covenants, or inducements made to or by any Party.

- 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.
- 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9. 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.
- 10.10. 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.
- 10.11. 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.

- 10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, Plaintiff shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.
- 10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.15. 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:

Justin F. Marquez (justin.marquez@wilshirelawfirm.com)
Arsiné Grigoryan (arsine.grigoryan@wilshirelawfirm.com)
Dorota James (dorota.james@wilshirelawfirm.com)
Wilshire Law Firm, PLC
3055 Wilshire Blvd., 12th Floor
Los Angeles, CA 90010
Telephone: (213) 784-3830
Facsimile: (213) 381-9989

To Defendant:

John T. Egley (jegley@calljensen.com)
Chris C. Scheithauer (cscheithauer@calljensen.com)
Call & Jensen, APC
610 Newport Center Drive, Suite 700
Newport Beach, CA 92660
Telephone: (949) 717-3000

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

10.17. 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.

Dated: _____

Jose Moreno
Plaintiff

Dated: _____

WILSHIRE LAW FIRM, PLC
Justin Marquez
Arsiné Grigoryan
Dorota James
Attorneys for Plaintiff

Dated: 12-11-24 _____

By: Jill Wighay
Title: Treasurer
Wilcox Machine Co.

Dated: December 11, 2024 _____

CALL & JENSEN
John T. Egley
Chris C. Scheithauer
Attorneys for Defendant

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

10.17. 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.

Dated: 12/7/2024

Signed by:

CE8EC25AE3D647C...

Jose Moreno
Plaintiff

Dated: 12/09/2024


WILSHIRE LAW FIRM, PLC
Justin Marquez
Arsiné Grigoryan
Dorota James
Attorneys for Plaintiff

Dated: _____

By: _____
Title: _____
Wilcox Machine Co.

Dated: _____

CALL & JENSEN
John T. Egley
Chris C. Scheithauer
Attorneys for Defendant

From: [DIR PAGA Unit](#)
To: [Darlane Rose](#)
Subject: Thank you for your Proposed Settlement Submission
Date: Monday, December 30, 2024 3:59:45 PM

12/30/2024 03:59:27 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.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

Exhibit 2

[Administrator's Letterhead]

To: «FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

Enclosed please find a check in the amount of [INDIVIDUAL SETTLEMENT SHARE].

You are receiving this check because of a lawsuit brought by JOSE MORENO ("Plaintiff") against Defendant WILCOX MACHINE CO. ("Defendant") for civil penalties pursuant to the Private Attorneys General Act, California Labor Code § 2698 et seq. ("PAGA"). The claim was filed in the Los Angeles County Superior Court under Case No. 23STCV29281 (the "Action").

Plaintiff's claim against Defendant is for civil penalties pursuant to the PAGA, a law that allows Plaintiff to attempt to stand in the shoes of the government and to seek penalties on the government's behalf and on behalf of those employees who Plaintiff claims were "aggrieved" by Defendant's alleged unlawful conduct. Specifically, Plaintiff alleges that Defendant failed to comply with wage-and-hour laws as to non-exempt employees who worked for Defendant.

Defendant strongly denies these claims and maintains that it fully complied with all applicable wage-and-hour laws. Nevertheless, to avoid further costs and uncertainty from further litigation, Defendant agreed to settle the matter. The settlement covers Defendant and all persons, agents, servants, representatives, officers, directors, stockholders, employees, associations, joint ventures, corporations, parent corporations, subsidiaries, affiliates, partners, members, predecessors and successors in interest, insurers, re-insurers, and assigns, and all other legal entities with whom Defendant has been, is now, or may hereafter be affiliated with (all of whom are referred to here as the "Released Parties"). The Court has approved the settlement and release of claims described below. By settling this claim, Defendant and the Released Parties are not admitting they have done anything wrong, and they deny that they owe any penalties to the government or to you.

On [insert date], 2024, the settlement was approved by the Court. A portion of the settlement is being paid to the government and a portion is being paid to each non-exempt employee who worked for Defendant in California from January 30, 2023 to November 5, 2024 (the "Aggrieved Employees"). You are receiving a portion of the settlement because Defendant's records indicate that you worked for Defendant from January 30, 2023 through November 5, 2024.

You will not be retaliated against for cashing the check. It is entirely up to you if you cash your check or not. Checks that are not cashed within 180 days of issuance shall be sent to the California Department of Unclaimed Property. Regardless of what you do with the check issued to you, by law and Court order, you have released the Released Parties from the released claims described below.

One hundred percent (100%) of your payment under this settlement will be considered penalties and will be reported to the IRS and state tax authorities as non-wage income.

This settlement bars you and other Aggrieved Employees, for the period spanning January 30, 2023 through November 5, 2024, from pursuing any and all claims relating to any and all facts and claims asserted in the Action or that could have been asserted in the Action, as alleged in the notice(s) to the LWDA and any judicial Complaint(s) filed in connection with the litigation, including, but not limited to, any and all claims for civil penalties under PAGA based on alleged claims for unpaid minimum wages, wages, and overtime wages; failure to provide rest periods or meal periods or to provide compensation in lieu thereof; meal period penalties; rest period penalties; waiting time penalties; penalties for unpaid minimum wages, wages, or overtime wages; penalties for incomplete payroll records and wage statements; failure to reimburse for business expenses; unfair business practices; conversion; failure to provide accurate wage statements; failure to maintain required records, and any related claims for attorneys' fees, costs, or interest resulting therefrom.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement.

If you have any questions, you may call or write [insert], at the following phone number or address: [insert address and telephone number for Administrator's contact person]

Exhibit 3

Wilshire Law Firm, PLC
Transaction Detail by Account
All Transactions

11/8/2024

Accrual Basis

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Memo</u>	<u>Amount</u>	<u>Balance</u>
COS					
Mediation Fees					
	7/31/2024	637451	Mediation Fee	5,950.00	5,950.00
Total MEDIATION FEES				5,950.00	5,950.00
Expert Fees					
	11/7/2024	13390	Expert Fees	5,850.00	5,850.00
Total EXPERT FEES				5,850.00	5,850.00
Legal Expenses					
	5/9/2024	326919	Case Anywhere	113.43	113.43
	8/2/2024	337993	Case Anywhere	201.00	314.43
	11/5/2024	349536	Case Anywhere	207.00	521.43
	9/3/2024	850711723	Legal Research	35.27	556.70
	1/31/2024		Department of Industrial Relations	75.00	631.70
Total LEGAL EXPENSES				631.70	631.70
Process Service Fees					
	12/22/2023		Attorney Services	9.00	9.00
	6/5/2024		Attorney Services	2.00	11.00
	6/6/2024	22235548(2)	Attorney Services	1.00	12.00
	6/6/2024	22285499(2)	Attorney Services	1.00	13.00
	12/22/2023	69372	Attorney Services	45.00	58.00
	12/3/2023	21737599	Attorney Services	1,494.99	1,552.99
	2/14/2024	22235548	Attorney Services	19.71	1,572.70
	2/21/2024	22285499	Attorney Services	174.14	1,746.84
	2/29/2024	22348870	Attorney Services	19.71	1,766.55
	4/29/2024	22787867	Attorney Services	20.74	1,787.29
	6/4/2024	23049334	Attorney Services	20.74	1,808.03

	6/13/2024	23123229	Attorney Services	20.74	1,828.77
	7/10/2024	23292475	Attorney Services	20.74	1,849.51
	8/9/2024	23492435	Attorney Services	41.33	1,890.84
	8/14/2024	23522095	Attorney Services	20.74	1,911.58
	8/15/2024	23538133	Attorney Services	20.74	1,932.32
	11/27/2024	24234588	Attorney Services	21.37	1,953.69
	12/2/2024	24239231	Attorney Services	21.37	1,975.06
	12/22/2023	69289	Attorney Services	159.25	2,134.31
Total PROCESS SERVICE FEES				2,134.31	2,134.31
Other Costs					
	7/22/2022		Case Administration Fee for In-House Services	500.00	500.00
	8/13/2024	8-585-13030	Postage Cost	44.23	544.23
	10/21/2024	8-654-55564	Postage Cost	44.89	589.12
	9/23/2024	E-3240457	Postage Cost	1.89	591.01
	8/15/2024	E-3235633	Postage Cost	1.89	592.90
	1/29/2024	E-3182807	Postage Cost	1.89	594.79
	12/12/2023	E-3166688	Postage Cost	1.89	596.68
	1/31/2024	E-3177257	Postage Cost	7.60	604.28
	1/31/2024	E-3177256	Postage Cost	7.60	611.88
	8/13/2024	INV114712-01-01	Records Investigation	102.00	713.88
	8/26/2024	INV114936-01-01	Records Investigation	321.00	1,034.88
	10/17/2024	INV118451-01-01	Records Investigation	645.00	1,679.88
	10/24/2024	INV119415-01-01	Assets Search	1,825.00	3,504.88
Total OTHER COSTS				3,504.88	3,504.88
TOTAL				18,070.89	18,070.89

Notes:

OneLegal = Attorney Services

ValPro = Attorney Services

Exhibit 4

Case Name: Moreno v. Wilcox Machine Co.

Wednesday, November 20, 2024

Requesting Attorneys Name:	Justin F. Marquez, Esq.
E-Mail:	JMarquez@wilshirelawfirm.com
ILYM Contact:	Tony Rogers
E-Mail:	Trogers@ilymgroup.com
Contact Number:	714.878.8836

Estimate For Administrative Solutions: PAGA

KEY ASSUMPTIONS	
Total Number of Aggreived Employees	50
Estimated Percentage of Remails	15%
Certified Spanish Translation	Yes
ILYM Group Static Website	Yes
NCOA	Yes
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup:	\$1,835.00
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$1,795.00
Case Conclusion:	\$220.00

Estimated ILYM Fees & Expenses: \$3,850.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Moreno v. Wilcox Machine Co.

Wednesday, November 20, 2024

Requesting Attorneys Name: Justin F. Marquez, Esq.

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	1	\$150.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	1	\$120.00
Certified Spanish Translation	Flat Fee	\$750.00	1	\$750.00
ILYM Group Static Website	Flat Fee	\$750.00	1	\$750.00
NCOA	Flat Rate	\$25.00	1	\$25.00
Toll-Free Telephone Support	Flat Rate	\$40.00	1	\$40.00

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$1,835.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	1	\$150.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	1	\$125.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$1.50	50	\$75.00
USPS First Class 1oz Postage	Per Piece	\$0.60	50	\$30.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.00	8	\$15.00
Preparation of Taxes	Hourly	\$150.00	1	\$150.00
Annual Filing of Tax Return	Per Year	\$1,250.00	1	\$1,250.00

**Additional Bank fees may apply*

Subtotal \$1,795.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Declaration	Hourly	\$120.00	1	\$120.00

Subtotal \$220.00

Estimated ILYM Fees & Expenses: \$3,850.00

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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