

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N. Brand Blvd., Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

Seung Yang (SBN 249857)
seung.yang@thesentinel-firm.com
Tiffany Hyun (SBN 311743)
tiffany.hyun@thesentinel-firm.com
THE SENTINEL FIRM, APC
355 S. Grand Ave., Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

Attorneys for Plaintiff KIMBERLY M. WILHELM,
as an individual and on behalf of all employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

KIMBERLY M. WILHELM, as an individual
and on behalf of all employees similarly situated,

Plaintiff,

v.

KEMPER SPORTS MANAGEMENT, LLC, a
Delaware Limited Liability Company; KEMPER
SPORTS MANAGEMENT HOLDINGS, LLC,
a Delaware Limited Liability Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2024-01376524-CU-OE-CXC

[Assigned for all purposes to Hon. David A.
Hoffer, Dept. CX103]

**CLASS AND PAGA REPRESENTATIVE
ACTION**

**SUPPLEMENTAL DECLARATION OF
LILIT TUNYAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Reservation N: 74532524

Date: September 15, 2025

Time: 1:30p. m.

Courtroom: Dept. CX103

Judge: Hon. David A. Hoffer

Action Filed: January 30, 2024

Trial: Not Set

I, LILIT TUNYAN, declare as follows:

2. This Supplemental Declaration is submitted in support of Plaintiff's Motion for Preliminary Approval of Class and PAGA Representative Action Settlement.

2. The corrections or supplemental briefing required by the Court in the Settlement Agreement, the Notice and Proposed Order are as follows:

- SUPPLEMENTAL DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT**

percentage at the final approval stage.

- 4) To revise Paragraph 37(c) of the Settlement Agreement to exclude Labor Code §§ 218.5 and 218.6 and claims for failure to pay vacation and/or sick pay wages from PAGA release since those statutes and claims were not identified in Plaintiff's letter to the LWDA.
- 5) To propose a realistic Final Approval Hearing date.
- 6) To correct the proposed order and the Notice to state the correct department and judge.

3. In response, the following changes have been made and supplemental materials have been submitted:

- 1) A true and correct copy of the First Amended Complaint filed by Plaintiff in the United States District Court, Central District of California on May 1, 2024 is attached to this declaration as Exhibit "4" for review.
- 2) The Notice was revised to correct the date of filing of the First Amended Complaint from January 30, 2024 to May 1, 2024, the court department and to revise Class and PAGA Released Claims definitions to make them consistent with the revised definitions of Class and PAGA Released Claims in the Settlement.
- 3) Plaintiff shall provide documentation and support for request of attorneys' fees higher than 30% at the final approval stage.
- 4) The Settlement was revised in Paragraph 37(c)(1) of the Settlement Agreement to exclude Labor Code § 227.3 and claims for failure to pay vacation and/or sick pay wages from Class Released Claims since those statutes and claims were not identified in Plaintiff's First Amended Complaint. The Settlement was also revised in Paragraph 37(c)(2) of the Settlement Agreement to exclude Labor Code §§ 218.5, 218.6 and 227.3, and claims for failure to pay vacation and/or sick pay wages from PAGA Released Claims since those statutes and claims were not identified in Plaintiff's letter to the LWDA. Labor Code §§ 218.5, 218.6 remained in Class Released Claims since they were identified in Plaintiff's First Amended Complaint.
- 5) The Amended Proposed Order concurrently filed with this declaration states realistic

Final Approval Hearing date.

- 6) The Notice and proposed order were revised to state the correct department and judge, to correct the date of filing of the First Amended Complaint from January 30, 2024 to May 1, 2024 in the Notice and to revise Class and PAGA Released Claims definitions in the Notice to make them consistent with the revised definitions of Class and PAGA Released Claims in the Settlement.

EXHIBITS

4. As noted above, a true and correct copy of the FIRST AMENDMENT TO JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT is attached hereto as **Exhibit “1.”** The Settlement includes Exhibit B.

5. A true and correct copy of a redlined version of the AMENDED JOINT STIPULATION OF CLASS ACTION AND PAGA ACTION SETTLEMENT is attached hereto as **Exhibit “2”**.

6. A true and correct copy of a redlined version of the Amended Notice of Proposed Class and PAGA Representative Action Settlement is attached hereto as **Exhibit “3”**.

7. A true and correct copy of the First Amended Complaint filed by Plaintiff in the United States District Court, Central District of California on May 1, 2024 is attached hereto as **Exhibit “4”**.

8. A true and correct copy of the redlined version of the revised Proposed Order is attached hereto as **Exhibit “5”**.

9. Attached hereto as **Exhibit “6”** is a Proof of Service of the proposed amended settlement papers to the Department of Industrial Relations, through its online submission portal.

PAGA SETTLEMENT NOTIFICATION TO DIR

10. Counsel for Plaintiff provided notice of the requested approval of the PAGA settlement through the online submission portal.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed this 8th day of August 2025, at Glendale, California.



LILIT TUNYAN, “Declarant”

Exhibit “1”

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N. Brand Blvd., Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

Seung Yang (SBN 249857)
seung.yang@thesentinel-firm.com
Tiffany Hyun (SBN 311743)
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THE SENTINEL FIRM, APC
355 S. Grand Ave., Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

Attorneys for Plaintiff KIMBERLY M. WILHELM

(Defense counsel information on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

KIMBERLY M. WILHELM, as an individual
and on behalf of all employees similarly situated,

Plaintiff,

v.

KEMPER SPORTS MANAGEMENT, LLC, a
Delaware Limited Liability Company; KEMPER
SPORTS MANAGEMENT HOLDINGS, LLC,
a Delaware Limited Liability Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2024-01376524-CU-OE-CXC

[Assigned for all purposes to Hon. David A.
Hoffer, Dept. CX103]

**FIRST AMENDMENT TO JOINT
STIPULATION OF CLASS AND PAGA
REPRESENTATIVE ACTION
SETTLEMENT**

Complaint filed: January 30, 2024
Trial date: Not yet set

1 Michael J. Burns (SBN 172614)
2 mburns@seyfarth.com
3 Andrew M. McNaught (SBN 209093)
4 amcnaught@seyfarth.com
5 **SEYFARTH SHAW LLP**
6 560 Mission Street, 31st Floor
7 San Francisco, California 94105
8 Telephone: (415) 397-2823
9 Facsimile: (415) 397-8549

6 Laura E. Heyne (SBN 279478)
7 lheyne@seyfarth.com
8 2029 Century Park East, Suite 3500
9 **SEYFARTH SHAW LLP**
10 Los Angeles, CA 90067-3021
11 Telephone: (310) 277-7200
12 Facsimile: (310) 201-5219

10 Attorneys for Defendants KEMPER SPORTS MANAGEMENT, LLC;
11 KEMPER SPORTS MANAGEMENT HOLDINGS, LLC
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FIRST AMENDMENT TO JOINT STIPULATION OF CLAS AND PAGA
REPRESENTATIVE ACTION SETTLEMENT

This First Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement (“Settlement Agreement” or “Agreement”) is made and entered into by and between Plaintiff KIMBERLY M. WILHELM, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendants KEMPER SPORTS MANAGEMENT, LLC; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC and KEMPER SPORTS MANAGEMENT, INC. (“Defendants”). Plaintiff and Defendants are collectively referred to herein as “the Parties.”

The Parties hereby agree to amend the Joint Stipulation of Class and PAGA Representative Action Settlement executed by the Parties on March 27, 2025 as follows:

REVISED PROVISIONS

Paragraph 37(c) of the Settlement Agreement is hereby amended and now reads as follows:

37.(c) Claims Released by Plaintiff and Settlement Class Members. Plaintiff and each and every Settlement Class Member, on behalf of himself or herself and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Released Parties from the following claims for the entire Class Period:

- 1) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Complaint, without limitation, claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; and (9) claims for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3,

226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 and California Business and Professions Code section 17200 et seq. (arising from violations of the labor code listed above) or any applicable IWC Wage Order (“Released Class Claims”). Class Members do not release any claims that cannot be released by law including, without limitation, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

- 2) in addition, all PAGA 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 during the PAGA Period, based on the facts stated in the Complaint and the PAGA Notice attached to this Agreement as **Exhibit A** including, without limitation, claims for PAGA penalties arising from (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, et seq. (“PAGA”), or any applicable IWC Wage Order (“Released PAGA Claims”).

Exhibit B (Notice of Proposed Class and PAGA Representative Action Settlement) to the Settlement Agreement is replaced with the new **Exhibit B** (Amended Notice of Proposed Class and PAGA Representative Action Settlement) attached to this Amendment, which was revised to reflect the above-mentioned revisions in the Settlement Agreement and to correct the description of procedural history to reflect that First Amended Complaint was filed on May 1, 2024 .

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily execute this First Amendment to Joint Stipulation of Class and PAGA Representative Action Settlement between Plaintiff and Defendants as set forth below.

Plaintiff & Class Representative:

Dated: 08 / 01 / 2025

By: _____



KIMBERLY M. WILHELM

Plaintiff's Counsel:

Dated: 08 / 01 / 2025

TUNYAN LAW, APC

By: _____



Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff Kimberly M. Wilhelm

Dated: 08 / 01 / 2025

THE SENTINEL FIRM, APC

By: _____



Tiffany Hyun
Seung Yang

Attorneys for Plaintiff Kimberly M. Wilhelm

Defendants:

1 Dated: 8/5/2025

KEMPER SPORTS MANAGEMENT, LLC

2
3 By: Steve Kelley

Print Name

4 *Steve Kelley*

5 Signature

6 Authorized Signatory

7 Title

8
9 Dated: 8/5/2025

KEMPER SPORTS MANAGEMENT, INC.

10
11 By: Steve Kelley

Print Name

12 *Steve Kelley*

13 Signature

14 Authorized Signatory

15 Title

16 Dated: 8/5/2025

KEMPER SPORTS MANAGEMENT HOLDINGS, LLC

17
18 By: Steve Kelley

Print Name

19 *Steve Kelley*

20 Signature

21 Authorized Signatory

22 Title

Defendants' Counsel, as to Form Only:

23 Dated: August 6, 2025

SEYFARTH SHAW LLP

24 By: *LS m. MJK*

25 Laura E. Heyne

Andrew M. McNaught

26 Attorneys for Defendants KEMPER SPORTS
27 MANAGEMENT, LLC; KEMPER SPORTS
28 MANAGEMENT HOLDINGS, LLC

Exhibit “B”

**AMENDED NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.
Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC

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

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF KEMPER SPORTS MANAGEMENT, LLC and/or KEMPER SPORTS MANAGEMENT, INC.; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“DEFENDANTS” or “KEMPER SPORTS”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN JANUARY 30, 2020 and April 18, 2025 (THE “CLASS PERIOD”) AND DID NOT SIGN AN ARBITRATION AGREEMENT WITH CLASS WAIVER, THIS PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Purpose of this Notice

A proposed settlement (the “Settlement”) has been reached in a proposed class and PAGA action lawsuit brought by Plaintiff Kimberly M. Wilhelm (“Plaintiff”) against Defendants, entitled *Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.* Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement.

You are receiving this notice because KEMPER SPORTS’s records indicate that you worked for KEMPER SPORTS as a non-exempt employee in California for some time between January 30, 2020 and April 18, 2025 (“Class Period”) and did not sign an arbitration agreement with class waiver. This means you are a potential Class Member, and you have a right to know about the proposed Settlement.

In addition, you are also a PAGA Employee if you are currently or were formerly employed as a non-exempt employee of KEMPER SPORTS who worked for KEMPER SPORTS within California at any time during the period from January 30, 2023 to April 18, 2025 (“PAGA Period”).

This Notice advises you of your options under this Settlement, which include how you can participate in this Settlement and receive your share of the Settlement proceeds, how you can exclude yourself from the class Settlement, or how you can object to the class Settlement.

What is the case about?

On January 30, 2024, Plaintiff filed a putative class action. On May 1, 2024, Plaintiff filed a First Amended Complaint alleging the following claims against Defendants: (1) failed to pay all wages; (2) failed to provide meal periods; (3) failed to authorize and permit rest periods; (4) failed to timely pay all wages at termination; (5) failed to furnish accurate itemized wage statements; (6) failure to indemnify necessary business expenses; (7) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (8) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*] (“PAGA”).

PAGA allows employees to file a representative action on behalf of themselves, other current and former employees, and the State of California to seek recovery of civil penalties for alleged Labor Code violations.

The Action seeks unpaid wages for a class of all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the Class Period (the “Class” or “Class Members”). The Action also seeks penalties under PAGA for all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the PAGA Period (“PAGA Employees”).

Defendants deny each and every allegation in the Action, deny any liability or wrongdoing of any kind, and believe that they treated, and continue to treat, their employees fairly and in full compliance with the law.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered a “Settlement Class Member” in the Settlement and will receive your individual settlement share under the Settlement if the Court finally approves the Settlement. You will also give up rights to assert the Released Claims against Defendant as explained more fully below.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to exclude yourself from the Class Settlement. If you choose to do so, you must mail to the Administrator, in writing, a completed Request for Exclusion Form. If you exclude yourself, you will NOT receive any payment under the Settlement (other than based on the PAGA Claim, if applicable). Request for Exclusion Forms must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Class Settlement, you must either mail a written explanation of why you do not agree with the Settlement to the Settlement Administrator by completing and submitting the Objection Form, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request for Exclusion Form if you wish to object. <i>Written</i> objections must be submitted by <<RESPONSE DEADLINE>>.

What are the Settlement terms?

Subject to final Court approval, Defendants will pay a maximum total payment under the Settlement of \$1,500,000.00 (the “Gross Settlement Amount”) for: (a) individual Settlement Class Payments to Settlement Class Members; (b) the Service Payment to Plaintiff (up to \$5,000.00); (c) attorneys’ fees (not to exceed 33 and 1/3% of the Gross Settlement Amount, \$500,000.00) and litigation costs to Class Counsel (not to exceed \$30,000) (“Class Counsel’s Fees and Costs”); (d) the amount of \$100,000.00 allocated toward civil penalties under the PAGA (the “PAGA Allocation”), of which the LWDA will be paid 75% (i.e. \$75,000.00 (“PAGA Penalty Payment”) and the remaining 25% (i.e. \$25,000.00) will be distributed to PAGA Employees (the “PAGA Settlement Payments”); and (e) payment to the Settlement Administrator for settlement administration services (estimated to be no more than \$-----) (“Administrative Expenses”).

The “Net Settlement Amount” will be calculated by deducting from the Gross Settlement Amount the Class Counsel’s Fees and Costs, the Service Payment to Plaintiff, the PAGA Penalty Payment, and the Administrative Expenses. Settlement Class Payments and PAGA Settlement Payments (defined below) will be paid from the Net Settlement Amount.

Class Members who do not timely and properly request to be excluded from the Settlement (the “Settlement Class Members”) will receive a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totaling \$25,000.00, based upon the total number of workweeks worked by the Settlement Class Member during the Class Period (the “Settlement Class Payment”). The portion of the Net Settlement Amount paid to a Settlement Class Member = Net Settlement Amount (minus \$25,000.00 set aside for all PAGA Settlement Payment) × (the work weeks worked by a Settlement Class Member ÷ the work weeks worked by all Settlement Class Members).

PAGA Employees will receive a pro-rata share of the \$25,000.00 from the PAGA Settlement allocated to PAGA Employees (the “PAGA Settlement Payment”) based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period, regardless of whether they request exclusion from the Settlement. The portion of the PAGA Settlement Payment paid to a PAGA Employee = \$25,000.000 × the pay periods worked by a PAGA Employee (during the PAGA Period) ÷ the pay periods worked by all PAGA Employees (during the PAGA Period).

The total payment to an individual, including their Settlement Class Payment and PAGA Settlement Payment, is their "Individual Settlement Payment". Your estimated Individual Settlement Payment is <<**Estimated Payment**>>, which includes your payment from the Class settlement in the estimated amount of <<**Estimated Individual Settlement Class Payment**>> and your payment from the PAGA settlement in the estimated amount of <<**Estimated Individual PAGA Settlement Payment**>>. This is just an estimate. Your final share will be determined by the Settlement Administrator.

The above estimates are based on Defendants' records showing you worked _____ Workweeks during the Class Period and worked ____ Pay Periods during the PAGA Period. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of workweeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<**RESPONSE DEADLINE**>> (the "Response Deadline") at:

You must produce documentary evidence supporting your contention. The Settlement Administrator will evaluate the evidence submitted and make an initial decision as to which figures should be applied. The parties shall file with the Court all Workweeks Disputes submitted by Class Members together with the evidence submitted by Class Members, and the decision made based on that evidence. Although the Settlement Administrator may make the initial decision regarding the Workweeks Disputes, the court may review any decision made by the Settlement Administrator regarding Workweeks Disputes.

For tax reporting purposes, the payments to Class Members will be allocated 1/3 wages, and 2/3 interest and penalties. All PAGA Settlement Payments will be allocated as 100% penalties. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties, and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendants.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller's Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. Even if the Individual Settlement Payment is not cashed, claimed or negotiated by the Class Member within the one hundred eighty (180) days from the date of the checks' issuance, the Settlement Class Member shall remain bound by the Released Class Claims, unless the Class Member submitted a timely and valid Request for Exclusion Form.

The "Effective Date" of the Settlement will be the date upon which all of the following have occurred: (i) the Parties stipulate to seek remand to state court and the Action is remanded; (ii) the state court grants final approval of the Settlement and (iii) the state court's Judgment approving the Settlement becomes Final. Final shall mean the latest of: (a) if no Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members file timely objection to the Settlement, the later of: (1) the date on which the time for all appeals relating to objections to Settlement and the final approval order has expired; or (2) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment; or (c) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with any appellate court that has jurisdiction, or, (d) if a petition for review is filed, the date of denial of the petition, or the date the Court's Judgment is entered, pursuant to such petition. Provided, however, if the California Labor & Workforce Development Agency ("LWDA") has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to the Settlement is resolved and no longer appealable. Defendants will fund the Gross Settlement Amount within

twenty-one (21) days after the Effective Date. The Settlement Administrator shall mail checks no later than fourteen (14) calendar days of receipt of the Gross Settlement Amount from Defendants.

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

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

What claims are being released by the proposed Settlement?

Released Class Claims. Those Class Members who do not submit a timely and valid Request for Exclusion Form to the Settlement Administrator (i.e. Settlement Class Members), and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, upon full payment of Gross Settlement Amount, shall fully and finally release and discharge Defendants and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants (“Released Parties”) from the Released Class Claims.

Released Class Claims are defined as all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Complaint, without limitation, claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; and (9) claims for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 and California Business and Professions Code section 17200 et seq. (arising from violations of the labor code listed above) or any applicable IWC Wage Order (“Released Class Claims”). Class Members do not release any claims that cannot be released by law including, without limitation, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Released PAGA Claims. In addition, upon full payment of Gross Settlement Amount, all PAGA 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 during the PAGA Period, based on the facts stated in the Complaint and the PAGA Notice including, without limitation, claims for PAGA penalties arising from (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, et seq. (“PAGA”), or any applicable IWC Wage Order (“Released PAGA Claims”).

What are my options in this matter?

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

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

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

Objecting to the Settlement: If you are a Class Member, and you do not request exclusion from the Settlement, you may object to the Settlement before final approval of the Settlement by the Court by submitting a written objection or presenting your objection at the Final Approval Hearing.

To assert an objection to the Settlement, a Settlement Class Member must submit an Objection Form to the Settlement Administrator by first class U.S. mail at the address specified on the Notice in the Objection Form not later than _____. If you choose not to submit a written objection using the Objection Form, the written objection must include: (1) your full name, address, and last four digits of your Social Security number; (2) your signature; (3) the case and number (*Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.*, Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CX); and (4) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. Any Class Member who fails to timely submit their written objections in the manner specified above may still appear and object at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Class and PAGA Claims as set forth above, unless the Settlement is not finally approved by the Court.**

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

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

The Request for Exclusion Form (to remove you from the Class Settlement) must be postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a Request for Exclusion form on time (as evidenced by the postmark), your request to be excluded from the Settlement will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a Request for Exclusion Form by the deadline to request exclusion, you will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims), and will not have any right to object to, appeal, or comment on the Class Settlement. PAGA Employees cannot opt out or exclude themselves from the PAGA Settlement Payment and will still be issued a PAGA Settlement Payment and be bound by the Released PAGA Claims, irrespective of whether they submit a Request for Exclusion Form and irrespective of whether they cash their Individual Settlement Payment.

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

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

The Court will hold a Final Approval Hearing on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department CX103 of the Orange County Superior Court, located at 751 W. Santa Ana Boulevard, Santa Ana, California 92701. As described above, If you wish to attend the Final Approval Hearing remotely, you can do it through the court's online check-in process available through the court's website at <https://www.occourts.org/media-relations/civil.html>. If you wish to attend the Final Approval Hearing in person, you can attend it at Orange County Superior Court, 751 W. Santa Ana Boulevard, Santa Ana, California 92701. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment, the First Amended Complaint, the notice letter to the LWDA, the Settlement Agreement, and this Notice will be posted on a website by the Settlement Administrator for a period of at least 180 days following the entry of that Order in the Court record. That website is: <<[website](#)>>.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Lilit Tunyan

ltunyan@tunyanlaw.com

Artur Tunyan

atunyan@tunyanlaw.com

TUNYAN LAW, APC

535 N. Brand Blvd., Suite 285

Glendale, California 91203

Telephone: (323) 410-5050

Defendants' Counsel

Michael J. Burns

mburns@seyfarth.com

Andrew M. McNaught

amcnaught@seyfarth.com

SEYFARTH SHAW LLP

560 Mission Street, 31st Floor

San Francisco, California 94105

Telephone: (415) 397-2823

Facsimile: (415) 397-8549

Seung Yang

seung.yang@thesentinelfirm.com

Tiffany Hyun

tiffany.hyun@thesentinelfirm.com

THE SENTINEL FIRM, APC

355 S. Grand Ave., Suite 1450

Los Angeles, California 90071

Telephone: (213) 985-1150

Facsimile: (213) 985-2155

Laura E. Heyne

lheyne@seyfarth.com

SEYFARTH SHAW LLP

2029 Century Park East, Suite 3500

Los Angeles, CA 90067-3021

Telephone: (310) 277-7200

Facsimile: (310) 201-5219

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class and PAGA Representative Action Settlement and Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement attached to the Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval and Supplemental Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval. The Joint Stipulation of Class and PAGA Representative Action Settlement, Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement and all other records relating to the Action are available for inspection and/or copying at the Civil Records Office of the Orange County Superior Court. You may also view documents filed in this case on the Court's website at: <https://www.occourts.org/media-relations/civil.html>. You may need the case number to access and view case documents (30-2024-01376524-CU-OE-CXC). NOTE: If you choose to access documents online, the Court will charge you a fee for access.

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

Exhibit “2”

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N. Brand Blvd., Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

Seung Yang (SBN 249857)
seung.yang@thesentinel-firm.com
Tiffany Hyun (SBN 311743)
tiffany.hyun@thesentinel-firm.com
THE SENTINEL FIRM, APC
355 S. Grand Ave., Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

Attorneys for Plaintiff KIMBERLY M. WILHELM

(Defense counsel information on next page)

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

KIMBERLY M. WILHELM, as an individual
and on behalf of all employees similarly situated,

Plaintiff,

v.

KEMPER SPORTS MANAGEMENT, LLC, a
Delaware Limited Liability Company; KEMPER
SPORTS MANAGEMENT HOLDINGS, LLC,
a Delaware Limited Liability Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2024-01376524-CU-OE-CXC

[Assigned for all purposes to Hon. David A.
Hoffer-Randall J. Sherman, Dept. CX1035]

**JOINT STIPULATION OF CLASS AND
PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Action Filed: January 30, 2024
Trial Date: Not set

1 Michael J. Burns (SBN 172614)
2 mburns@seyfarth.com
3 Andrew M. McNaught (SBN 209093)
4 amcnaught@seyfarth.com
5 **SEYFARTH SHAW LLP**
6 560 Mission Street, 31st Floor
7 San Francisco, California 94105
8 Telephone: (415) 397-2823
9 Facsimile: (415) 397-8549

6 Laura E. Heyne (SBN 279478)
7 lheyne@seyfarth.com
8 2029 Century Park East, Suite 3500
9 **SEYFARTH SHAW LLP**
10 Los Angeles, CA 90067-3021
11 Telephone: (310) 277-7200
12 Facsimile: (310) 201-5219

10 Attorneys for Defendants KEMPER SPORTS MANAGEMENT, LLC;
11 KEMPER SPORTS MANAGEMENT HOLDINGS, LLC
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**AMENDED JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

This Amended Joint Stipulation of Class and PAGA Representative Action Settlement (“Settlement Agreement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiff KIMBERLY M. WILHELM, individually, and on behalf of all others similarly situated, (“Plaintiff” or “Class Representative”), and Defendants KEMPER SPORTS MANAGEMENT, LLC; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC and KEMPER SPORTS MANAGEMENT, INC.¹ (“Defendants”). Plaintiff and Defendants are collectively referred to herein as “the Parties.”

THE PARTIES STIPULATE AND AGREE as follows:

DEFINITIONS

1. “Action” means Plaintiff’s lawsuit alleging wage and hour violations against Defendants entitled *Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.*, United States District Court, Central District of California, Case No. 8:24-cv-00501 – RGK-DFM, is referred to herein as the “Action.”
2. “Complaint” refers to the operative complaint, which is the First Amended Complaint.
3. “Class Period” means the period from January 30, 2020 through the date the Court grants preliminary approval of the Settlement or 90 days after January 18, 2025, whichever is earlier.
4. “Class” or “Class Members” consist of: All persons who are or previously were employed by defendant Kemper Sports Management, LLC and/or Kemper Sports Management, Inc., defendant Kemper Sports Management Holdings, LLC, in California and classified as non-exempt employees at any time during the Class Period and who did not sign arbitration agreements with class waivers. “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. Defendants’ best estimate is that the Class included approximately 1,239 individuals as of January 18, 2025.
5. “Class Counsel” means TUNYAN LAW, APC and THE SENTINEL FIRM, APC.

¹ Plaintiff named Kemper Sports Management, LLC and Kemper Sports Management Holdings, LLC as defendants. However, within Class and PAGA periods Plaintiff and other class and PAGA group members worked for both Kemper Sports Management, Inc., which is no longer existing as a legal entity and later Kemper Sports Management LLC which was the legal entity which continued employing Kemper Sports Management, Inc. employees after Kemper Sports Management, Inc. was terminated.

6. “Class Representative” or “Plaintiff” means Plaintiff KIMBERLY M. WILHELM.

7. “Covered Workweeks” means the number of weeks during which Class Members performed work for Defendants in California during the Class Period.

8. “Response Deadline” means sixty (60) days after the Settlement Administrator initially mails the Notice Packet to Settlement Class Members and the last date on which Settlement Class Members may submit a request for exclusion or written objection to the Settlement. In the case of a re-mailed Notice Packet, the Response Deadline will be the later of 60 calendar days after initial mailing or 14 calendar days from re-mailing. The Response Deadline may be extended only as expressly described herein.

9. “Defendants’ Counsel” means SEYFARTH SHAW LLP.

10. “PAGA Allocation” means the amount that the Parties have agreed to allocate to resolution of the claim for violation of the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”). The Parties have agreed that the PAGA Allocation will be \$100,000.00 from the Gross Settlement Amount. Pursuant to PAGA, Seventy Five Percent (75%), or \$75,000.00, of the PAGA Allocation will be paid to the LWDA (“PAGA Penalty Payment”), and Twenty Five Percent (25%), or \$25,000.00, of the PAGA Allocation will be included in the Net Settlement Amount for PAGA Employees (“PAGA Settlement Payment”).

11. “PAGA Period” means the period from January 30, 2023 through the date the Court grants preliminary approval of the Settlement or 90 days after January 18, 2025, whichever is earlier.

12. “PAGA Employees” means all persons who are or previously were employed by defendant Kemper Sports Management, LLC and/or Kemper Sports Management, Inc., defendant Kemper Sports Management Holdings, LLC, in California and classified as non-exempt employees at any time during the PAGA Period. PAGA Employees cannot opt out of the settlement of the PAGA claim.

13. “PAGA Pay Periods” means the number of pay periods PAGA Employees worked during the PAGA Period.

14. “Released Class Claims” means the claims being released as described in Paragraph 37 below.

15. “Released PAGA Claims” means the claims being released as described in Paragraph 37

below.

16. “Settlement Payments” means all of the payments to Settlement Class Members (“Settlement Class Payments”) and all of the payments to the PAGA Employees (“PAGA Settlement Payments”).

STIPULATED BACKGROUND

17. On January 30, 2024, Plaintiff filed a putative Class Action alleging the following labelled causes of action: (1) failure to pay all wages; (2) failure to provide meal periods; (3) failure to provide rest periods; (3) failure to maintain and provide accurate itemized wage statements; (5) failure to indemnify necessary business expenses; (6) failure to timely pay all wages and final wages; (7) Unfair Business Practices in violation of Bus. & Prof. Code § 17200 et seq. On March 7, 2024, Defendants filed a Notice of Removal of this action to the United States District Court, Central District of California on the basis of the Class Action Fairness Act pursuant to 28 U.S.C. § 1441. On May 1, 2024, Plaintiff filed her First Amended Complaint adding the Private Attorneys General Act (“PAGA”) cause of action. In the Complaint, Plaintiff sought to represent all persons that worked for Defendants in California as an hourly-paid, non-exempt employee at any time during the period beginning four years before the filing of the initial complaint and ending when Notice to the Class is sent.

18. Plaintiff satisfied the administrative exhaustion requirement that is a prerequisite to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.] (“PAGA”) by submission of the notice to the LWDA and Defendants on January 30, 2024.

19. Solely for purposes of settling this case, the Parties and their respective counsel stipulate and agree that the requisites for establishing class certification with respect to the Class Members have been met and are met.

20. Should, for whatever reason, the Settlement not become effective, class certification as part of the Settlement shall have no bearing on, and shall not be admissible in connection with whether Class Members and/or the class claims should be certified in a non-Settlement context in this Action or in any other lawsuit. Defendants expressly reserve their right to oppose class certification in this or any other action should this Settlement not become effective.

21. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the

claims alleged in the Action, and Defendants further deny that, for any purpose other than settling this lawsuit, the action is appropriate for class or representative treatment. Defendants contend, among other things, that they have complied at all times with the California Labor Code and the applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendants contend that they have complied at all times with the California Business and Professions Code.

22. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all disputes and claims arising from or related to the Complaint.

23. Class Counsel has conducted a thorough investigation into the facts of this Action, including an extensive review of relevant documents, and has diligently pursued an investigation of the claims of the class and PAGA claims against Defendants. Based on its own independent investigation and evaluation, Class Counsel is of the opinion that the Settlement with Defendants for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interest of the Class and PAGA employees in light of all known facts and circumstances, including the risk of significant delay, the risk the Class will not be certified by the Court, defenses asserted by Defendants, and numerous potential appellate issues. Defendants and Defendants' Counsel also agree that the Settlement is fair and in the best interest of the Class.

24. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement. Class Counsel is responsible for preparing the motion for preliminary approval of the Settlement as well as any motion for final approval. Good faith efforts will be made to have the preliminary approval hearing within 60 days after counsel for Defendants provide Class Counsel with the draft of the final settlement agreement. Both Class Counsel and Defendants' Counsel shall provide a declaration in support of approval motion informing the court as to whether the parties, after making reasonable inquiry, are aware of any class, representative or other collective action in any other court that asserts claims similar to those asserted in the action being settled. If any such actions are known to exist, the declarations shall also state the name and case number of any such case and the procedural status of that case and describe the impact of the settlement on that case.

25. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the Final Approval hearing to be conducted by the

1 Court.

2 **PRIMARY TERMS OF SETTLEMENT**

3 26. NOW THEREFORE, in consideration of the mutual covenants, promises and agreements
4 set forth herein, the Parties agree, subject to the Court's approval, as follows:

5 (a) It is agreed by and among the Settlement Class, PAGA Employees, and
6 Defendants that this case and any claims, damages, or causes of action arising out
7 of the disputes which are the subject of this case, be settled and compromised as
8 between the Settlement Class, PAGA Employees, the LWDA, and Defendants,
9 subject to the terms and conditions set forth in this Settlement and the approval of
10 the Court.

11 (b) Effective Date: The "Effective Date" of the Settlement will be the date
12 upon which all of the following have occurred: (i) the Parties stipulate to seek
13 remand to state court and the Action is remanded; (ii) the state court grants final
14 approval of the Settlement and (iii) the state court's Judgment approving the
15 Settlement becomes Final. Final shall mean the latest of: (a) if no Class Member
16 objects to the Settlement, the day the Court enters Judgment; (b) if one or more
17 Class Members file timely objection to the Settlement, the later of: (1) the date
18 on which the time for all appeals relating to objections to Settlement and the
19 final approval order has expired; or (2) if an appeal, review or writ is sought, the
20 date on which the highest reviewing court renders its decision denying any
21 petition (where the immediately lower court affirmed the judgment) or
22 affirming the judgment; or (c) if there is an appeal of the Court's Judgment, the
23 date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or
24 the expiration of the time to file a petition for review with any appellate court
25 that has jurisdiction, or, (d) if a petition for review is filed, the date of denial of
26 the petition, or the date the Court's Judgment is entered, pursuant to such
27 petition. Provided, however, if the California Labor & Workforce Development
28 Agency ("LWDA") has commenced an investigation or issued a Citation prior

1 to the Effective Date, as determined under the forgoing definition, the Effective
2 Date will be extended to the date that the LWDA concludes its investigation or
3 resolves the Citation (whichever is later), or if the LWDA objects to the
4 Settlement, the date when the LWDA's objection to the Settlement is resolved
5 and no longer appealable.

6 (c) Gross Settlement Amount: Defendants' maximum total payment under the
7 Settlement, including all attorney's fees and costs, the Service Payment to Class
8 Representative, the costs of settlement administration, the PAGA Allocation, and
9 any other payments provided by this Settlement, is One Million and Five Hundred
10 Thousand Dollars (\$1,500,000.00) ("Gross Settlement Amount"), subject to the
11 Escalator Clause and except that, to the extent that any portions of the Class
12 Members' Settlement Payments constitute wages, Defendants will be separately
13 responsible for any employer payroll taxes required by law, including the employer
14 FICA, FUTA, and SDI contributions.

15 (d) Escalator Clause: Defendants represent that the number of Class Members was
16 approximately 1,239 individuals as of January 18, 2025, and the number of
17 workweeks worked in the Class Period for those Class Members was
18 approximately 108,218 as of that date. If it is later determined that, the number of
19 Covered Workweeks in the Class Period is more than 10% greater than the
20 estimated number of workweeks as of January 18, 2025 (there are 119,040 or more
21 Covered Workweeks), Defendants can either have the Gross Settlement Amount
22 increased by 1% for each percent over the 10% threshold that the actual number of
23 Covered Workweeks exceed the estimated number of workweeks (if the number of
24 workweeks increases by 11%, the Gross Settlement will increase 1%), or have the
25 Class Period end on the date that the estimated number of Covered Workweeks
26 exceed 10% threshold (the "Escalator Clause").

27 (e) Non-reversionary Settlement: No portion of the Gross Settlement Amount will
28 revert to Defendants.

- (f) No Claims Required: Class Members will not be required to submit a claim to receive their Settlement payment.
- (g) Net Settlement Amount: The Net Settlement Amount shall be calculated by deducting from the Gross Settlement Amount the following sums, subject to approval by the Court: (1) attorney's fees (not to exceed 33 and 1/3% of the Gross Settlement Amount, or \$500,000.00); (2) reasonable litigation costs (not to exceed \$30,000.00); (3) the Service Payment to Class Representative (not to exceed \$5,000.00); (4) the PAGA Penalty Payment in the amount of \$75,000.00 (which is 75% of the PAGA Allocation); and (5) costs of settlement administration (estimated not to exceed \$25,000). Settlement Payments to the Class Members and PAGA Employees will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth below.
- (h) Payroll Taxes and Required Withholdings: To the extent that any portions of the Settlement Class Members' Settlement Payments constitute wages, Defendants will be separately responsible for any **employer** payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. Except for any employer payroll taxes, it is understood and agreed that Defendants' maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Settlement Administrator will calculate and submit the Defendants' employer share of payroll taxes after advising Defendants of the total amount owed, in aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendants in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.
- (i) Settlement Class Payments (Excludes PAGA Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member (i.e., those Class Members who do not opt out of the Class Settlement, as defined above) will be paid a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totalling \$25,000.00, as calculated by the Settlement

1 Administrator. The pro-rata share will be determined by comparing the individual
2 Settlement Class Member's Covered Workweeks employed during the Class
3 Period in California to the total Covered Workweeks of all the Settlement Class
4 Members during the Class Period as follows: [Workweeks worked by a Settlement
5 Class Member] ÷ [Sum of all Covered Workweeks worked by all Settlement Class
6 Members] × [Net Settlement Amount – all PAGA Settlement Payments] =
7 individual Settlement Payment for a Settlement Class Member. Settlement Class
8 Payments in the appropriate amounts will be distributed by the Settlement
9 Administrator by mail to the Settlement Class Members. Uncashed, unclaimed or
10 abandoned checks, shall be transmitted to the California Controller's Office, as set
11 forth below.

12 (j) PAGA Payments: PAGA Settlement Payments will be paid out of the Net
13 Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the
14 PAGA Employees' PAGA Settlement Payment, as calculated by the Settlement
15 Administrator. Class Members will not be permitted to exclude themselves from
16 this portion of the Settlement. The pro-rata share will be determined by comparing
17 the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to
18 the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period
19 as follows: [PAGA Pay Periods worked by a PAGA Employee] ÷ [Sum of all
20 PAGA Pay Periods worked by all PAGA Employees] × [PAGA Settlement
21 Payment to Employees, i.e. \$25,000.00] = individual PAGA Employee's portion of
22 the PAGA Settlement Payment. PAGA Settlement Payments to PAGA
23 Employees in the appropriate amounts will be distributed by the Settlement
24 Administrator by mail to the PAGA Employees at the same time Settlement Class
25 Payments issue to the Settlement Class. Uncashed, unclaimed or abandoned
26 checks, shall be transmitted to the California Controller's Office, as set forth
27 below. The LWDA's PAGA Penalty Payment will issue to the LWDA at the same
28 time Settlement Payments issue to the Settlement Class.

1 (k) Allocation of Settlement Payments: The Parties have agreed that Settlement Class
2 Payments will be allocated as follows: 1/3 wages, and 2/3 interest and penalties.
3 The PAGA Settlement Payment shares to PAGA Employees will be entirely
4 allocated to penalties. Appropriate federal, state and local withholding taxes will
5 be taken out of the wage allocations, and each Class Member will receive an IRS
6 Form W-2 with respect to this portion of the Settlement Payment. The employer's
7 share of payroll taxes and other required withholdings will be paid as set forth
8 above, including but not limited to the Defendants' FICA and FUTA contributions,
9 based on the payment of claims to the Class Members. IRS Forms 1099 will be
10 issued to each Class Member reflecting the payments for penalties and interest.
11 Class Members are responsible to pay appropriate taxes due on the Settlement
12 Payments they receive. To the extent required by law, IRS Forms 1099 and W-2
13 will be issued to each Class Member with respect to such payments. All PAGA
14 Settlement Payments will be allocated as 100% penalties.

15 (l) Settlement Payments Do Not Give Rise to Additional Benefits: All Settlement
16 Payments to individual Class Members shall be deemed to be paid to such Class
17 Member solely in the year in which such payments actually are received by the
18 Class Member. It is expressly understood and agreed that the receipt of such
19 Settlement Payments will not entitle any Class Member to additional compensation
20 or benefits under any company bonus, contest or other compensation or benefit
21 plan or agreement in place during the period covered by the Settlement, nor will it
22 entitle any Class Member to any increased retirement, 401(k) benefits or matching
23 benefits or deferred compensation benefits. It is the intent that the Settlement
24 Payments provided for in this Settlement are the sole payments to be made by
25 Defendants to the Class Members, and that the Class Members are not entitled to
26 any new or additional compensation or benefits as a result of having received the
27 Settlement Payments (notwithstanding any contrary language or agreement in any
28 benefit or compensation plan document that might have been in effect during the

period covered by this Settlement).

- (m) Attorney's Fees and Costs: Subject to approval by the Court, Defendants will not object to Class Counsel's application for attorney's fees not to exceed 33 and 1/3% of the Gross Settlement Amount (\$500,000.00) and reimbursement of litigation costs and expenses not to exceed \$30,000.00. Approved attorney's fees and litigation costs shall be paid at the same time Settlement Payments issue to the Settlement Class.
- (n) Service Payment: Subject to Court approval, Defendants will not object to Class Counsel's application for an additional payment of up to \$5,000.00 to Plaintiff for service as a Class Representative, ("Service Payment"). It is understood that the Service Payment is in addition to the individual Settlement Payment to which a Class Representative is entitled to along with the other Class Members.
- (o) Defendants or the Settlement Administrator will issue an IRS Form 1099 for the Service Payment to Plaintiff. Plaintiff will be individually responsible for correctly characterizing this compensation on personal income tax returns for tax purposes and for paying any taxes on the amounts received. Plaintiff agrees not to opt out or object to the Service Payment as the Class Representative.
- (p) Settlement Administrator: The Settlement Administrator will be ILYM Group, Inc. Settlement Administration Costs are estimated not to exceed \$25,000. The costs of the Settlement Administrator for work done shall be paid regardless of the outcome of this Settlement. ILYM Group, Inc. has been selected as the Administrator, based upon its "not to exceed" bid of \$15,950.00.
- (q) Funding of Settlement Account: Defendants will fund the Gross Settlement Amount within twenty-one (21) days after the Effective Date. Defendants shall also fund the amounts necessary to fully pay Defendants' share of payroll taxes by transmitting the funds to the Settlement Administrator with Gross Settlement Amount.
- (r) Distribution and Mailing of Settlement Payments: The Settlement

1 Administrator shall mail checks for Individual Settlement Class Payments and
2 Individual PAGA Settlement Payments and distribute the Class Counsel's Fees
3 and Costs, Service Payment to Plaintiff, LWDA's PAGA Penalty Payment, and
4 the Settlement Administration Costs no later than fourteen (14) calendar days
5 after Defendants fund the Gross Settlement Amount.

6 (s) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
7 material terms of the proposed Settlement, along with instructions about how to
8 object or request exclusion from the proposed class action Settlement ("Notice")
9 attached to this Agreement as **Exhibit B** as well as Objection Form and Exclusion
10 Form attached to this Agreement as **Exhibits C and D** (together with "Notice
11 ""Notice Packet"). For each Class Member, there will be pre-printed information
12 on the mailed Notice, based on Defendants' records, stating the Class Member's
13 Covered Workweeks during the Class Period and the estimated total Settlement
14 Payment under the Settlement, including the Settlement Class Payment and the
15 PAGA Settlement Payment that will be distributed irrespective of any exclusion
16 request.

17 (t) Settlement Notice Language: The Notice Packet will issue in English and Spanish.

18 (u) Class Members Cannot Exclude Themselves from the Released PAGA Claims:
19 Class Members submitting a Request for Exclusion will nevertheless receive their
20 pro-rata share of the PAGA Settlement Payment. If the Court approves the
21 compromise of the PAGA Claim, all Class Members are bound by the Court's
22 resolution of the PAGA Claim. Plaintiff shall serve a notice of settlement on the
23 California Labor and Workforce Development Agency at or before the time
24 Plaintiff files the motion for preliminary approval.

25 (v) Resolution of Covered Workweeks Disputes: Defendants' records will be
26 presumed determinative, absent credible evidence to rebut the accuracy of the
27 Covered Workweeks credited to a Class Member based thereon. If a Class
28 Member disputes the Covered Workweeks credited to him or her, as stated in the

1 Notice, the Class Member must submit written correspondence to the Settlement
2 Administrator that is postmarked no later than the Response Deadline explaining
3 the basis for the dispute and including any supporting documentation showing that
4 the Covered Workweeks credited to him or her is inaccurate. If a Class Member
5 disputes the accuracy of Defendants' records used to calculate Covered
6 Workweeks, the Settlement Administrator will evaluate the evidence submitted by
7 the Class Member and make an initial decision as to which figures should be
8 applied. The parties shall file with the Court all Workweeks Disputes submitted by
9 Class Members together with the evidence submitted by Class Members, and the
10 decision made based on that evidence. Although the Settlement Administrator may
11 make the initial decision regarding the Covered Workweeks disputes, the Court
12 may review any decision made by the Settlement Administrator regarding Covered
13 Workweeks' disputes.

14 (w) Right of Class Members to Request Exclusion from the Settlement: Any
15 Class Member may request to be excluded from the Class by returning a
16 completed "Request for Exclusion" form to the Settlement Administrator
17 within the Response Deadline. The form of Request for Exclusion that
18 will accompany the Notice is attached hereto as **Exhibit "C."** The
19 Request for Exclusion Form accompanying the Notice will be pre-printed with
20 the Class Member's name and address to facilitate identification by the
21 Settlement Administrator. To be complete, the Class Member must sign and
22 date the Request for Exclusion Form and include the last four digits of their
23 social security number. The name and last four digits of the Social Security
24 number provided by the Class Member on the Request for Exclusion Form must
25 match Defendants' records as provided to the Settlement Administrator, or
26 match Defendants' records for that particular Class Member. The name and
27 Social Security number provided by the Class Member will be deemed to match
28 Defendants' records only if: (1) both the first name and the last name and the

1 last four digits of the Social Security number provided by the Class Member
2 match Defendants' records; (2) the first name and the last four digits of the
3 Social Security number provided by the Class Member match Defendants'
4 records and it appears the last name has been changed as a result of a change in
5 marital status or is a shortened or lengthened version of the name that appears in
6 Defendants' records; or (3) the last four digits of the Social Security number and
7 last name match Defendants' records and the first name provided is either a
8 nickname or a shortened or lengthened version of the name that appears in
9 Defendants' records. Each Class Member who does not submit a Request for
10 Exclusion Form in compliance with this paragraph will be deemed to be a
11 Settlement Class Member. Settlement Class Members will be bound by all
12 terms of the Settlement Agreement and the final approval order and final
13 judgment. Any Class Member who submits a Request for Exclusion Form will
14 not be a Settlement Class Member, will not be entitled to receive any Settlement
15 Class Payment, and will not be bound by the Released Class Claims or have any
16 right to object, appeal, or comment thereon. No later than thirty (30) calendar
17 days before the final approval hearing, the Settlement Administrator shall
18 provide counsel for the Parties with a complete list of all Class Members who
19 have submitted a complete, valid, and timely Request for Exclusion Form. All
20 Requests for Exclusion shall be submitted to the court.

- 21 (x) Right of Settlement Class Member to Object to The Settlement: Any Class
22 Member may object to the Settlement. To object, the Class Member may (1)
23 appear in person (including through an audio or video call appearance as allowed
24 by the Court) at the Final Approval Hearing to explain any objection, (2) have an
25 attorney object for the Class Member, or (3) submit a simple written brief or
26 statement of objection to the Settlement Administrator in the form attached hereto
27 as **Exhibit "D"**. If any Class Member chooses to submit a written objection not in
28 the form attached hereto as Exhibit "D", the written objection must include: (1) the

1 objector's full name, address, last four digits of his or her Social Security number,
2 and signature; (2) the case name and number. Class Counsel shall ensure that any
3 written objections are transmitted to the Court for the Court's review (either by
4 Class Counsel or as an attachment to declaration from the Settlement
5 Administrator). Regardless of the form, an objection alone will not satisfy the
6 requirement that a Settlement Class Member must either make a timely complaint
7 in intervention before final judgment or by file a motion to set aside and vacate the
8 class judgment under Code of Civil Procedure § 663 to have standing to appeal
9 entry of judgment approving this Settlement, as is required under the California
10 Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal. 5th 260
11 (2018). If the objecting Class Member does not formally intervene in the action or
12 move to set aside any judgment and/or the Court rejects the Class Member's
13 objection, the Class Member will still be bound by the terms of this Agreement.
14 Class Counsel and Defendants' Counsel may, at least five (5) calendar days (or
15 some other number of days as the Court shall specify) before the final approval
16 hearing, file responses to any written objections submitted to the Court.

17 (y) Remand to Superior Court: As a condition of settlement, the Parties will execute
18 and file Stipulation and Proposed order requesting remand the Action to the
19 Superior Court of California, County of Orange for the purposes of the settlement
20 approval process within five (5) days after the full execution of this Agreement.
21 Counsel for Plaintiff will draft and submit the Stipulation and Proposed Order for
22 review to Defendants' counsel 10 days prior to filing the Stipulation and Proposed
23 Order.

24 **THE SETTLEMENT ADMINISTRATOR'S PRIMARY DUTIES**

25 27. Subject to the Court's approval, and subject to reconsideration by the Parties after a
26 competitive bidding process, the Parties have agreed to the appointment of ILYM Group, Inc. to perform
27 the customary duties of Settlement Administrator. The Settlement Administrator will mail the Notice
28 Packet, both in English and Spanish, to the Class Members.

1 28. The Settlement Administrator will independently review the Covered Workweeks
2 attributed to each Class Member and will calculate the estimated amounts due to each Class Member and
3 the actual amounts due to each Settlement Class Member in accordance with this Settlement. The
4 Settlement Administrator shall report, in summary or narrative form, the substance of its findings. The
5 Settlement Administrator shall be granted reasonable access to Defendants's records in order to perform its
6 duties.

7 29. In accordance with the terms of this Settlement, and upon receipt of Gross Settlement
8 Amount from Defendants, the Settlement Administrator will issue and send out the Settlement Payment
9 checks to the Class Members. Tax treatment of the Settlement Payments will be as set forth herein, and in
10 accordance with state and federal tax laws. All disputes relating to the Settlement Administrator's
11 performance of its duties shall be referred to the Court, if necessary, which will have continuing
12 jurisdiction over the terms and conditions of this Settlement until all payments and obligations
13 contemplated by this Settlement have been fully carried out.

14 30. The Settlement Administrator will post the First Amended Complaint, the notice letter to
15 LWDA, the Settlement Agreement, the court orders granting preliminary and final approval of the
16 Settlement and final judgment approving the Settlement, the Notice Packet on the Settlement
17 Administrator's website for a period of not less than 180 calendar days after the final judgment is entered.
18 The address of that website will be included in the Notice.

19 **ATTORNEY'S FEES AND COSTS**

20 31. In consideration for resolving this matter and in exchange for the release of all claims by
21 the Class Members, including Plaintiff, and subject to approval by the Court, Defendants will not object to
22 Class Counsel's application for attorney's fees not to exceed 33 and 1/3% of the Gross Settlement Amount
23 (\$500,000.00 of \$1,500,000.00) and litigation costs not to exceed \$30,000.00. The amounts set forth
24 above will cover all work performed and all fees and costs incurred to date, and all work to be performed
25 and all fees and costs to be incurred in connection with the approval by the Court of this Settlement and
26 administration of the Settlement. Should the Court approve a lesser amount(s) of attorney's fees and/or
27 attorneys' costs, the difference between the lesser amount(s) and the maximum amount set forth above
28 shall be added to the Net Settlement Amount. Class Counsel shall disclose to the Court any fee sharing

1 agreements in existence.

2 **THE NOTICE PROCESS**

3 32. A Notice in approximately the form attached hereto as **Exhibit “B”**, the Request for
4 Exclusion in approximately the form attached hereto as **Exhibit “C”** and the Objection Form in
5 approximately the form attached hereto as **Exhibit “D”** (referred to jointly below as the “Notice packet”)
6 and as approved by the Court, shall be sent by the Settlement Administrator to the Class Members by first
7 class mail. The Notice packet shall be translated into Spanish so that Spanish and English language
8 versions of the Notice packet are included in the mailing. Any returned envelopes from this mailing with
9 forwarding addresses will be utilized by the Settlement Administrator to forward the Notices to the Class.

- 10 (a) Within 15 calendar days from the date the Court enters the order granting
11 preliminary approval of this Settlement, Defendants shall provide to the Settlement
12 Administrator a class database containing the following information for each Class
13 Member: (1) name; (2) last known address; (3) social security number; and (4)
14 dates of employment at Defendants’ location in California. This database shall be
15 based on Defendants’ payroll and other business records and shall be provided in a
16 format acceptable to the Settlement Administrator. Defendants agree to consult
17 with the Settlement Administrator prior to the production date to ensure that the
18 format will be acceptable to the Settlement Administrator. The Settlement
19 Administrator will run a check of the Class Members’ addresses against those on
20 file with the U.S. Postal Service’s National Change of Address List; this check will
21 be performed only once per Class Member by the Settlement Administrator.
22 Absent mutual written agreement of counsel for the Parties or Court order, the
23 Settlement Administrator will keep this database confidential and secure and use it
24 only for the purposes described herein, and will return this database to Defendants
25 upon final approval of the settlement or destroy electronic records containing the
26 database after the Settlement is final and all payments are distributed as required
27 under this Agreement. However, Plaintiff’s Counsel shall be entitled to review
28 anonymized data showing the workweeks worked by each Class Member, with

Class Member identity concealed through use of an employee number or number assigned by the Settlement Administrator.

- (b) Within 14 calendar days after the Class database is provided to the Settlement Administrator, the Settlement Administrator will mail the Notices to the Class Members by First Class United States mail.
- (c) Notices returned to the Settlement Administrator as non-deliverable on or before the initial Response Deadline shall be resent to the forwarding address, if any, on the returned envelope. A returned Notice will be forwarded by the Settlement Administrator any time that a forwarding address is provided with the returned mail. If there is no forwarding address, the Settlement Administrator will do a computer search for a new address using the Class Member's social security number or other information. In any instance where a Notice is re-mailed, that Class Member will have until the extended Response Deadline as described above. A letter prepared by the Settlement Administrator will be included in the re-mailed Notice in that instance, stating the extended Response Deadline if different than the original Response Deadline. Upon completion of these steps by the Settlement Administrator, Defendants and the Settlement Administrator shall be deemed to have satisfied their obligations to provide the Notice to the affected Class Member. The affected Class Member shall remain a member of the Settlement Class and shall be bound by all the terms of the Settlement and the Court's Order and Final Judgment.
- (d) Class Counsel shall provide to the Court, at least five calendar days prior to the final approval hearing, or such other date as set by the Court, a declaration by the Settlement Administrator of due diligence and confirming mailing of the Notices.

DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS

33. As set forth above, each Class Member will have until the expiration of the applicable Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class Member's Covered Workweek information on the Notice. No disputes will be honored if they are

submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute. Each Class Member is responsible to maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

34. The Settlement Administrator shall cause the Settlement Payments to be mailed to the Settlement Class Members and PAGA Employees as provided herein. Settlement Class Payments and PAGA Payments may be combined into one check. Settlement Payment checks shall remain valid and negotiable for 180 calendar days from the date of their issuance. Settlement Payment checks will automatically be cancelled by the Settlement Administrator if they are not cashed by the Class Member within that time, and the Class Member's relevant claims will remain released by the Settlement. Settlement Payment checks which have expired will not be reissued.

35. Funds from uncashed or abandoned Settlement Payment checks, based on a 180-day void date, shall be transmitted to the California State Controller's Office for Unclaimed Property in the name of each Class Member who failed to cash their Settlement Payment check prior to the void date.

36. Upon completion of its calculation of Settlement Payments, the Settlement Administrator shall provide Class Counsel and Defendants' Counsel with a report listing the amounts of all payments to be made to Class Members (to be identified anonymously by employee number or other identifier). A Declaration attesting to completion of all payment obligations will be provided to Class Counsel and Defendants' Counsel and filed with the Court by Class Counsel.

RELEASE BY THE PLAINTIFF AND THE SETTLEMENT CLASS

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

- (a) **Identity of Released Parties.** The released parties are Defendants and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with

Defendants (collectively “Released Parties”).

(b) **Date Release Becomes Effective.** The Released Claims will be released upon the later of (1) the Settlement’s Effective Date, or (2) the satisfaction of Defendants’ obligation to provide to the Settlement Administrator a sum in the amount required to satisfy all required payments and distributions pursuant to this Settlement and the Order and Judgment of final approval. Class Members will not release the Released Class Claims or Released PAGA Claims until both the Effective Date of the Settlement has occurred, and Defendants have paid all amounts owing under the Settlement.

(c) **Claims Released by Plaintiff and Settlement Class Members.** Plaintiff and each and every Settlement Class Member, on behalf of himself or herself and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, unless he or she has submitted a timely and valid Request for Exclusion (which will not effectuate an opt-out from the release of Released PAGA Claims), hereby releases Released Parties from the following claims for the entire Class Period:

- 1) all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Complaint, without limitation, claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; ~~(9) failure to pay vacation and/or sick pay wages;~~ and, ~~(10)~~ claims for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, ~~227.3~~, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802

1 and California Business and Professions Code section 17200 et seq.
2 (arising from violations of the labor code listed above) or any applicable
3 IWC Wage Order (“Released Class Claims”). Class Members do not
4 release any claims that cannot be released by law including, without
5 limitation, claims for vested benefits, wrongful termination, violation of
6 the Fair Employment and Housing Act, unemployment insurance,
7 disability, social security, workers’ compensation, or claims based on
8 facts occurring outside the Class Period.

9 2) in addition, all PAGA Employees are deemed to release, on behalf of
10 themselves and their respective former and present representatives, agents,
11 attorneys, heirs, administrators, successors, and assigns, the Released
12 Parties from all claims for PAGA penalties that were alleged, or reasonably
13 could have been alleged during the PAGA Period, based on the facts stated
14 in the Complaint and the PAGA Notice attached to this Agreement as
15 **Exhibit A** including, without limitation, claims for PAGA penalties arising
16 from (1) failure to pay minimum wages; (2) failure to pay overtime wages;
17 (3) failure to provide meal periods or pay a premium in lieu thereof; (4)
18 failure to authorize and permit rest periods or pay a premium in lieu
19 thereof; (5) failure to timely pay wages including at the time of
20 termination/end of employment; (6) failure to furnish accurate itemized
21 wage statements; (7) failure to reimburse employees for business expenses;
22 ~~(8) failure to pay vacation and/or sick pay wages;~~ (98) claims for penalties
23 under the Private Attorneys General Act for violation of California Labor
24 Code sections 201-204, 210, ~~218.5, 218.6,~~ 226, 226.3, 226.7, ~~227.3,~~ 510,
25 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698,
26 et seq. (“PAGA”), or any applicable IWC Wage Order (“Released PAGA
27 Claims”).
28

1 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

2 38. The Parties shall submit this Settlement Agreement to the Court in support of Plaintiff's
3 unopposed motion for preliminary approval for determination by the Court as to its fairness, adequacy, and
4 reasonableness. Upon execution of this Settlement Agreement, Plaintiff shall apply to the Court for the
5 entry of an order:

- 6 (a) Scheduling a final approval and fairness hearing on the question of whether the
7 proposed Settlement, including payment of attorney's fees and costs, and the Class
8 Representative's service payment, should be finally approved as fair, reasonable,
9 and adequate as to the members of the Class;
- 10 (b) Certifying the Class;
- 11 (c) Approving as to form and content the proposed Notice Packet;
- 12 (d) Directing the mailing of the Notice Packet;
- 13 (e) Preliminarily approving the Settlement, subject only to the objections of Class
14 Members as to the Class Settlement and final review by the Court;
- 15 (f) Conditionally appointing Plaintiff and Class Counsel as representatives of the
16 proposed Class Members; and,
- 17 (g) Appointing ILYM Group, Inc. as the Settlement Administrator, and order the
18 Settlement Administrator to issue Notices as outlined above.

19 39. Defendants and their counsel agree to cooperate to obtain approval of the Settlement,
20 pursuant to the terms set forth herein.

21 **DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL**

22 40. In conjunction with the hearing of a motion for final approval by the Court of the
23 Settlement provided for in this Settlement Agreement, Class Counsel will provide to Defendants' Counsel
24 for review and approval and then submit to the Court a proposed final order and judgment containing
25 provisions sufficient to accomplish the following:

- 26 (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and
27 adequate, and directing consummation of its terms and provisions;
- 28 (b) Approving Class Counsel's application for an award of attorney's fees and costs;

- 1 (c) Approving the Service Payment to the Class Representative;
- 2 (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting
- 3 duties under the Settlement.
- 4 (e) Adjudging Plaintiff and Class Counsel may adequately represent the Settlement
- 5 Class for the purpose of entering into and implementing the Agreement;
- 6 (f) Entering a final judgment in the action as to all PAGA and Class Claims and
- 7 related issues;
- 8 (g) Adjudging that notwithstanding the submission of a timely request for exclusion,
- 9 Class Members are still bound by the settlement and release of the Released PAGA
- 10 Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46
- 11 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to
- 12 the Released PAGA Claims, and further affirms that the State's claims for civil
- 13 penalties pursuant to PAGA are also extinguished;
- 14 (h) Directing the posting of the settlement documents provided in Paragraph 30 and
- 15 final judgment on a website maintained by the Settlement Administrator for a
- 16 period of not less than 180 calendar days after entry of final judgment.

17 Any revised final judgments will also be provided to Defendants' Counsel for review and approval before

18 they are submitted to the Court.

19 **NULLIFICATION AND TERMINATION**

20 41. This Settlement will be null and void if any of the following occur: (a) the Court should for

21 any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to

22 preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than

23 adjustments made to the attorney's fees and costs or granting of Service Payment or settlement money

24 distribution terms; (c) the Court should for any reason fail to enter the final judgment; (d) the final

25 judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final

26 for any other reason.

27 42. If 10% or more of the Class Members opt out of this Settlement, then Defendants in their

28 sole discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall

1 provide Defendants' Counsel with the information necessary to effectuate this provision on a regular basis,
2 but no less frequently than bi-weekly basis. To terminate this Settlement under this paragraph,
3 Defendants' Counsel must give Plaintiff's Counsel written notice, by facsimile, e-mail, or mail, no later
4 than sixteen (16) court days prior to the date of the Final Approval hearing. If this option is exercised by
5 Defendants, Defendants shall be solely responsible for the costs incurred by the Settlement Administrator
6 for the settlement administration.

7 43. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement
8 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
9 proceedings shall have any force or effect and no party shall be bound by any of its terms, and (iii) all
10 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement and
11 Stipulation for Remand had been neither entered into nor filed with the Courts.

12 **PARTIES' AUTHORITY**

13 44. The signatories hereto hereby represent that they are fully authorized to enter into this
14 Settlement and bind the Parties hereto to the terms and conditions thereof.

15 **MUTUAL FULL COOPERATION**

16 45. The Parties agree to fully cooperate with each other to accomplish the terms of this
17 Settlement including, but not limited to, execution of such documents and taking such other action as
18 reasonably may be necessary to implement the terms of this Settlement. The Parties to this Settlement
19 shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that
20 may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set
21 forth herein. As soon as practicable after execution of this Settlement, Class Counsel shall, with the
22 assistance and cooperation of Defendants and Defendants' Counsel, take all necessary steps to secure the
23 Court's preliminary and final approval of this Settlement.

24 **NO PRIOR ASSIGNMENTS**

25 46. The Parties and their respective counsel represent, covenant, and warrant that they have not
26 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
27 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
28 released and discharged except as set forth herein.

47. Nothing contained herein, nor the consummation of this Settlement, is to be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Defendants deny all the claims and contentions alleged by the Plaintiff in this case. Defendants have entered into this Settlement solely with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

48. The Parties agree that following entry of the Final Approval Order and Judgment, this Agreement shall be enforceable by the Court and the Court shall retain exclusive and continuing jurisdiction of the Action over all parties and the Class Members to interpret and enforce the terms, conditions, and obligations of the Agreement pursuant to California Code of Civil Procedure section 664.6. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

49. Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after mailing by United States registered or certified mail, return receipt requested, addressed as follows:

Seung Yang

Laura E. Heyne

seung.yang@thesentinelfirm.com
Tiffany Hyun
tiffany.hyun@thesentinelfirm.com
THE SENTINEL FIRM, APC
355 S. Grand Ave., Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

lheyne@seyfarth.com
SEYFARTH SHAW LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

CONSTRUCTION

50. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, and this Settlement shall not be construed in favor of or against any party by reason of the extent to which any party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

51. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

MODIFICATION

52. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

INTEGRATION CLAUSE

53. This Settlement contains the entire agreement between the Parties relating to the Settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

WAIVER OF APPEALS

54. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees.

1 **BINDING ON ASSIGNS**

2 55. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and
3 their respective heirs, trustees, executors, administrators, successors and assigns.

4 **CLASS COUNSEL SIGNATORIES**

5 56. It is agreed that because the members of the Class are so numerous, it is impossible or
6 impractical to have each member of the Class execute this Settlement. The Notice will advise all Class
7 Members of the binding nature of the Released Claims and Released PAGA Claims, and the release shall
8 have the same force and effect as if this Settlement were executed by each member of the Class.

9 **COUNTERPARTS**

10 57. This Settlement may be executed in counterparts and by electronic or facsimile signatures,
11 and when each party has signed and delivered at least one such counterpart, each counterpart shall be
12 deemed an original, and, when taken together with other signed counterparts, shall constitute one
13 Settlement, which shall be binding upon and effective as to all Parties.

14 **CONFIDENTIALITY & PUBLIC COMMENT**

15 58. Plaintiff, Class Counsel, Defendants and Defendants' Counsel separately agree that, until
16 the motion for preliminary approval of Settlement is filed, they and each of them will not disclose,
17 disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any
18 of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation,
19 association, government agency, or other entity except: (1) for purposes of enforcement of this Settlement;
20 (2) for purposes of approval of the Settlement including posting the Settlement and motion papers on
21 LWDA website; (3) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to
22 keep this Agreement confidential; (4) to the extent necessary to report income to appropriate taxing
23 authorities; (5) in response to a court order or subpoena; or (6) in response to an inquiry or subpoena
24 issued by a state or federal government agency. Each Party agrees to immediately notify each other Party
25 of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
26 Defendants and Defendants' Counsel separately agree not to, directly or indirectly, initiate any
27 conversation or other communication, before the filing of the motion for preliminary approval, any with
28 third party regarding this Agreement or the matters giving rise to this Agreement except to respond only

that “the matter was resolved,” or words to that effect. If counsel for any party receives an inquiry about the Settlement from the media, counsel may respond only after the motion for preliminary approval of the settlement has been filed and only by confirming the accurate terms of the Settlement. This paragraph does not restrict Class Counsel’s communications with Class Members in accordance with Class Counsel’s ethical obligations owed to Class Members.

FINAL JUDGMENT

59. The Parties agree that, upon final approval of the Settlement, final judgment of this Action will be made and entered in its entirety. The final judgment may be included in the Order granting Final Approval of the Settlement.

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class Action Settlement between Plaintiff and Defendants as set forth below:

IT IS SO STIPULATED.

Plaintiff & Class Representative:

Dated: By: _____
KIMBERLY M. WILHELM

Plaintiff’s Counsel:

Dated: **TUNYAN LAW, APC**
By: _____

Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff Kimberly M. Wilhelm

Dated: **THE SENTINEL FIRM, APC**

By: _____

Tiffany Hyun
Seung Yang

Attorneys for Plaintiff Kimberly M. Wilhelm

Defendants:

1 Dated: **KEMPER SPORTS MANAGEMENT, LLC**

2
3 By: _____
Print Name

4 _____
Signature

5
6 _____
Title

7
8 Dated: **KEMPER SPORTS MANAGEMENT, INC.**

9
10 By: _____
Print Name

11 _____
Signature

12
13 _____
Title

14
15 Dated: **KEMPER SPORTS MANAGEMENT HOLDINGS, LLC**

16
17 By: _____
Print Name

18 _____
Signature

19
20 _____
Title

21 **Defendants' Counsel, as to Form and Content Only:**

22 Dated: **SEYFARTH SHAW LLP**

23 By: _____
24 Laura E. Heyne
Andrew M. McNaught

25 Attorneys for Defendants KEMPER SPORTS
26 MANAGEMENT, LLC; KEMPER SPORTS
27 MANAGEMENT HOLDINGS, LLC
28

Exhibit “3”

AMENDED NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT

Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.
Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC

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

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF KEMPER SPORTS MANAGEMENT, LLC and/or KEMPER SPORTS MANAGEMENT, INC.; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“DEFENDANTS” or “KEMPER SPORTS”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN JANUARY 30, 2020 and April 18, 2025 (THE “CLASS PERIOD”) AND DID NOT SIGN AN ARBITRATION AGREEMENT WITH CLASS WAIVER, THIS PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Purpose of this Notice

A proposed settlement (the “Settlement”) has been reached in a proposed class and PAGA action lawsuit brought by Plaintiff Kimberly M. Wilhelm (“Plaintiff”) against Defendants, entitled *Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.* Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement.

You are receiving this notice because KEMPER SPORTS’s records indicate that you worked for KEMPER SPORTS as a non-exempt employee in California for some time between January 30, 2020 and April 18, 2025 (“Class Period”) and did not sign an arbitration agreement with class waiver. This means you are a potential Class Member, and you have a right to know about the proposed Settlement.

In addition, you are also a PAGA Employee if you are currently or were formerly employed as a non-exempt employee of KEMPER SPORTS who worked for KEMPER SPORTS within California at any time during the period from January 30, 2023 to April 18, 2025 (“PAGA Period”).

This Notice advises you of your options under this Settlement, which include how you can participate in this Settlement and receive your share of the Settlement proceeds, how you can exclude yourself from the class Settlement, or how you can object to the class Settlement.

What is the case about?

On January 30, 2024, Plaintiff filed a putative class action. On May 125, 20243, Plaintiff filed a First Amended Complaint alleging the following claims against Defendants: (1) failed to pay all wages; (2) failed to provide meal periods; (3) failed to authorize and permit rest periods; (4) failed to timely pay all wages at termination; (5) failed to furnish accurate itemized wage statements; (6) failure to indemnify necessary business expenses; (7) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (8) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*] (“PAGA”).

PAGA allows employees to file a representative action on behalf of themselves, other current and former employees, and the State of California to seek recovery of civil penalties for alleged Labor Code violations.

The Action seeks unpaid wages for a class of all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the Class Period (the “Class” or “Class Members”). The Action also seeks penalties under PAGA for all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the PAGA Period (“PAGA Employees”).

Defendants deny each and every allegation in the Action, deny any liability or wrongdoing of any kind, and believe that they treated, and continue to treat, their employees fairly and in full compliance with the law.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered a “Settlement Class Member” in the Settlement and will receive your individual settlement share under the Settlement if the Court finally approves the Settlement. You will also give up rights to assert the Released Claims against Defendant as explained more fully below.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to exclude yourself from the Class Settlement. If you choose to do so, you must mail to the Administrator, in writing, a completed Request for Exclusion Form. If you exclude yourself, you will NOT receive any payment under the Settlement (other than based on the PAGA Claim, if applicable). Request for Exclusion Forms must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Class Settlement, you must either mail a written explanation of why you do not agree with the Settlement to the Settlement Administrator by completing and submitting the Objection Form, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request for Exclusion Form if you wish to object. Written objections must be submitted by <<RESPONSE DEADLINE>>.

What are the Settlement terms?

Subject to final Court approval, Defendants will pay a maximum total payment under the Settlement of \$1,500,000.00 (the “Gross Settlement Amount”) for: (a) individual Settlement Class Payments to Settlement Class Members; (b) the Service Payment to Plaintiff (up to \$5,000.00); (c) attorneys’ fees (not to exceed 33 and 1/3% of the Gross Settlement Amount, \$500,000.00) and litigation costs to Class Counsel (not to exceed \$30,000) (“Class Counsel’s Fees and Costs”); (d) the amount of \$100,000.00 allocated toward civil penalties under the PAGA (the “PAGA Allocation”), of which the LWDA will be paid 75% (i.e. \$75,000.00 (“PAGA Penalty Payment”) and the remaining 25% (i.e. \$25,000.00) will be distributed to PAGA Employees (the “PAGA Settlement Payments”); and (e) payment to the Settlement Administrator for settlement administration services (estimated to be no more than \$-----) (“Administrative Expenses”).

The “Net Settlement Amount” will be calculated by deducting from the Gross Settlement Amount the Class Counsel’s Fees and Costs, the Service Payment to Plaintiff, the PAGA Penalty Payment, and the Administrative Expenses. Settlement Class Payments and PAGA Settlement Payments (defined below) will be paid from the Net Settlement Amount.

Class Members who do not timely and properly request to be excluded from the Settlement (the “Settlement Class Members”) will receive a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totaling \$25,000.00, based upon the total number of workweeks worked by the Settlement Class Member during the Class Period (the “Settlement Class Payment”). The portion of the Net Settlement Amount paid to a Settlement Class Member = Net Settlement Amount (minus \$25,000.00 set aside for all PAGA Settlement Payment) × (the work weeks worked by a Settlement Class Member ÷ the work weeks worked by all Settlement Class Members).

PAGA Employees will receive a pro-rata share of the \$25,000.00 from the PAGA Settlement allocated to PAGA Employees (the “PAGA Settlement Payment”) based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period, regardless of whether they request exclusion from the Settlement. The portion of the PAGA Settlement Payment paid to a PAGA Employee = \$25,000.000 × the pay periods worked by a PAGA Employee (during the PAGA Period) ÷ the pay periods worked by all PAGA Employees (during the PAGA Period).

The total payment to an individual, including their Settlement Class Payment and PAGA Settlement Payment, is their "Individual Settlement Payment". Your estimated Individual Settlement Payment is <<Estimated Payment>>, which includes your payment from the Class settlement in the estimated amount of <<Estimated Individual Settlement Class Payment>> and your payment from the PAGA settlement in the estimated amount of <<Estimated Individual PAGA Settlement Payment>>. This is just an estimate. Your final share will be determined by the Settlement Administrator.

The above estimates are based on Defendants' records showing you worked _____ Workweeks during the Class Period and worked ____ Pay Periods during the PAGA Period. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of workweeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<**RESPONSE DEADLINE**>> (the "Response Deadline") at:

You must produce documentary evidence supporting your contention. The Settlement Administrator will evaluate the evidence submitted and make an initial decision as to which figures should be applied. The parties shall file with the Court all Workweeks Disputes submitted by Class Members together with the evidence submitted by Class Members, and the decision made based on that evidence. Although the Settlement Administrator may make the initial decision regarding the Workweeks Disputes, the court may review any decision made by the Settlement Administrator regarding Workweeks Disputes.

For tax reporting purposes, the payments to Class Members will be allocated 1/3 wages, and 2/3 interest and penalties. All PAGA Settlement Payments will be allocated as 100% penalties. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties, and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendants.

All checks for Individual Settlement Payments paid to Class Members will remain valid and negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller's Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. Even if the Individual Settlement Payment is not cashed, claimed or negotiated by the Class Member within the one hundred eighty (180) days from the date of the checks' issuance, the Settlement Class Member shall remain bound by the Released Class Claims, unless the Class Member submitted a timely and valid Request for Exclusion Form.

The "Effective Date" of the Settlement will be the date upon which all of the following have occurred: (i) the Parties stipulate to seek remand to state court and the Action is remanded; (ii) the state court grants final approval of the Settlement and (iii) the state court's Judgment approving the Settlement becomes Final. Final shall mean the latest of: (a) if no Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members file timely objection to the Settlement, the later of: (1) the date on which the time for all appeals relating to objections to Settlement and the final approval order has expired; or (2) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment; or (c) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with any appellate court that has jurisdiction, or, (d) if a petition for review is filed, the date of denial of the petition, or the date the Court's Judgment is entered, pursuant to such petition. Provided, however, if the California Labor & Workforce Development Agency ("LWDA") has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to the Settlement is resolved and no longer appealable. Defendants will fund the Gross Settlement Amount within

twenty-one (21) days after the Effective Date. The Settlement Administrator shall mail checks no later than fourteen (14) calendar days of receipt of the Gross Settlement Amount from Defendants.

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

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

What claims are being released by the proposed Settlement?

Released Class Claims. Those Class Members who do not submit a timely and valid Request for Exclusion Form to the Settlement Administrator (i.e. Settlement Class Members), and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, upon full payment of Gross Settlement Amount, shall fully and finally release and discharge Defendants and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants (“Released Parties”) from the Released Class Claims.

Released Class Claims are defined as all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Complaint, without limitation, claims for (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; (8) unfair business practices; ~~(9) failure to pay vacation and/or sick pay wages;~~ and, ~~(109)~~ claims for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, ~~227.3~~, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 and California Business and Professions Code section 17200 et seq. (arising from violations of the labor code listed above) or any applicable IWC Wage Order (“Released Class Claims”). Class Members do not release any claims that cannot be released by law including, without limitation, claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

Released PAGA Claims. In addition, upon full payment of Gross Settlement Amount, all PAGA 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 during the PAGA Period, based on the facts stated in the Complaint and the PAGA Notice including, without limitation, claims for PAGA penalties arising from (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5) failure to timely pay wages including at the time of termination/end of employment; (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for business expenses; ~~(8) failure to pay vacation and/or sick pay wages;~~ ~~(98)~~ claims for penalties under the Private Attorneys General Act for violation of California Labor Code sections 201-204, 210, ~~218.5, 218.6~~, 226, 226.3, 226.7, ~~227.3~~, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and 2698, et seq. (“PAGA”), or any applicable IWC Wage Order (“Released PAGA Claims”).

What are my options in this matter?

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

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

If you are a PAGA Employee, you will automatically be included and issued your PAGA Settlement Payment. This means you will release the PAGA Released Claims.

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

Objecting to the Settlement: If you are a Class Member, and you do not request exclusion from the Settlement, you may object to the Settlement before final approval of the Settlement by the Court by submitting a written objection or presenting your objection at the Final Approval Hearing.

To assert an objection to the Settlement, a Settlement Class Member must submit an Objection Form to the Settlement Administrator by first class U.S. mail at the address specified on the Notice in the Objection Form not later than _____. If you choose not to submit a written objection using the Objection Form, the written objection must include: (1) your full name, address, and last four digits of your Social Security number; (2) your signature; (3) the case and number (*Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.*, Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CX); and (4) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. Any Class Member who fails to timely submit their written objections in the manner specified above may still appear and object at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Class and PAGA Claims as set forth above, unless the Settlement is not finally approved by the Court.**

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

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

The Request for Exclusion Form (to remove you from the Class Settlement) must be postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a Request for Exclusion form on time (as evidenced by the postmark), your request to be excluded from the Settlement will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a Request for Exclusion Form by the deadline to request exclusion, you will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims), and will not have any right to object to, appeal, or comment on the Class Settlement. PAGA Employees cannot opt out or exclude themselves from the PAGA Settlement Payment and will still be issued a PAGA Settlement Payment and be bound by the Released PAGA Claims, irrespective of whether they submit a Request for Exclusion Form and irrespective of whether they cash their Individual Settlement Payment.

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

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

The Court will hold a Final Approval Hearing on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department CX1053 of the Orange County Superior Court, located at 751 W. Santa Ana Boulevard, Santa Ana, California 92701. As described above, If you wish to attend the Final Approval Hearing remotely, you can do it through the court's online check-in process available through the court's website at <https://www.occourts.org/media-relations/civil.html>. If you wish to attend the Final Approval Hearing in person, you can attend it at Orange County Superior Court, 751 W. Santa Ana Boulevard, Santa Ana, California 92701.

The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment, the First Amended Complaint, the notice letter to the LWDA, the Settlement Agreement, and this Notice will be posted on a website by the Settlement Administrator for a period of at least 180 days following the entry of that Order in the Court record. That website is: <<[website](#)>>.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Lilit Tunyan

ltunyan@tunyanlaw.com

Artur Tunyan

atunyan@tunyanlaw.com

TUNYAN LAW, APC

535 N. Brand Blvd., Suite 285

Glendale, California 91203

Telephone: (323) 410-5050

Defendants' Counsel

Michael J. Burns

mburns@seyfarth.com

Andrew M. McNaught

amcnaught@seyfarth.com

SEYFARTH SHAW LLP

560 Mission Street, 31st Floor

San Francisco, California 94105

Telephone: (415) 397-2823

Facsimile: (415) 397-8549

Seung Yang

seung.yang@thesentinelfirm.com

Tiffany Hyun

tiffany.hyun@thesentinelfirm.com

THE SENTINEL FIRM, APC

355 S. Grand Ave., Suite 1450

Los Angeles, California 90071

Telephone: (213) 985-1150

Facsimile: (213) 985-2155

Laura E. Heyne

lheyne@seyfarth.com

SEYFARTH SHAW LLP

2029 Century Park East, Suite 3500

Los Angeles, CA 90067-3021

Telephone: (310) 277-7200

Facsimile: (310) 201-5219

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class and PAGA Representative Action Settlement [and Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement](#) attached to the Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval [and Supplemental Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval](#). The Joint Stipulation of Class and PAGA Representative Action Settlement, [Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement](#) and all other records relating to the Action are available for inspection and/or copying at the Civil Records Office of the Orange County Superior Court. You may also view documents filed in this case on the Court's website at: <https://www.occourts.org/media-relations/civil.html>. You may need the case number to access and view case documents (30-2024-01376524-CU-OE-CXC). NOTE: If you choose to access documents online, the Court will charge you a fee for access.

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

Exhibit “4”

Lilit Tunyan (SBN 329351)
ltunyan@tunyanlaw.com
 Artur Tunyan (SBN 349174)
atunyan@tunyanlaw.com
TUNYAN LAW, APC
 535 N. Brand Blvd., Suite 285
 Glendale, California 91203
 Telephone: (323) 410-5050

Attorneys for Plaintiff KIMBERLY M. WILHELM as an individual
 and on behalf of all employees similarly situated

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

KIMBERLY M. WILHELM, as an individual
 and on behalf of all employees similarly
 situated,

Plaintiff,

v.

KEMPER SPORTS MANAGEMENT, LLC, a
 Delaware Limited Liability Company;
 KEMPER SPORTS MANAGEMENT
 HOLDINGS, LLC, a Delaware Limited
 Liability Company, and DOES 1 through 50,
 inclusive,

Defendants.

Case No. 8:24-cv-00501-CJC-DFM

Assigned to Honorable Cormac J. Carney
 Courtroom 9B

FIRST AMENDED COMPLAINT

1. Violation of Labor Code §§ 204, 510, 1194, 1198 (Failure to Pay All Wages);
2. Violation of Labor Code §§ 226.7, 512 (Failure to Provide Meal Periods);
3. Violation of Labor Code § 226.7 (Failure to Provide Rest Periods);
4. Violation of Labor Code § 226, (Failure to Keep Accurate Itemized Wage Statements);
5. Violation of Labor Code §§ 201-203, (Failure to Pay Wages Upon Termination of Employment);
6. Violation of Labor Code § 2802 (Failure to Reimburse for Necessary Expenditures);
7. Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices); and
8. Violation of the Private Attorneys General Act, Labor Code sections 2698, et seq

DEMAND FOR JURY TRIAL

1 Plaintiff KIMBERLY M. WILHELM (hereinafter referred to as “Plaintiff”) on behalf of
2 himself and all others similarly situated, and as representative of the State of California and the
3 Labor and Workforce Development Agency (“LWDA”), based upon facts that either have
4 evidentiary support or are likely to have evidentiary support after a reasonable opportunity for
5 further investigation and discovery, complains and alleges as follows:

6 **INTRODUCTION**

7 1. This is a class action brought on behalf of Plaintiff and the class she seeks to
8 represent (“Class” or “Class Members”). Class Members consist of all non-exempt, hourly-paid
9 employees currently and/or formerly employed by KEMPER SPORTS MANAGEMENT, LLC,
10 and KEMPER SPORTS MANAGEMENT HOLDINGS, LLC in the State of California during
11 the Class Period. The term “Class Period” is defined as four (4) years prior to the filing of this
12 Complaint through the date final judgment is entered. Plaintiff reserves the right to amend this
13 Complaint to reflect a different “Class Period” or “Class” as further discovery is conducted.

14 2. Plaintiff, individually and on behalf of the class she seeks to represent, seeks relief
15 against KEMPER SPORTS MANAGEMENT, LLC, a Delaware Limited Liability Company;
16 KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“Defendants”) for Defendants’ failure
17 to pay all wages due in violation of Labor Code Sections 204, 510 and 1194, including regular
18 and overtime wages; failure to provide meal periods or compensation in lieu thereof pursuant to
19 Labor Code Sections 226.7 and 512, the applicable Industrial Welfare Commission Wage Orders,
20 and Code of Regulations, Title 8, Section 11000 et seq.; failure to provide rest periods or
21 compensation in lieu thereof pursuant to Labor Code Sections 226.7 and 512, the applicable
22 Industrial Welfare Commission Wage Orders, and Code of Regulations, Title 8, Section 11000 et
23 seq.; failure to provide accurate itemized wage statements upon payment of wages pursuant to
24 Labor Code Sections 226, subdivision (a), 1174, and 1175; failure to reimburse for necessary
25 expenditures pursuant to Labor Code Section 2802; and failure to pay wages of terminated or
26 resigned employees pursuant to Labor Code Sections 201, 202, 203.

1 3. Plaintiff seeks equitable remedies in the form of declaratory relief and injunctive
2 relief, and relief under Business and Professions Code Section 17200 et seq. for unfair business
3 practices.

4 4. At all relevant times herein, Defendants have consistently maintained and enforced
5 against Plaintiff and Class the following unlawful practices and policies:

6 (a) willfully refusing to pay Plaintiff and Class for all hours worked, including
7 regular and overtime;

8 (b) willfully refusing to permit Plaintiff and Class from taking meal periods or
9 compensation in lieu thereof;

10 (c) willfully refusing to permit Plaintiff and Class from taking rest periods or
11 compensation in lieu thereof;

12 (d) willfully refusing to maintain accurate records and to furnish to Plaintiff and
13 Class accurate itemized wage statements upon payment of wages;

14 (e) willfully refusing to compensate certain members of the Class wages due and
15 owing at the time of Class Members' employment with Defendants ended;
16 and;

17 (f) willfully refusing to reimburse Plaintiff and Class for necessary
18 expenditures.

19 5. On information and belief, Defendants were on actual and constructive notice of
20 the improprieties alleged herein and intentionally refused to rectify their unlawful policies.
21 Defendants' violations, as alleged above, during all relevant times herein were willful and
22 deliberate.

23 6. At all relevant times, Defendants were and are legally responsible for all of the
24 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
25 foregoing paragraphs as the employer of Plaintiff and Class. Further, Defendants are
26 responsible for each of the unlawful acts or omissions complained of herein under the doctrine
27 of "respondeat superior".
28

7. Plaintiff further brings this action as a representative of the State of California and the Labor and Workforce Development Agency (“LWDA”) to recover civil penalties pursuant to the Private Attorneys General Act (“PAGA”), Labor Code sections 2698, et seq., for violations of numerous Labor Code provisions, including, but not limited to, sections 201-203, 204, 226, 226.7, 510, 512, 1174, 1194, 1198 and 2802, as well as violations of the applicable Wage Order.

JURISDICTION AND VENUE

8. Venue is proper in this judicial district and in the County of Orange, California because Defendants maintained its location and/or transacted business in this county, the obligations and liability arise in this county, and work was performed by members of the proposed class made the subject of this action in this county.

9. The wages, statutory penalties, monetary damages and restitution sought by Plaintiff exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial. This Court has jurisdiction over this action pursuant to the California Constitution, article VI, Section 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.

10. The California Superior Court has jurisdiction in the matter because the individual claims are under the seventy-five thousand dollars (\$75,000.00) jurisdictional threshold for Federal Court and the five million dollars (\$5,000,000.00) aggregate jurisdictional threshold for Federal Court and, upon information and belief, Plaintiff and Defendants are residents of, domiciled in, or otherwise subject to jurisdiction in the State of California. Further, there is no federal question at issue as the issues herein are based solely on California statutes and law including the Labor Code, Industrial Welfare Commission (“IWC”) Wage Orders, the Code of Civil Procedure, the Rules of Court, and the Business and Professions Code.

THE PARTIES

A. Plaintiff

11. Plaintiff, at all relevant times herein, was Defendants' employee and was entitled to compensation for all hours worked, including regular time and overtime compensation, and

1 penalties from Defendants. Plaintiff was employed by Defendants as a non-exempt, hourly paid
2 employee during the Class Period. Specifically, Plaintiff worked as a bartender/server from
3 approximately May 2017 to December 1, 2023, primarily in Orange County. Each of the Class
4 Members are identifiable, current and/or former similarly situated persons who were employed
5 in non-exempt hourly positions in California by Defendants during the Class Period.

6 **B. Defendants**

7 12. Plaintiff is informed and believes, and based thereon alleges, that Defendants are
8 limited liability companies doing business in California. On information and belief, Defendants
9 were and/or are the employers of Plaintiff and Class during the Class Period. Plaintiff also alleges
10 that Defendants are conducting business in good standing in California.

11 13. Plaintiff is ignorant of the true names, capacities, relationships and extent of
12 participation in the conduct herein alleged of the Defendants sued herein as DOES 1 through 50,
13 inclusive, but on information and belief alleges that these Defendants are legally responsible for
14 the payment of overtime compensation, rest and meal period compensation, and wages to Plaintiff
15 and Class by virtue of their unlawful practices, and therefore sues these Defendants by such
16 fictitious names. Plaintiff will amend this complaint to allege the true names and capacities of
17 each DOE Defendants when ascertained.

18 14. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
19 acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint
20 scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants
21 are legally attributable to the other Defendants. Furthermore, Defendants in all respects acted as
22 the employer and/or joint employer of Plaintiff and Class.

23 15. Plaintiff is informed and believes, and based thereon alleges, that each Defendants
24 acted in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy,
25 managing agent, and/or principal of the Defendants, and in performing the actions mentioned
26 below was acting, at least in part, within the course and scope of that authority as such agent,
27 proxy, servant, partner, joint venture, employee, alter-ego, managing agent, and/or principal with
28

1 permission and consent of the Defendants. Plaintiff also alleges the acts of each Defendants are
2 legally attributable to the other Defendants.

3 16. Plaintiff is informed and believes, and based thereon alleges, that each of the
4 Defendants sued herein was, at all times relevant hereto, the employer, owner, shareholder,
5 principal, joint venture, proxy, agent, employee, supervisor, representative, manager, managing
6 agent, joint employer and/or alter-ego of the remaining Defendants, and was acting, at least in
7 part, within the course and scope of such employment and agency, with the express and implied
8 permission, consent, and knowledge, approval and/or ratification of the other Defendants.

9 17. California courts have recognized that the definition of “employer” for purposes
10 of enforcement of the California Labor Code goes beyond the concept of traditional employment
11 to reach irregular working arrangements for the purpose of preventing evasion and subterfuge of
12 California’s labor laws. *Martinez v. Combs* (2010) 49 Cal.4th 35, 65. As such, anyone who
13 directly or indirectly, or through an agent or any other person, engages, suffers, or permits any
14 person to work or exercises control over the wages, hours, or working conditions of any person
15 may be liable for violations of the California Labor Code as to that person.

16 18. California law also permits and recognizes the piercing of a corporate veil between
17 sister companies under the single enterprise rule. *Hasso v. Hapke* (2014) 227 Cal.App.4th 107,
18 155; *Greenspan v. LADT, LLC* (2010) 191 Cal.App.4th 486, 512. The single enterprise rule
19 applies where “there are two or more personalities, there is but one enterprise; and that this
20 enterprise has been so handled that it should respond, as a whole, for the debts of certain
21 component elements of it.” *Hasso*, supra, 227 Cal.App.4th at p. 155; *Greenspan*, supra, 191
22 Cal.App.4th at p. 512.

23 **ADMINISTRATIVE PREREQUISITE**

24 19. On January 30, 2024, prior to filing this complaint, Plaintiff gave written notice
25 by electronically filing the notice with the Labor Workforce Development Agency (“LWDA”)
26 (LWDA Case No. LWDA-1008069-24) and by certified mail to Defendants of the specified
27 provisions alleged to have been violated, including the facts and theories to support the alleged
28 violations as required by Labor Code Section 2699.3.

1 20. A true and correct copy of Plaintiff's letter sent to the LWDA dated January 30,
2 2024, is attached hereto as "**Exhibit A**". As of the filing of this complaint, LWDA has not
3 responded to the written notice.

4 21. Under Labor Code Section 2699.3 subsection (a), a plaintiff may bring a cause
5 of action under PAGA only after giving notice to the Labor Workforce Development Agency
6 ("LWDA") and the employer of the Labor Code Sections alleged to have been violated, and
7 after receiving notice from the LWDA of its intention not to investigate, or after 65 days have
8 passed without notice.

9 22. More than sixty-five (65) days have passed without notice from the LWDA.
10 Accordingly, all administrative prerequisites to filing this First Amended Complaint have been
11 fulfilled.

12 **GENERAL ALLEGATIONS**

13 23. Plaintiff was employed as a bartender/server from approximately May 2017 to
14 December 1, 2023.

15 24. Labor Code Section 1194 provides that notwithstanding any agreement to work
16 for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to
17 recover in a civil action the unpaid balance of his or her overtime compensation, including interest
18 thereon, reasonable attorneys' fees, and costs of suit.

19 25. Labor Code Section 204 requires employers to pay employees all earned wages
20 two times per month on days designated in advance by the employer as regular paydays.
21 Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days,
22 inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the
23 month during which the labor was performed, and labor performed between the 16th and the last
24 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
25 following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall
26 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
27 the wages are paid not more than seven calendar days following the close of the payroll period.
28 Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all

1 meal period premium wages owed, rest period premium wages owed, and wages owed for hours
2 worked. Defendants systematically failed and refused to pay the employees all wages due, and
3 failed to pay those wages twice a month, in that employees were not paid all wages for all meal
4 periods not provided by Defendants, all wages for all rest periods not authorized and permitted
5 by Defendants, and all wages for all hours worked.

6 26. Further, Business and Professions Code Section 17203 provides that any person
7 who engages in unfair competition may be enjoined in any court of competent jurisdiction.
8 Business and Professions Code Section 17204 provides that any person who has suffered actual
9 injury and has lost money or property as a result of the unfair competition may bring an action in
10 a court of competent jurisdiction.

11 27. During all, or a portion of the Class Period, Plaintiff and each member of the Class
12 was employed by Defendants in the State of California.

13 28. Plaintiff and Class Members were non-exempt employees covered under one or
14 more IWC Wage Order(s), and Labor Code Section 510, and/or other applicable Wage Orders,
15 regulations and statutes, and each Class Member was not subject to an exemption for executive,
16 administrative or professional employees, which imposed obligations on the part of Defendants
17 to pay Plaintiff and Class Members lawful overtime compensation.

18 29. Plaintiff and Class were covered by one or more IWC Wage Order(s), and Labor
19 Code Section 226.7 and other applicable Wage Orders, regulations and statutes which imposed
20 an obligation on the part of Defendants to pay Plaintiff and Class rest and meal period
21 compensation.

22 30. During the Class Period, Defendants were obligated to pay Plaintiff and Class
23 Members overtime compensation for all hours worked in excess of eight (8) hours of work in one
24 (1) day or forty (40) hours in one (1) week and double-time compensation for hours worked in
25 excess of twelve (12) in one (1) day. However, often times Plaintiff and Class Members were
26 required to work overtime in excess of eight (8) hours per workday and in excess of forty (40)
27 hours per workweek but were not paid at the proper overtime rate of pay.
28

1 31. During the Class Period, Defendants were obligated to pay Plaintiff and Class
2 Members for all hours worked. Defendants maintained a policy and practice of requiring
3 Plaintiff and Class Members to perform work “off-the-clock”. During the Class Period
4 Defendants regularly required Plaintiff and Class Members to arrive early to stay in line to
5 clock in to work but did not compensate for that time. Plaintiff and Class Members were often
6 times also required to clock out for meal periods but continue working off-the-clock.
7 Additionally, Plaintiff and Class Members were required to check their next shift schedules
8 using an application on their personal cell phones after the scheduled shift hours. In
9 maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate
10 records of the hours Plaintiff and Class Members worked. In doing so, Defendants also failed
11 to maintain accurate records of the hours Plaintiff and Class Members worked.
12

13 32. During the Class Period, Defendants were obligated to provide Plaintiff and Class
14 with a work-free meal period within the first five (5) hours of a shift no later than the start of
15 sixth hour of work in a workday, and to allow employees to take their second 30-minute, duty-
16 free meal period no later than the start of the eleventh hour of work in the workday. Here,
17 Defendants wrongfully failed to provide Plaintiff and Class Members with legally compliant meal
18 periods. Defendants regularly required Plaintiff and Class Members to work in excess of five
19 consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free
20 meal period for every five hours of work, or without compensating Plaintiff and Class Members
21 for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work.
22 Plaintiff and Class Members would often times miss or have late, interrupted or short meal periods
23 because of the lack of coverage by other employees during the meal periods. Plaintiff and Class
24 Members would often times clock out for meal periods but continue working. Accordingly,
25 Defendants’ policy and practice was to not provide meal periods to Plaintiff and Class Members
26 in compliance with California law.

27 33. Additionally, Defendants were obligated to provide Plaintiff and Class Members
28 with a ten (10) minute rest break for every four (4) hours, or major fraction thereof, worked each

1 day. Defendants prevented Plaintiff and Class Members from taking rest breaks throughout their
2 shifts. Defendants, however, wrongfully failed to authorize and permit Plaintiff and Class
3 Members to take timely and duty-free rest periods. Defendants regularly required Plaintiff and
4 Class Members to work in excess of four consecutive hours a day without Defendants authorizing
5 and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four
6 hours of work (or major fraction of four hours), or without compensating Plaintiff and Class
7 Members for rest periods that were not authorized or permitted. Plaintiff and Class Members
8 would often times miss their first and second rest periods or have interrupted or short rest periods.
9 Accordingly, Defendants' policy and practice was for Plaintiff and Class Members to work
10 through rest periods and to not authorize or permit them to take any rest periods.

11 34. Furthermore, Defendants failed and/or refused to pay Plaintiff and Class Members
12 one (1) hour's pay at the employees' regular rate of pay as premium compensation for
13 Defendants' failure to provide lawful thirty (30) minute, off-duty meal periods and failure to
14 provide lawful ten (10) minute rest periods within the statutory time frames.

15 35. Defendants also failed to indemnify Plaintiff and Class Members all necessary
16 expenditures incurred in direct discharge of their duties without reimbursement. During the Class
17 Period, Plaintiff and Class Members were required to use their personal vehicles to drive from
18 Defendants' one worksite to another worksite but were not reimbursed for mileage. Plaintiff and
19 Class Members were also required to use their personal cell phones to download an application
20 on their personal cell phones to check their next shift schedules and to communicate with
21 supervisors regarding schedules and work but were not compensated for that. Plaintiff and Class
22 Members would also use their personal cell phones to look for recipes. Plaintiff and Class
23 Members incurred these substantial expenses as a direct result of performing their job duties for
24 Defendants, and Defendants has failed to indemnify Plaintiff and Class Members for these
25 employment-related expenses.

26 36. Defendants continue to employ non-exempt, hourly-paid employees within
27 California.
28

1 37. Plaintiff and Class Members primarily performed non-exempt work, often in
2 excess of the maximum regular rate hours set forth in the applicable IWC Wage Order(s),
3 regulations or statutes, and therefore entitled the Plaintiff and Class Members to overtime
4 compensation at the rate of one and a half times their regular rate of pay and, when applicable,
5 double time compensation as set forth by the applicable IWC Wage Order(s), regulations and/or
6 statutes.

7 38. During the Class Period, Defendants required Plaintiff and Class Members to work
8 regular hours, off the clock hours, and overtime hours without lawful compensation in violation
9 of the applicable IWC Wage Order(s), regulations and statutes, and Defendants: (1) willfully
10 failed and refused, and continue to fail and refuse to pay compensation for all hours worked,
11 including lawful regular time and overtime compensation, to Class Members; and (2) willfully
12 failed and refused, and continue to fail and refuse to pay due and owing wages promptly upon
13 termination of employment to Plaintiff and affected Class Members.

14 39. Class Members who ended their employment with Defendants during the Class
15 Period but were not paid the above due compensation for all hours worked timely upon the
16 termination of their employment as required by Labor Code Sections 201, 202, and 203 are
17 entitled to penalties as provided by Labor Code Section 203.

18 40. During the Class Period, Defendants failed to furnish Plaintiff and Class Members
19 with accurate, itemized wage statements showing all applicable hourly rates, and all gross and
20 net wages earned (including correct hours worked, correct wages earned for hours worked,
21 correct overtime hours worked, correct wages for meal periods that were not provided in
22 accordance with California law, correct wages for rest periods that were not authorized and
23 permitted to take in accordance with California law). As a result of these violations of
24 California Labor Code § 226(a), Plaintiff and Class Members are owed the amounts provided
25 for in California Labor Code § 226(e), including actual damages.
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27
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(d) All persons who are employed or have been employed by Defendants in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and have not been reimbursed expenditures in discharge of their duties;

(e) All persons who are employed or have been employed by Defendants in the State of California, and who, within the three (3) years of the filing of this Complaint to the present, have worked as non-exempt employees and have been terminated or resigned, and have not been paid wages pursuant to Labor Code Section 203 and are owed restitution and waiting time penalties for unpaid wages;

(f) All persons who are employed or have been employed by Defendants in the State of California, and who, within the one (1) year of the filing of this Complaint to the present have worked as non-exempt employees and were not provided an accurate payroll record or wage statement as required under Labor Code Sections 226 and 1174;

(g) All persons who are employed or have been employed by Defendants in the State of California, and who, within the four (4) years of the filing of this Complaint to the present, have worked as non-exempt employees and were subjected to unlawful and unfair business practices within the meaning of California's Unfair Competition Law and who suffered injury, including lost money, as a result of Defendants' unlawful and unfair business practices.

44. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary to amend the definition of the Class. Plaintiff will formally define and designate a class definition at such time when Plaintiff seeks to certify the Class alleged in this Complaint.

45. This action has been brought and may be maintained as a class action pursuant to Code of Civil Procedure Section 382 because there is a well-defined common interest of many persons and it is impractical to bring them all before the court.

1 46. The Court should permit this action to be maintained as a class action pursuant to
2 Code of Civil Procedure Section 382 because:

- 3 (a) The questions of law and fact common to Class predominate over any
4 question affecting only individual class members;
- 5 (b) A class action is superior to any other available method for the fair and
6 efficient adjudication of the claims of the Class members;
- 7 (c) Class is so numerous that it is impractical to bring all members of the
8 Class before the Court;
- 9 (d) Plaintiff and Class Members will not be able to obtain effective and
10 economic legal redress unless the action is maintained as a class action;
- 11 (e) There is a community of interest in obtaining appropriate legal and
12 equitable relief for the common law and statutory violations and other
13 improprieties and in obtaining adequate compensation for the damages
14 and injuries which Defendants' actions have inflicted upon Class;
- 15 (f) There is a community of interest in ensuring that the combined assets and
16 available insurance of the Defendants are sufficient to adequately
17 compensate Class Members for the injuries sustained;
- 18 (g) Without class certification, the prosecution of separate actions by
19 individual members of the Class would create a risk of:
- 20 (1) Inconsistent or varying adjudications with respect to individual
21 members of the Class which would establish an incompatible
22 standard of conduct for Defendants; and/or
- 23 (2) Adjudications with respect to the individual members which
24 would, as a practical matter, be dispositive of the interests of other
25 members not parties to the adjudications, or would substantially
26 impair or impede their ability to protect their interests, including
27 but not limited to the potential for exhausting the funds available
28 from those parties who are, or may be, responsible Defendants; and

1 (h) Defendants have acted or refused to act on grounds generally applicable
2 to Class, thereby making final injunctive relief appropriate with respect to
3 Class as a whole.

4 47. There is a well-defined community of interest in the litigation and Class is
5 readily ascertainable:

- 6 (a) Numerosity: The members of Class (and each subclass, if any) are so
7 numerous that joinder of all members would be unfeasible and impractical.
8 The membership of the entire Class is unknown to Plaintiff at this time,
9 however, the Class is estimated to be greater than 100 individuals and the
10 identity of such membership is readily ascertainable by inspection of
11 Defendants' records.
- 12 (b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the
13 interests of each Class Member with whom there is a shared, well-defined
14 community of interest, and Plaintiff's claims (or defenses, if any) are typical
15 of all Class Members' claims as demonstrated herein.
- 16 (c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately protect
17 the interests of each Class Member with whom there is a shared, well-
18 defined community of interest and typicality of claims, as demonstrated
19 herein. Plaintiff has no conflicts with or interests antagonistic to any Class
20 Member. Plaintiff's attorneys, the proposed class counsel, are versed in the
21 rules governing class action discovery, certification, and settlement.
22 Plaintiff has incurred, and throughout the duration of this action, will
23 continue to incur costs and attorneys' fees that have been, are, and will be
24 necessarily expended for the prosecution of this action for the substantial
25 benefit of each class member.
- 26 (d) Superiority: A Class Action is superior to other available methods for the
27
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1 fair and efficient adjudication of the controversy, including consideration of:

- 2 1. The interests of the members of the Class in individually
- 3 controlling the prosecution or defense of separate actions;
- 4 2. The extent and nature of any litigation concerning the
- 5 controversy already commenced by or against members of the
- 6 Class;
- 7 3. The desirability or undesirability of concentrating the
- 8 litigation of the claims in the particular forum; and
- 9 4. The difficulties likely to be encountered in the management of
- 10 a class action.

11 (e) Public Policy Considerations: The public policy of the State of California is
 12 to resolve the California Labor Code claims of many employees through a
 13 class action. Indeed, current employees are often afraid to assert their rights
 14 out of fear of direct or indirect retaliation. Former employees are also
 15 fearful of bringing actions because they believe their former employers
 16 might damage their future endeavors through negative references and/or
 17 other means. Class actions provide the class members who are not named in
 18 the complaint with a type of anonymity that allows for the vindication of
 19 their rights at the same time as their privacy is protected.
 20

21 48. Plaintiff contemplates the eventual issuance of notice to the proposed members of
 22 the Class that would set forth the subject and nature of the instant action. Defendants' own
 23 business records may be utilized for assistance in the preparation and issuance of the
 24 contemplated notices. To the extent that any further notices may be required, Plaintiff would
 25 contemplate the use of additional techniques and forms commonly used in class actions, such as
 26 published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by
 27 other methods suitable to Class and deemed necessary and/or appropriate by the Court.

28 ///

FIRST CAUSE OF ACTION

**Failure to Pay All Wages for All Hours Worked and Sick Pay
(Against Defendants, DOES 1 through 50, and each of them)**

49. Plaintiff and Class Members re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

50. Labor Code Section 510, subdivision (a) states in pertinent part: “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for any employee.”

51. Labor Code Section 1194, subdivision (a) states: “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.”

52. Further, pursuant to Labor Code Section 1197, payment of less than the minimum wage fixed by the Labor Commission is unlawful.

53. Pursuant to Labor Code Section 1198, it is unlawful to employ persons for longer than the hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage Order(s).

54. Pursuant to the IWC Wage Order(s), Defendants is required to pay Plaintiff and Class Members for all hours worked, meaning the time during which an employee is subject to the control of an employer, including all the time the employee is suffered or permitted to work, whether or not required to do so.

55. Labor Code Section 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as regular paydays. Pursuant to Labor Code Section 204 (a) labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last

1 day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the
2 following month. Pursuant to Labor Code Section 204 (d) the requirements of this Section shall
3 be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if
4 the wages are paid not more than seven calendar days following the close of the payroll period.
5 Plaintiff and Class were also entitled to be paid twice a month at their regular rates, including all
6 meal period premium wages owed, rest period premium wages owed, and wages owed for hours
7 worked. However, during Class period, Defendants systematically failed and refused to pay the
8 employees all wages due, and failed to pay those wages twice a month, in that employees were
9 not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods
10 not authorized and permitted by Defendants, and all wages for all hours worked.

11 56. During the Class Period, Defendants were obligated to pay Plaintiff and Class
12 Members for all hours worked. During the Class Period Defendants regularly required Plaintiff
13 and Class Members to arrive early to stay in line to clock in to work but did not compensate for
14 that time. Plaintiff and Class Members were often times also required to clock out for meal periods
15 but continue working off-the-clock. Additionally, Plaintiff and Class Members were required to
16 check their next shift schedules using an application on their personal cell phones after the
17 scheduled shift hours. In maintaining a practice of not paying all wages owed, Defendants failed
18 to maintain accurate records of the hours Plaintiff and Class Members worked. In doing so,
19 Defendants also failed to maintain accurate records of the hours Plaintiff and Class Members
20 worked.

21 57. Plaintiff and Class Members were required to work overtime in excess of eight (8)
22 hours per workday and in excess of forty (40) hours per workweek but were not paid at the proper
23 overtime rate of pay.

24 58. Defendants' pattern, practice and uniform administration of corporate policy
25 regarding illegal employee compensation as described herein is unlawful and creates an
26 entitlement, pursuant to Labor Code Section 218, to recovery by Plaintiff and the members of the
27 Class, in a civil action, of the unpaid balance of the full amount of wages owing, calculated at the
28 appropriate rate.

59. Pursuant to Labor Code Section 1194.2(a) (which provides that in any action under Labor Code § 1194, an employee shall be entitled to recover liquidated damages), the members of Class seek recovery of liquidated damages on the straight-time portion of uncompensated hours of work (not including the overtime portion thereof) in an amount equal to the wages unlawfully unpaid and interest thereon.

60. That calculation of individual damages for Class Members may at some point be required does not foreclose the possibility of taking common evidence on questions regarding their entitlement to overtime compensation. *Collins v. Rocha* (1972) 7 Cal.3d 232; *Hypolite v. Carleson* (1975) 52 Cal.App.3d 566; *Employment Development Dept. v. Superior Court* (1981) 30 Cal.3d 256).

61. Pursuant to Labor Code Sections 218.6 and 1194(a) and Civil Code Section 3287, Class Members seek recovery of pre-judgment interest on all amounts recovered herein.

62. Pursuant to Labor Code Sections 218.5 and/or 1194, Class Members request that the Court award reasonable attorneys' fees and costs incurred by them in this action.

SECOND CAUSE OF ACTION

Failure to Provide Meal Periods or Compensation in Lieu Thereof

(Against Defendants, DOES 1 through 50, and each of them)

63. Plaintiff and Class Members re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

64. Labor Code Sections 226.7 and 512 provide that no employer shall employ any person for a work period of more than five (5) hours without providing a meal period of not less than thirty (30) minutes within the fifth (5th) hour of work, or employ any person for a work period of more than ten (10) hours without a second (2nd) meal period of not less than thirty (30) minutes.

65. Labor Code Section 226.7 provides that if an employer fails to provide an employee a meal period in accordance with this Section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided in accordance with this Section.

66. Defendants failed to schedule Plaintiff and Class Members in a manner as to reasonably ensure that Plaintiff and Class Members could take such meal periods within the statutory timeframe. As a result, Plaintiff and Class were often forced to forego their meal periods, work during their meal periods and/or take meal periods after the fifth (5th) hour of their shifts. In so doing, Defendants has intentionally and improperly denied meal periods to Plaintiff and Class Members in violation of Labor Code Sections 226.7 and 512, and other regulations and statutes.

67. At all times relevant hereto, Plaintiff and Class have worked more than five (5) hours in a workday.

68. By virtue of Defendants' failure to schedule Plaintiff and Class Members in such a way as to provide a timely and/or work free meal period to Plaintiff and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer, damages in an amount which is presently unknown, but which exceed the jurisdictional limits of this Court and which will be ascertained according to proof at trial.

69. Plaintiff, individually and on behalf of Class Members, requests recovery of meal period compensation pursuant to Labor Code Section 226.7 for the four (4) years prior to filing this complaint, as well as the assessment of any statutory penalties against Defendants in a sum as provided by the Labor Code and/or other statutes.

THIRD CAUSE OF ACTION

Failure to Provide Rest Periods or Compensation in Lieu Thereof

(Against Defendants, DOES 1 through 50, and each of them)

70. Plaintiff and Class Members re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

71. The IWC Wage Orders and Labor Code Section 226.7 provides that employers must authorize and permit all employees to take rest periods at the rate of ten (10) minutes rest time per four (4) work hours or major fraction thereof.

72. Labor Code Section 226.7, subdivision (b) provides that if an employer fails to provide an employee rest period in accordance with this Section, the employer shall pay the

1 employee one (1) hour of pay at the employee's regular rate of compensation for each workday
2 that the rest period is not provided.

3 73. Defendants failed and/or refused to implement a policy by which Plaintiff and
4 Class Members could receive rest periods and/or work free rest periods. By and through its
5 actions, Defendants intentionally and improperly denied rest periods to Plaintiff and Class
6 Members in violation of Labor Code Sections 226.7 and 512.

7 74. At all times relevant hereto, Plaintiff and Class have worked more than four (4)
8 hours in a workday.

9 75. By virtue of the Defendants' unlawful failure to provide rest periods to Plaintiff
10 and Class Members, Plaintiff and Class Members have suffered, and will continue to suffer,
11 damages, in amounts which are presently unknown, but which exceed the jurisdictional limits of
12 this Court and which will be ascertained according to proof at trial.

13 76. Plaintiff, individually and on behalf of employees similarly situated, requests
14 recovery of rest period compensation pursuant to Labor Code Section 226.7 for the four (4) years
15 prior to filing this Complaint, as well as the assessment of any statutory penalties against
16 Defendants, and each of them, in a sum as provided by the Labor Code and/or any other statute.

17 **FOURTH CAUSE OF ACTION**

18 **Failure to Provide Accurate Itemized Wage Statements**

19 **(Against Defendants, DOES 1 through 50, and each of them)**

20 77. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs
21 of this complaint as though fully set forth herein.

22 78. Labor Code Section 1174, subdivision (d) requires an employer to keep at a central
23 location in California, or at the plant or establishment at which the employee is employed, payroll
24 records showing the hours worked daily by, and the wages paid to, each employee.

25 79. Labor Code Section 226, subdivision (a) requires an employer to provide
26 employees—either as a detachable part of the check, draft, or voucher paying the employee's
27 wages, or separately when wages are paid by personal check or cash—an accurate itemized wage
28 statement in writing showing

(1) gross wages earned, (2) total hours worked by the employee . . . , (4) all deductions . . . , (5) net wages, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . , and (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee

80. Moreover, the IWC Wage Orders require that every employer shall keep accurate information with respect to each employee, including time records showing when each employee begins and ends each work period, when each employee takes a meal period, the total daily hours worked by each employee and the total hours worked in each payroll period, and applicable rates of pay.

81. Plaintiff is informed and believes that Defendants willfully and intentionally failed to make and/or keep records which accurately reflect the hours worked by Plaintiff and Class. Specifically, Plaintiff believes that Defendants' records do not accurately reflect when Plaintiff and Class worked during their meal and rest periods and/or took untimely meal periods or worked for hours not paid.

82. Labor Code Section 226, subdivision (e) provides that if an employer knowingly and intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned, the total hours worked by the employee, causing the employee injury, then the employee is entitled to recover the greater of all actual damages or fifty dollars (\$50.00) for the initial violation and one hundred dollars (\$100.00) for each subsequent violation, up to four thousand dollars (\$4,000.00). Plaintiff is informed and believes that Defendants willfully failed to make or keep accurate records for Plaintiff and Class.

83. Plaintiff is informed and believes that Defendants' failure to keep accurate payroll records, as described above, violated Labor Code Section 1174, subdivision (d) and Section 226, subdivision (a), and the applicable IWC Wage Order(s). Pursuant to Labor Code Section 2699,

subdivision (f)(2), Plaintiff and Class are entitled to penalties of \$100.00 and for the initial violation and \$200.00 for each subsequent violation for every pay period during which these records and information were not kept by Defendants.

84. Plaintiff is informed and believes that Defendants' failure to keep and maintain accurate records and information, as described above, was willful, and Plaintiff and Class are entitled to statutory penalties pursuant to Labor Code Section 1174.5.

FIFTH CAUSE OF ACTION

Failure to Pay Wages upon Termination of Employment

(Against Defendants, DOES 1 through 50, and each of them)

85. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

86. Plaintiff and certain Class Members who ended their employment with Defendants during the Class Period, were entitled to be promptly paid for all hours worked, including lawful regular time compensation, overtime compensation, double-time compensation, and other premiums, as required by Labor Code Sections 201 through 203. They are also entitled to meal period and rest period premium pay in accordance with Labor Code Sections 226 and 226.7.

87. Plaintiff and Class Members were not compensated for their unlawful and/or missed meal periods and/or rest periods, and were not paid proper regular time compensation, overtime compensation or double-time compensation in accordance with law.

88. To date, Class Members who ended their employment with Defendants during the Class Period have not been compensated for all hours worked.

89. Plaintiff and Class Members seek the payment of penalties pursuant to Labor Code Section 203, according to proof.

90. Plaintiff is also entitled to attorneys' fees and costs, pursuant to Labor Code Section 1194, and prejudgment interest.

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SIXTH CAUSE OF ACTION

Failure to Reimburse for Necessary Business Expenditures

(Against Defendants, DOES 1 through 50, and each of them)

91. Plaintiff and Class re-allege and incorporate by reference all the above paragraphs of this complaint as if fully alleged herein.

92. California Labor Code §2802, states "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties."

93. Plaintiff and Class incurred expenses as a direct result of performing their job duties for Defendants, and Defendants has failed to indemnify Plaintiff and Class for these employment-related expenses.

94. Defendants knowingly, willingly and intentionally attempted to offset the cost of doing business on the Plaintiff and Class.

95. Defendants had a corporate practice and policy of requiring Plaintiff and Class to shoulder the burden of Defendants' cost of doing business by failing to reimburse Plaintiff and Class for necessary expenditures.

96. Accordingly, Plaintiff and Class are entitled to an award of "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees and interest.

SEVENTH CAUSE OF ACTION

Unfair Business Practices

(Against Defendants, DOES 1 through 50, and each of them)

97. Plaintiff and Class re-allege and incorporate by reference all preceding paragraphs of this complaint as though fully set forth herein.

98. Business and Professions Code Section 17200 et seq. (also referred to herein as the "Unfair Business Practices Act" or "Unfair Competition Law") prohibits unfair competition in the form of any unlawful, unfair or fraudulent business act or practice.

1 99. Business and Professions Code Section 17204 allows “a person who has suffered
2 injury in fact and has lost money or property as a result of the unfair competition” to prosecute a
3 civil action for violation of the Unfair Competition Law (“UCL”).

4 100. Labor Code Section 90.5, subdivision (a) states that it is the public policy of
5 California to vigorously enforce minimum labor standards in order to ensure employees are not
6 required to work under substandard and unlawful conditions, and to protect employers who
7 comply with the law from those who attempt to gain competitive advantage at the expense of their
8 workers by failing to comply with minimum labor standards.

9 101. Beginning at an exact date unknown to Plaintiff, but at least since the date four (4)
10 years prior to the filing of this lawsuit, Defendants has committed acts of unfair competition as
11 defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent
12 business practices and acts described in this Complaint including but not limited to violations of
13 Labor Code Sections 201-204, 226, 226.7, 510, 558, 1174.5, 1197.1, 2802, 2699(f)(2) as well as
14 other statutes.

15 102. The violations of these laws and regulations, as well as of the fundamental
16 California public policies protecting workers, serve as unlawful predicate acts and practices for
17 purposes of Business and Professions Code Section 17200 et seq.

18 103. The acts and practices described above constitute unfair, unlawful and fraudulent
19 business practices, and unfair competition, within the meaning of Business and Professions Code
20 Section 17200 et seq. Among other things, the acts and practices have forced Plaintiff and other
21 similarly situated employees to labor for many consecutive hours without receiving the meal and
22 rest periods and overtime compensation to which they are entitled by law, while enabling
23 Defendants to gain an unfair competitive advantage over law-abiding employers and competitors.

24 104. As a result of Defendants’ acts, Plaintiff and Class Members have suffered injury
25 in fact in being denied their statutorily entitled meal and rest periods and full compensation for
26 hours worked.

27 105. As a direct and proximate result of the aforementioned acts and practices, Plaintiff
28 and Class have suffered lost wages in an amount to be proven at trial.

1 106. Business and Professions Code Section 17203 provides that a court may make
2 such orders or judgments as may be necessary to prevent the use or employment by any person
3 of any practice which constitutes unfair competition. Injunctive relief is necessary and
4 appropriate to prevent Defendants from repeating its unlawful, unfair and fraudulent business acts
5 and business practices alleged above.

6 107. Business and Professions Code Section 17203 provides that the Court may restore
7 to any person in interest any money or property that may have been acquired by means of such
8 unfair competition. Plaintiff and Class are entitled to restitution pursuant to Business and
9 Professions Code Section 17203 for all wages and payments unlawfully withheld from
10 employees, including the fair value of the meal and rest periods taken away from them during the
11 four-year period prior to the filing of this Complaint, as well as for all expenses or losses incurred
12 by Plaintiff and Class in direct consequence of the discharge of his or her duties, or of his or her
13 obedience to the directions of the employer.

14 108. Business and Professions Code Section 17202 provides, “Notwithstanding Section
15 3369 of the Civil Code, specific or preventative relief may be granted to enforce a penalty,
16 forfeiture, or penal law in a case of unfair competition.” Plaintiff and Class are entitled to enforce
17 all applicable penalty provisions of the Labor Code pursuant to Business and Professions Code
18 Section 17202.

19 109. Plaintiff’s success in this action will enforce important rights affecting public
20 interest, and in that regard, Plaintiff sues on behalf of the general public, as well as herself and
21 other similarly situated employees. Plaintiff and Class seek and are entitled to restitution, civil
22 penalties, declaratory and injunctive relief, and all other equitable remedies owing them.

23 110. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.
24 There is a financial burden involved in pursuing this action. The action is seeking to vindicate a
25 public right, and it would be against the interests of justice to penalize Plaintiff by forcing her to
26 pay attorneys’ fees from the recovery in this action. Attorneys’ fees are appropriate pursuant to
27 Code of Civil Procedure Section 1021.5 and otherwise.

28 ///

EIGHTH CAUSE OF ACTION

**Violation of California Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.*
(Against Defendants, DOES 1 through 50, and each of them)**

111. Plaintiff re-alleges and incorporates by reference all preceding paragraphs herein, as if fully alleged herein.

112. Plaintiff seeks recovery of penalties under the Labor Code Private Attorney General Act of 2004 (“PAGA.”) (Labor Code sections 2698 *et seq.*)

113. PAGA permits an “aggrieved employee” to recover penalties on behalf of himself/herself and other employees subject to violations of the Labor Code, including violations of sections 201-204, 226, 226.7, 227.3, 510, 512, 1174, 1194, and 2802, as well as the applicable Wage Order.

114. Plaintiff is informed and believes Defendants at all relevant times employed one or more employees.

115. For those code sections that provide for the recovery of civil penalties, Plaintiff will seek on behalf of all aggrieved employees those penalties. For those sections of the Labor Code that do not specifically provide for civil penalties, Plaintiff will seek civil penalties of one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation pursuant to Labor Code section 2699, subdivision (f).

116. Section 2699, subdivision (a) provides that civil penalties may be “recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.” (Code Civ. Proc., § 2699, subd. (a).) Section 2699, subdivision (g), provides that an employee who prevails in a civil action under section 2699 shall be entitled to an award of reasonable attorneys’ fees and costs.

117. The State of California, Plaintiff and aggrieved employees are, therefore, entitled to civil penalties, attorneys’ fees and costs, according to proof.

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PRAYER FOR RELIEF

Plaintiff, individually, and on behalf of all others similarly situated only with respect to the class claims, prays for relief and judgment against Defendants as follows:

Class Certification

1. That this action be certified as a class action with respect to the First, Second, Third, Fourth, Fifth, Sixth and Seventh Causes of Action;

2. That Plaintiff be appointed as the representative of the Class; and

3. That counsel for Plaintiff be appointed as Class Counsel.

As to the First Cause of Action

4. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 204, 510, 1194, 1198 and applicable IWC Wage Orders by willfully failing to pay all wages due;

5. For general unpaid wages as may be appropriate;

6. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

7. For liquidated damages;

8. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and,

9. For such other and further relief as the Court may deem equitable and appropriate.

As to the Second Cause of Action

10. That the Court declare, adjudge and decree that Defendants violated California Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

11. For unpaid meal period premium wages as may be appropriate;

12. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due;

1 13. For reasonable attorneys' fees under California Code of Civil Procedure §
2 1021.5, and for costs of suit incurred herein; and

3 14. For such other and further relief as the Court may deem equitable and
4 appropriate.

5 As to the Third Cause of Action

6 15. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code §§ 226.7 and 512, and the IWC Wage Orders;

8 16. For unpaid rest period premium wages as may be appropriate;

9 17. For pre-judgment interest on any unpaid compensation commencing from the
10 date such amounts were due;

11 18. For reasonable attorneys' fees under California Code of Civil Procedure §
12 1021.5, and for costs of suit incurred herein; and

13 19. For such other and further relief as the Court may deem equitable and
14 appropriate.

15 As to the Fourth Cause of Action

16 20. That the Court declare, adjudge and decree that Defendants violated the record
17 keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders,
18 and willfully failed to provide accurate itemized wage statements thereto;

19 21. For penalties and actual damages pursuant to California Labor Code § 226(e);

20 22. For injunctive relief to ensure compliance with this Section, pursuant to
21 California Labor Code § 226(h);

22 23. For reasonable attorneys' fees and for costs of suit incurred herein; and

23 24. For such other and further relief as the Court may deem equitable and
24 appropriate.

25 As to the Fifth Cause of Action

1 25. That the Court declare, adjudge and decree that Defendants violated California
2 Labor Code §§ 201, 202, 203 by willfully failing to pay all compensation owed at the time
3 of termination of the employment;

4 26. For statutory wage penalties pursuant to California Labor Code § 203 for former
5 employees who have left Defendants' employ;

6 27. For pre-judgment interest on any unpaid wages from the date such amounts were
7 due;

8 28. For reasonable attorneys' fees and for costs of suit incurred herein; and

9 29. For such other and further relief as the Court may deem equitable and
10 appropriate.

11 As to the Sixth Cause of Action

12 30. That the Court declare, adjudge and decree that Defendants violated Labor Code
13 § 2802 and the IWC Wage Orders;

14 31. For general unpaid wages and reimbursement of business expenses as may be
15 appropriate;

16 32. For pre-judgment interest on any unpaid compensation commencing from the
17 date such amounts were due;

18 33. For reasonable attorneys' fees and for costs of suit incurred herein; and

19 34. For such other and further relief as the Court may deem equitable and
20 appropriate.
21

22 As to the Seventh Cause of Action

23 35. That the Court declare, adjudge and decree that Defendants violated California
24 Business & Professions Code §§ 17200, *et seq.* by failing to pay wages for all hours worked,
25 failing to provide meal periods, failing to maintain accurate records of meal periods, failing
26 to authorize and permit rest periods, and failing to maintain accurate records of all hours
27
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1 worked and meal periods, failing to furnish accurate wage statements, and failing to
2 indemnify necessary business expenses;

3 36. For restitution of unpaid wages to Plaintiff and all Class Members and
4 prejudgment interest from the day such amounts were due and payable;

5 37. For the appointment of a receiver to receive, manage and distribute any and all
6 funds disgorged from Defendants and determined to have been wrongfully acquired by
7 Defendants as a result of violations of California Business & Professions Code §§ 17200 *et*
8 *seq.*;

9 38. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
10 California Code of Civil Procedure § 1021.5;

11 39. For injunctive relief to ensure compliance with this Section, pursuant to
12 California Business & Professions Code §§ 17200, *et seq.*; and,

13 40. For such other and further relief as the Court may deem equitable and
14 appropriate.
15

16 As to the Eighth Cause of Action

17 41. That the Court declare, adjudge and decree that Defendants violated the
18 California Labor Code by failing to pay wages for all hours worked, failing to provide meal
19 periods, failing to maintain accurate records of meal periods, failing to authorize and permit
20 rest periods, failing to maintain accurate records of all hours worked and meal periods,
21 failing to indemnify necessary business expenses, failing to pay final wages at termination,
22 and failing to furnish accurate wage statements;

23 42. For all civil penalties pursuant to California Labor Code § 2699, *et seq.*, and all
24 other applicable Labor Code provisions;

25 43. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
26 California Labor Code § 2699;
27
28

1 44. For such other and further relief as the Court may deem equitable and
2 appropriate.

3 As to all Causes of Action

4 45. For any additional relief that the Court deems just and proper.

5
6 Dated: May 1, 2024

TUNYAN LAW, APC

7
8 A handwritten signature in blue ink, appearing to read 'L. Tunyan', is written over a horizontal line.

9
10 Lilit Tunyan
Artur Tunyan

11 Attorneys for Plaintiff KIMBERLY M. WILHELM
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DEMAND FOR JURY TRIAL

Plaintiff KIMBERLY M. WILHELM hereby demands a jury trial on all issues so triable.

Dated: May 1, 2024

TUNYAN LAW, PAC



Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff KIMBERLY M.
WILHELM

Exhibit “A”



535 N Brand Blvd. Suite 285
Glendale, CA 91203
Tel: (323) 410-5050
ltunyan@tunyanlaw.com

January 30, 2024

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
PAGAFilings@dir.ca.gov

VIA CERTIFIED MAIL

Return Receipt Requested

Kemper Sports Management, LLC
Kemper Sports Management Holdings, LLC
500 Skokie Boulevard, Suite 444
Northbrook, IL 60062

VIA CERTIFIED MAIL

Return Receipt Requested

Agent for Service of Process for
Kemper Sports Management, LLC
Kemper Sports Management Holdings, LLC
CSC-Lawyers Incorporating Service
Registered Corporate 1505 Agent
2710 Gateway Oaks Drive, Suite 150N
Sacramento, California 95833-3505

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 ET SEQ.**

Re: Wilhelm v. Kemper Sports Management, LLC, et al.

To Whom It May Concern:

Please be advised that The Sentinel Firm, APC has been retained by Kimberly M. Wilhelm ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against her former employers Kemper Sports Management, LLC and Kemper Sports Management Holdings, LLC ("Defendants"). Pursuant to the joint prosecution and fee sharing agreement entered between Tunyan Law, APC and The Sentinel

Firm, APC and Plaintiff's written consent to joint prosecution and fee sharing agreement, Tunyan Law, APC and The Sentinel Firm, APC will be jointly prosecuting Plaintiff's action against Defendants. The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which Plaintiff alleges Defendants engaged in with respect to Plaintiff and all of Defendants' aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of herself as an aggrieved employee, on behalf of the State of California, and on behalf of all other current and former aggrieved employees who worked for Defendants in California as an hourly paid, non-exempt employee at any time within the applicable statutory period ("the Aggrieved Employees").

Plaintiff and the Aggrieved Employees of Defendants suffered the Labor Code violations described below.

Factual Background Regarding Plaintiff's Employment with Defendants

Defendants own and operate an industry, business, and establishment within the State of California, including Orange County. As such, Defendants are subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendants as a bartender/server from approximately May 2017 to December 1, 2023, primarily in Orange County. Defendants classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendants, Plaintiff typically worked 5 days per week and over 8 hours each workday.

Throughout Plaintiff's employment, Defendants committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative.

Failure to Pay for All Hours Worked, Including Overtime

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

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight (8) hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the

employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory time period, Defendants maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked. Defendants maintained a policy and practice of requiring Plaintiff and the Aggrieved Employees to perform work “off-the-clock”. During the statutory period Defendants regularly required Plaintiff and the Aggrieved Employees to arrive early to stay in line to clock in to work but did not compensate for that time. Plaintiff and the Aggrieved Employees were often times also required to clock out for meal periods but continue working off-the-clock. Additionally, Plaintiff and the Aggrieved Employees were required to check their next shift schedules using an application on their personal cell phones after the scheduled shift hours. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked. In doing so, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including overtime.

Failure to Provide Meal Periods

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

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Plaintiff and the Aggrieved Employees would often times miss or have late, interrupted or short meal periods because of the lack of coverage by other employees during the meal periods. Plaintiff and the Aggrieved Employees would often times clock out for meal periods but continue working. Accordingly, Defendants’ policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with all required meal period(s). Defendants,

however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of 10 uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is 6 hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Defendants, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Plaintiff and the Aggrieved Employees would often times miss their first and second rest periods or have interrupted or short rest periods. Accordingly, Defendants' policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 558, and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

Failure to Maintain Accurate Records of Hours Worked

Plaintiff seeks penalties under Labor Code § 1174(d). Pursuant to Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records

showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

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

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

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 1174.5 for failing to maintain accurate records of hours worked and meal periods.

Failure to Reimburse and Indemnify Expenses

California Labor Code § 2802 requires employers to reimburse employees for their necessary expenditures and losses incurred as a direct consequence of the discharge of their duties or of their obedience to the directions of the employer.

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. Plaintiff and the Aggrieved Employees were required to use their personal vehicles to drive from Defendants' one worksite to another worksite but were not reimbursed for mileage. Plaintiff and the Aggrieved Employees were also required to use their personal cell phones to download an application on their personal cell phones to check their next shift schedules and to communicate with supervisors regarding schedules and work but were not compensated for that. Plaintiff and the Aggrieved Employees would also use their personal cell phones to look for recipes. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendants, and Defendants has failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

Failure to Timely Pay All Wages at Termination

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

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

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

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

hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. Lab. Code § 226(e)(2)(B)(iii).

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

Defendants intentionally and willfully failed to provide employees with complete and accurate wage statements. The deficiencies include, among other things, the failure to correctly list gross wages earned, the failure to list the true net wages earned, including wages for meal periods that were not provided in accordance with California law, wages for rest periods that were not authorized and permitted to take in accordance with California law, and correct wages earned for all hours worked.

As a result of Defendants violating Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding \$4,000 dollars per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. Lab. Code § 204(a). The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period. Lab. Code § 204(d).

Throughout the statute of limitations period applicable to this cause of action, employees were also entitled to be paid twice a month at their regular rates, including all meal period premium

wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendants systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

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

Action for Civil Penalties Under PAGA

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

1. Labor Code § 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum wages, straight time wages and overtime wages;
2. Labor Code § 226.7, 512 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
5. Labor Code § 2802 by failing to reimburse and indemnify employees for expenses and losses in the direct consequence and discharge of their duties;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements;
8. Labor Code § 204 by failing to pay all earned wages two times per month.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 558, 1174.5, 1197.1, 2802, 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence to its corporate address and address of the agent for service as indicated on the first page.

The facts and claims contained herein are based on the information available at the time of this writing. Therefore, if through discovery and/or expert review, Plaintiff becomes aware of

additional compensation owed or losses incurred by Plaintiff or by any other aggrieved employee of Defendants or any additional facts, Plaintiff expressly reserves the right to revise these facts and/or add any new claims by amending the claim letter or by adding applicable causes of action to the complaint which will relate back to the date of this letter.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Lilit Tunyan, Esq.
TUNYAN LAW, APC

From: noreply@salesforce.com on behalf of [LWDA DO NOT REPLY](#)
To: ltunyan@tunyanlaw.com
Subject: Thank you for submission of your PAGA Case.
Date: Tuesday, January 30, 2024 9:20:23 AM

1/30/2024

LWDA Case No. LWDA-CM-1008069-24
Law Firm : Tunyan Law, APC
Plaintiff Name : Kimberly M. Wilhelm
Employer: Kemper Sports Management, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

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

USPS TRACKING#

9590 9402 8114 2349 9463 97

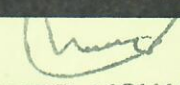
United States Postal Service

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box®

TUNYAN LAW, APC
535 N. Brand Blvd. STE 285
Glendale, CA 91203

TUNYAN LAW

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
■ Complete items 1 and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature  ☐ Agent X ☒ Addressee B. Received by (Printed Name) SHAMEEL MOHAMMED C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No
1. Article Address SCS-LAW INCORPORATING SERVICE REGISTERED CORPORATE 1505 AGENT AGENT SERVICE OF PROCESS FOR KEMPER SPORTS MANAGEMENT, LLC KEMPER SPORTS MANAGEMENT HOLDING, LLC 2710 GATEWAY OAKS DRIVE, SUITE 150N SACRAMENTO, CA 95833-3505 9590 9402 8114 2349 9463 97	3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Certified Mail Restricted Delivery ☐ Collect on Delivery ☐ Collect on Delivery Restricted Delivery ☐ Priority Mail Express® ☐ Registered Mail™ ☐ Registered Mail Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
2. Article Number (Transfer from service label) 9589 0710 5270 0112 6459 74	Mail Restricted Delivery (00)

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING#  9590 9402 8114 2349 9463 42		First-Class Mail Postage & Fees Paid USPS Permit No. G-10
United States Postal Service • Sender: Please print your name, address, and ZIP+4® in this box•  TUNYAN LAW, APC 535 N. Brand Blvd. STE 285 Glendale, CA 91203		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY																
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: KEMPER SPORTS MANAGEMENT, LLC KEMPER SPORTS MANAGEMENT HOLDING, LLC 500 SKOKIE BLVD, SUITE 444 NORTHBROOK, IL 60062  9590 9402 8114 2349 9463 42 2. Article Number (Transfer from service label) 9589 0710 5270 0112 6459 67	A. Signature ☒ <i>T. Tunyan</i> ☐ Agent ☐ Addressee B. Received by (Printed Name) C. Date of Delivery <i>T. Tunyan</i> 2/5/24 D. Is delivery address different from item 1? ☐ Yes If YES, enter delivery address below: ☐ No 3. Service Type <table style="width: 100%;"> <tr> <td>☐ Adult Signature</td> <td>☐ Priority Mail Express®</td> </tr> <tr> <td>☐ Adult Signature Restricted Delivery</td> <td>☐ Registered Mail™</td> </tr> <tr> <td>☐ Certified Mail®</td> <td>☐ Registered Mail Restricted Delivery</td> </tr> <tr> <td>☐ Certified Mail Restricted Delivery</td> <td>☐ Signature Confirmation™</td> </tr> <tr> <td>☐ Collect on Delivery</td> <td>☐ Signature Confirmation Restricted Delivery</td> </tr> <tr> <td>☐ Collect on Delivery Restricted Delivery</td> <td></td> </tr> <tr> <td>☐ Insured Mail</td> <td></td> </tr> <tr> <td>☐ Mail Restricted Delivery</td> <td></td> </tr> </table>	☐ Adult Signature	☐ Priority Mail Express®	☐ Adult Signature Restricted Delivery	☐ Registered Mail™	☐ Certified Mail®	☐ Registered Mail Restricted Delivery	☐ Certified Mail Restricted Delivery	☐ Signature Confirmation™	☐ Collect on Delivery	☐ Signature Confirmation Restricted Delivery	☐ Collect on Delivery Restricted Delivery		☐ Insured Mail		☐ Mail Restricted Delivery	
☐ Adult Signature	☐ Priority Mail Express®																
☐ Adult Signature Restricted Delivery	☐ Registered Mail™																
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☐ Mail Restricted Delivery																	

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

Exhibit “5”

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

KIMBERLY M. WILHELM, as an individual
and on behalf of all employees similarly situated,

Plaintiff,

v.

KEMPER SPORTS MANAGEMENT, LLC, a
Delaware Limited Liability Company; KEMPER
SPORTS MANAGEMENT HOLDINGS, LLC,
a Delaware Limited Liability Company, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2024-01376524-CU-OE-CXC

[Assigned for all purposes to Hon. David A.
Hoffer, Randall J. Sherman, Dept. CX1035]

**AMENDED [PROPOSED] ORDER
GRANTING PRELIMINARY APPROVAL
OF CLASS AND PAGA REPRESENTATIVE
ACTION SETTLEMENT**

Action Filed: January 30, 2024
Trial: Not Set

Plaintiff KIMBERLY M. WILHELM (“Plaintiff”) and Defendants KEMPER SPORTS MANAGEMENT, LLC and KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“Defendants”) have reached terms of settlement for a putative class and PAGA representative action.

Plaintiff has filed a motion for preliminary approval of a class and PAGA representative action settlement of the claims asserted against Defendants in this action, memorialized in the JOINT STIPULATION OF CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT attached as Exhibit 1 to the Declaration of Lilit Tunyan filed concurrently with Motion for Preliminary Approval of Class and PAGA Representative Action Settlement and referred to herein as the “Agreement” or “Settlement”.

After reviewing the Agreement, the Notice process, and other related documents, and having heard the argument of Counsel for respective parties, **IT IS HEREBY ORDERED AS FOLLOWS:**

1. The Court preliminarily finds that the terms of the proposed class action Settlement are fair, reasonable, adequate and in the best interests of the class members.

2. The parties’ Settlement is granted preliminary approval as it meets the criteria for preliminary settlement approval. The Settlement Class meets the requirements for conditional certification for settlement purposes only under Code of Civil Procedure § 382. The Court finds that it is appropriate to notify the members of the proposed settlement Class of the terms of the proposed settlement.

3. The Court preliminarily finds that the parties’ proposed Class Notice, attached hereto as **Exhibit A**, is sufficient to inform Class Members of the terms of the Settlement, their rights under the settlement, their rights to object to the Settlement, their right to receive a payment under the settlement or elect not to participate in the settlement, and the processes for doing so, and the date and location of the final approval hearing and are therefore approved.

4. The following persons are preliminarily certified as Class Members solely for the purpose of entering a settlement in this matter:

All persons who are or previously were employed by defendant Kemper Sports Management, LLC and/or Kemper Sports Management, Inc., defendant Kemper Sports Management Holdings, LLC in California and classified as non-exempt employees at any time during the Class Period and who did not sign arbitration agreements with class waivers (the “Class Period” is from January 30, 2020 through April 18, 2025).

(Settlement, ¶¶ 3-4.)

5. The PAGA Employees are defined as follows:
All persons who are or previously were employed by defendant Kemper Sports Management, LLC and/or Kemper Sports Management, Inc., defendant Kemper Sports Management Holdings, LLC in California and classified as non-exempt employees at any time during the PAGA Period (the “PAGA Period” is from January 30, 2023 through April 18, 2025.) PAGA Employees cannot opt out of the settlement of the PAGA claim. (Settlement, ¶¶ 11-12.)

6. Plaintiff KIMBERLY M. WILHELM is preliminarily appointed as the Class Representative. Tunyan Law, APC and The Sentinel Firm, APC are preliminarily appointed Class Counsel.

7. The Court appoints ILYM GROUP, Inc. to act as the Settlement Administrator and to administer the settlement in accordance with the Settlement Agreement.

8. The parties and the Settlement Administrator are ordered to administer the settlement in accordance with the Settlement Agreement.

9. The Court approves, both as to form and content, the Notice of proposed class and PAGA representative action Settlement (“Class Notice”), Request for Exclusion Form (“Exclusion Form”), and Objection Form (“Objection Form”), attached hereto as **Exhibit A, Exhibit B, and Exhibit C** in English and Spanish languages, respectively. The Class Notice, Exclusion Form, and Objection Form are collectively referred to as the “Notice Packet.” The Notice Packet shall be provided to Class Members in the manner set forth in the Settlement. The Court further orders the Settlement Administrator to mail the Notice Packet in English and Spanish by First-Class U.S. mail to all Class Members no later than fourteen (14) calendar days of receipt of the Class Data, pursuant to the terms set forth in the Agreement.

10. The Court preliminarily approves the proposed procedure, set forth in the Settlement Agreement, for seeking exclusion from the Class Settlement.

11. The Court preliminarily approves the proposed procedure, set forth in the Settlement, for objection to the Settlement.

12. The Court preliminarily approves the proposed procedure for dispute of Workweeks for each Class Member, set forth in the Settlement and Class Notice. Although the Settlement Administrator may make the initial decision regarding the Workweeks Disputes, the court may review any decision made by the Settlement Administrator regarding Workweeks Disputes.

13. In addition to any recovery that Plaintiff may receive under the Settlement as a Settlement Class Member, the Court hereby preliminarily approves the payment of Service Payment to Plaintiff KIMBERLY M. WILHELM in the amount of \$5,000.00 (not to exceed).

14. The Court preliminarily approves the payment in the amount of \$15,950.00 (not to exceed) to ILYM Group, Inc. for its services as the Settlement Administrator.

15. The Court preliminarily approves the payment of attorneys' fees to Class Counsel in the amount of \$500,000.00 (not to exceed 33 1/3 of the gross settlement amount). Litigation expenses are preliminary approved by the Court not to exceed \$30,000.00.

16. The Court preliminarily approves and orders payment in the amount of \$75,000.00 to the Labor and Workforce Development Agency as civil penalties under the Labor Code Private Attorneys General Act of 2004 (Labor Code § 2698 et seq.).

17. A final approval hearing will be held on January 26, 2026, at 1:30 p.m., in Department CX1035, to determine whether the settlement should be granted final approval as fair, reasonable, and adequate as to the Class Members.

18. Plaintiff shall file a Motion for Final Approval, including any request for an award of fees, costs, and an Enhancement Award to Plaintiff, no later than 16 court days prior to the final approval hearing. In conjunction with the filing of the final approval motion, a declaration from the Settlement Administrator on the outcome of the notice process shall be filed with the Court. At that time, the Parties shall also file responses to any written objections received by the Settlement Administrator by the Response Deadline.

19. The Court may continue the date of the final approval hearing without further notice to Class Members.

20. The Court retains jurisdiction to consider all further applications arising out of or in connection with the settlement pursuant to California Code of Civil Procedure section 664.6.

IT IS SO ORDERED.

Dated: _____

Hon. David A. Hoffer Randall J. Sherman
ORANGE COUNTY SUPERIOR COURT JUDGE

EXHIBIT A

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**NOTICE OF PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION
SETTLEMENT**

Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.

Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC

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

IF YOU ARE OR WERE A NON-EXEMPT EMPLOYEE OF KEMPER SPORTS MANAGEMENT, LLC and/or KEMPER SPORTS MANAGEMENT, INC.; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“DEFENDANTS” or “KEMPER SPORTS”) WHO WORKED IN CALIFORNIA AT ANY TIME BETWEEN JANUARY 30, 2020 and April 18, 2025 (THE “CLASS PERIOD”) AND DID NOT SIGN AN ARBITRATION AGREEMENT WITH CLASS WAIVER, THIS PROPOSED CLASS AND PAGA REPRESENTATIVE ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

Purpose of this Notice

A proposed settlement (the “Settlement”) has been reached in a proposed class and PAGA action lawsuit brought by Plaintiff Kimberly M. Wilhelm (“Plaintiff”) against Defendants, entitled *Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.* Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CXC (the “Action”). The purpose of this Notice of Proposed Class and Private Attorneys General Act of 2004 (“PAGA”) Representative Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement.

You are receiving this notice because KEMPER SPORTS’s records indicate that you worked for KEMPER SPORTS as a non-exempt employee in California for some time between January 30, 2020 and April 18, 2025 (“Class Period”) and did not sign an arbitration agreement with class waiver. This means you are a potential Class Member, and you have a right to know about the proposed Settlement.

In addition, you are also a PAGA Employee if you are currently or were formerly employed as a non-exempt employee of KEMPER SPORTS who worked for KEMPER SPORTS within California at any time during the period from January 30, 2023 to April 18, 2025 (“PAGA Period”).

This Notice advises you of your options under this Settlement, which include how you can participate in this Settlement and receive your share of the Settlement proceeds, how you can exclude yourself from the class Settlement, or how you can object to the class Settlement.

What is the case about?

On January 30, 2024, Plaintiff filed a putative class action. On May 125, 20243, Plaintiff filed a First Amended Complaint alleging the following claims against Defendants: (1) failed to pay all wages; (2) failed to provide meal periods; (3) failed to authorize and permit rest periods; (4) failed to timely pay all wages at termination; (5) failed to furnish accurate itemized wage statements; (6) failure to indemnify necessary business expenses; (7) violated California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.*; and (8) violated provisions of the Labor Code giving rise to civil penalties under the Labor Code Private Attorneys General Act of 2004 [Lab. Code § 2699, *et seq.*] (“PAGA”).

PAGA allows employees to file a representative action on behalf of themselves, other current and former employees, and the State of California to seek recovery of civil penalties for alleged Labor Code violations.

The Action seeks unpaid wages for a class of all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the Class Period (the "Class" or "Class Members"). The Action also seeks penalties under PAGA for all current and former non-exempt employees of KEMPER SPORTS who worked in California at any time during the PAGA Period ("PAGA Employees").

Defendants deny each and every allegation in the Action, deny any liability or wrongdoing of any kind, and believe that they treated, and continue to treat, their employees fairly and in full compliance with the law.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING – GET MONEY	If you do nothing, you will be considered a "Settlement Class Member" in the Settlement and will receive your individual settlement share under the Settlement if the Court finally approves the Settlement. You will also give up rights to assert the Released Claims against Defendant as explained more fully below.
EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT. DEADLINE TO EXCLUDE YOURSELF: <<RESPONSE DEADLINE>>	You have the option to exclude yourself from the Class Settlement. If you choose to do so, you must mail to the Administrator, in writing, a completed Request for Exclusion Form. If you exclude yourself, you will NOT receive any payment under the Settlement (other than based on the PAGA Claim, if applicable). Request for Exclusion Forms must be submitted by <<RESPONSE DEADLINE>>.
OBJECT TO THE SETTLEMENT. DEADLINE TO SUBMIT WRITTEN OBJECTIONS: <<RESPONSE DEADLINE>>	To object to the Class Settlement, you must either mail a written explanation of why you do not agree with the Settlement to the Settlement Administrator by completing and submitting the Objection Form, appear at the Final Approval Hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request for Exclusion Form if you wish to object. Written objections must be submitted by <<RESPONSE DEADLINE>>.

What are the Settlement terms?

Subject to final Court approval, Defendants will pay a maximum total payment under the Settlement of \$1,500,000.00 (the "Gross Settlement Amount") for: (a) individual Settlement Class Payments to Settlement Class Members; (b) the Service Payment to Plaintiff (up to \$5,000.00); (c) attorneys' fees (not to exceed 33 and 1/3% of the Gross Settlement Amount, \$500,000.00) and litigation costs to Class Counsel (not to exceed \$30,000) ("Class Counsel's Fees and Costs"); (d) the amount of \$100,000.00 allocated toward civil penalties under the PAGA (the "PAGA Allocation"), of which the LWDA will be paid 75% (i.e. \$75,000.00 ("PAGA Penalty Payment") and the remaining 25% (i.e. \$25,000.00) will be distributed to PAGA Employees (the "PAGA Settlement Payments"); and (e) payment to the Settlement Administrator for settlement administration services (estimated to be no more than \$15,950.00) ("Administrative Expenses").

The "Net Settlement Amount" will be calculated by deducting from the Gross Settlement Amount the Class Counsel's Fees and Costs, the Service Payment to Plaintiff, the PAGA Penalty Payment, and the Administrative Expenses. Settlement Class Payments and PAGA Settlement Payments

(defined below) will be paid from the Net Settlement Amount.

Class Members who do not timely and properly request to be excluded from the Settlement (the "Settlement Class Members") will receive a pro-rata share of the Net Settlement Amount, less the PAGA Settlement Payments totaling \$25,000.00, based upon the total number of workweeks worked by the Settlement Class Member during the Class Period (the "Settlement Class Payment"). The portion of the Net Settlement Amount paid to a Settlement Class Member = Net Settlement Amount (minus \$25,000.00 set aside for all PAGA Settlement Payment) × (the work weeks worked by a Settlement Class Member ÷ the work weeks worked by all Settlement Class Members).

PAGA Employees will receive a pro-rata share of the \$25,000.00 from the PAGA Settlement allocated to PAGA Employees (the "PAGA Settlement Payment") based upon the total number of pay periods worked by each PAGA Employee during the PAGA Period, regardless of whether they request exclusion from the Settlement. The portion of the PAGA Settlement Payment paid to a PAGA Employee = \$25,000.000 × the pay periods worked by a PAGA Employee (during the PAGA Period) ÷ the pay periods worked by all PAGA Employees (during the PAGA Period).

The total payment to an individual, including their Settlement Class Payment and PAGA Settlement Payment, is their "Individual Settlement Payment". Your estimated Individual Settlement Payment is <<Estimated Payment>>, which includes your payment from the Class settlement in the estimated amount of <<Estimated Individual Settlement Class Payment>> and your payment from the PAGA settlement in the estimated amount of <<Estimated Individual PAGA Settlement Payment>>. This is just an estimate. Your final share will be determined by the Settlement Administrator.

The above estimates are based on Defendants' records showing you worked _____ Workweeks during the Class Period and worked ____ Pay Periods during the PAGA Period. You may seek to dispute the number of your workweeks. Such challenges must: (i) be in writing; (ii) state your full name; (iii) include a statement that you are seeking to challenge your estimated Individual Settlement Payment set forth in this Class Notice; (iv) state the number of workweeks you believe you have worked during the Class Period; and (v) be mailed to the Settlement Administrator with a postmark date on or before <<RESPONSE DEADLINE>> (the "Response Deadline") at:

You must produce documentary evidence supporting your contention. The Settlement Administrator will evaluate the evidence submitted and make an initial decision as to which figures should be applied. The parties shall file with the Court all Workweeks Disputes submitted by Class Members together with the evidence submitted by Class Members, and the decision made based on that evidence. Although the Settlement Administrator may make the initial decision regarding the Workweeks Disputes, the court may review any decision made by the Settlement Administrator regarding Workweeks Disputes.

For tax reporting purposes, the payments to Class Members will be allocated 1/3 wages, and 2/3 interest and penalties. All PAGA Settlement Payments will be allocated as 100% penalties. The wage portion of the Individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the Individual Settlement Payments. The portion of the Individual Settlement Payments allocated as civil penalties, and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC if required by governing tax laws. Any taxes owed on that other miscellaneous income will be the responsibility of Class Members receiving those payments. The employer's share of any payroll taxes will be separately paid by Defendants.

All checks for Individual Settlement Payments paid to Class Members will remain valid and

negotiable for one hundred eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not claimed or negotiated by a Class Member within that time. Any Individual Settlement Payment that is not claimed or negotiated by a Class Member within one hundred eighty (180) days of issuance shall be transmitted to the California State Controller's Office to be held as unclaimed property in the name of each check recipient who is the payee of the check. Even if the Individual Settlement Payment is not cashed, claimed or negotiated by the Class Member within the one hundred eighty (180) days from the date of the checks' issuance, the Settlement Class Member shall remain bound by the Released Class Claims, unless the Class Member submitted a timely and valid Request for Exclusion Form.

The "Effective Date" of the Settlement will be the date upon which all of the following have occurred: (i) the Parties stipulate to seek remand to state court and the Action is remanded; (ii) the state court grants final approval of the Settlement and (iii) the state court's Judgment approving the Settlement becomes Final. Final shall mean the latest of: (a) if no Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Class Members file timely objection to the Settlement, the later of: (1) the date on which the time for all appeals relating to objections to Settlement and the final approval order has expired; or (2) if an appeal, review or writ is sought, the date on which the highest reviewing court renders its decision denying any petition (where the immediately lower court affirmed the judgment) or affirming the judgment; or (c) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with any appellate court that has jurisdiction, or, (d) if a petition for review is filed, the date of denial of the petition, or the date the Court's Judgment is entered, pursuant to such petition. Provided, however, if the California Labor & Workforce Development Agency ("LWDA") has commenced an investigation or issued a Citation prior to the Effective Date, as determined under the forgoing definition, the Effective Date will be extended to the date that the LWDA concludes its investigation or resolves the Citation (whichever is later), or if the LWDA objects to the Settlement, the date when the LWDA's objection to the Settlement is resolved and no longer appealable. Defendants will fund the Gross Settlement Amount within twenty-one (21) days after the Effective Date. The Settlement Administrator shall mail checks no later than fourteen (14) calendar days of receipt of the Gross Settlement Amount from Defendants.

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

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

What claims are being released by the proposed Settlement?

Released Class Claims. Those Class Members who do not submit a timely and valid Request for Exclusion Form to the Settlement Administrator (i.e. Settlement Class Members), and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, upon full payment of Gross Settlement Amount, shall fully and finally release and discharge Defendants and any of their past, present, and future direct or indirect parents, subsidiaries, predecessors, successors, and affiliates, as well as each of their past, present, and future officers, directors, employees, partners, members, shareholders and agents, attorneys, insurers, reinsurers, and any individual or entity which could be jointly liable with Defendants ("Released Parties") from the Released Class Claims.

Released Class Claims are defined as all claims that were alleged, or reasonably could have been alleged, based on the facts stated in the Complaint, without limitation, claims for (1) failure to pay

1 minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a
2 premium in lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu
3 thereof; (5) failure to timely pay wages including at the time of termination/end of employment;
4 (6) failure to furnish accurate itemized wage statements; (7) failure to reimburse employees for
5 business expenses; (8) unfair business practices; ~~(9) failure to pay vacation and/or sick pay wages;~~
6 and, ~~(499)~~ claims for violation of California Labor Code sections 201-204, 210, 218.5, 218.6, 226,
7 226.3, 226.7, ~~227.3~~, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 and
8 California Business and Professions Code section 17200 et seq. (arising from violations of the
9 labor code listed above) or any applicable IWC Wage Order ("Released Class Claims"). Class
10 Members do not release any claims that cannot be released by law including, without limitation,
11 claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing
12 Act, unemployment insurance, disability, social security, workers' compensation, or claims based
13 on facts occurring outside the Class Period.

14 Released PAGA Claims. In addition, upon full payment of Gross Settlement Amount, all PAGA
15 Employees are deemed to release, on behalf of themselves and their respective former and present
16 representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released
17 Parties from all claims for PAGA penalties that were alleged, or reasonably could have been
18 alleged during the PAGA Period, based on the facts stated in the Complaint and the PAGA Notice
19 including, without limitation, claims for PAGA penalties arising from (1) failure to pay minimum
20 wages; (2) failure to pay overtime wages; (3) failure to provide meal periods or pay a premium in
21 lieu thereof; (4) failure to authorize and permit rest periods or pay a premium in lieu thereof; (5)
22 failure to timely pay wages including at the time of termination/end of employment; (6) failure to
23 furnish accurate itemized wage statements; (7) failure to reimburse employees for business
24 expenses; ~~(8) failure to pay vacation and/or sick pay wages;~~ (98) claims for penalties under the
25 Private Attorneys General Act for violation of California Labor Code sections 201-204, 210,
26 ~~218.5, 218.6~~, 226, 226.3, 226.7, ~~227.3~~, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1,
27 1198, 2802, and 2698, et seq. ("PAGA"), or any applicable IWC Wage Order ("Released PAGA
28 Claims").

What are my options in this matter?

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

33 **OPTION A. Remain in the Class.** If you wish to remain in the Class and be eligible to receive
34 an Individual Settlement Payment, **you do not need to take any action.** By remaining in the
35 Class and receiving settlement monies to resolve your class claims, you consent to the release of
36 the Class Released Claims as described above. If you are a PAGA Employee, you will
37 automatically be included and issued your PAGA Settlement Payment. This means you will
38 release the PAGA Released Claims.

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

44 **Objecting to the Settlement:** If you are a Class Member, and you do not request exclusion from
45 the Settlement, you may object to the Settlement before final approval of the Settlement by the
46 Court by submitting a written objection or presenting your objection at the Final Approval
47 Hearing.

48 To assert an objection to the Settlement, a Settlement Class Member must submit an Objection

Form to the Settlement Administrator by first class U.S. mail at the address specified on the Notice in the Objection Form not later than -----, If you choose not to submit a written objection using the Objection Form, the written objection must include: (1) your full name, address, and last four digits of your Social Security number; (2) your signature; (3) the case and number (Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al., Orange County Superior Court Case No. 30-2024-01376524-CU-OE-CX); and (4) be postmarked on or before <<RESPONSE DEADLINE>> and submitted to the Settlement Administrator at the address listed above. Any Class Member who fails to timely submit their written objections in the manner specified above may still appear and object at the Final Approval Hearing. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Class and PAGA Claims as set forth above, unless the Settlement is not finally approved by the Court.**

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

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

The Request for Exclusion Form (to remove you from the Class Settlement) must be postmarked on or before <<RESPONSE DEADLINE>>. If you do not submit a Request for Exclusion form on time (as evidenced by the postmark), your request to be excluded from the Settlement will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a Request for Exclusion Form by the deadline to request exclusion, you will not be issued an Individual Settlement Payment, will not be bound by the Class Settlement (and the release of Released Class Claims), and will not have any right to object to, appeal, or comment on the Class Settlement. PAGA Employees cannot opt out or exclude themselves from the PAGA Settlement Payment and will still be issued a PAGA Settlement Payment and be bound by the Released PAGA Claims, irrespective of whether they submit a Request for Exclusion Form and irrespective of whether they cash their Individual Settlement Payment.

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

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

The Court will hold a Final Approval Hearing on <<FINAL APPROVAL HEARING DATE & TIME>>, in Department CX1035 of the Orange County Superior Court, located at 751 W. Santa Ana Boulevard, Santa Ana, California 92701. As described above, If you wish to attend the Final Approval Hearing remotely, you can do it through the court's online check-in process available through the court's website at <https://www.occourts.org/media-relations/civil.html>. If you wish to attend the Final Approval Hearing in person, you can attend it at Orange County Superior Court, 751 W. Santa Ana Boulevard, Santa Ana, California 92701. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an Individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and

entering a Judgment, the First Amended Complaint, the notice letter to the LWDA, the Settlement Agreement, and this Notice will be posted on a website by the Settlement Administrator for a period of at least 180 days following the entry of that Order in the Court record. That website is: <<website>>.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Class Counsel

Lilit Tunyan
ltunyan@tunyanlaw.com
Artur Tunyan
atunyan@tunyanlaw.com
TUNYAN LAW, APC
535 N. Brand Blvd., Suite 285
Glendale, California 91203
Telephone: (323) 410-5050

Defendants' Counsel

Michael J. Burns
mburns@seyfarth.com
Andrew M. McNaught
amcnaught@seyfarth.com
SEYFARTH SHAW LLP
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

Seung Yang
seung.yang@thesentinel-firm.com
Tiffany Hyun
tiffany.hyun@thesentinel-firm.com
THE SENTINEL FIRM, APC
355 S. Grand Ave., Suite 1450
Los Angeles, California 90071
Telephone: (213) 985-1150
Facsimile: (213) 985-2155

Laura E. Heyne
lheyne@seyfarth.com
SEYFARTH SHAW LLP
2029 Century Park East, Suite 3500
Los Angeles, CA 90067-3021
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

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How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class and PAGA Representative Action Settlement and Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement attached to the Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval and Supplemental Declaration of Lilit Tunyan in Support of Plaintiff's Motion for Preliminary Approval. The Joint Stipulation of Class and PAGA Representative Action Settlement, Amendment to the Joint Stipulation of Class and PAGA Representative Action Settlement and all other records relating to the Action are available for inspection and/or copying at the Civil Records Office of the Orange County Superior Court. You may also view documents filed in this case on the Court's website at: <https://www.occourts.org/media-relations/civil.html>. You may need the case number to access and view case documents (30-2024-01376524-CU-OE-CXC). NOTE: If you choose to access documents online, the Court will charge you a fee for access.

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

**AVISO DE PROPUESTA DE ACUERDO DE CONCILIACIÓN DE DEMANDA
COLECTIVA Y DE DEMANDA REPRESENTATIVA DE PAGA**

Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.

Tribunal Superior del Condado de Orange Caso n.º 30-2024-01376524-CU-OE-CXC

Un Tribunal autorizó este Aviso. Esto no es una oferta de un abogado. Usted no está siendo demandado.

SI USTED ES O HA SIDO EMPLEADO NO EXENTO DE KEMPER SPORTS MANAGEMENT, LLC y/o KEMPER SPORTS MANAGEMENT, INC.; KEMPER SPORTS MANAGEMENT HOLDINGS, LLC (“DEMANDADOS” o “KEMPER SPORTS”) QUE TRABAJÓ EN CALIFORNIA EN CUALQUIER MOMENTO ENTRE EL 30 DE ENERO DE 2020 Y EL 18 DE ABRIL DE 2025 (EL “PERÍODO DE LA DEMANDA COLECTIVA”) Y NO FIRMO UN ACUERDO DE ARBITRAJE CON RENUNCIA DE DEMANDA COLECTIVA, ESTA PROPUESTA DE ACUERDO DE CONCILIACIÓN DE DEMANDA COLECTIVA Y DEMANDA REPRESENTATIVA DE PAGA PUEDE AFECTAR A SUS DERECHOS.

Objeto del presente Aviso

Se ha llegado a una propuesta de acuerdo (el “Acuerdo”) en una demanda colectiva y PAGA propuesta presentada por la Demandante Kimberly M. Wilhelm (“Demandante”) contra los Demandados, titulada *Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.* Tribunal Superior del Condado de Orange Caso n.º 30-2024-01376524-CU-OE-CXC (la “Demanda”). El objeto del presente Aviso de Propuesta de Acuerdo de Conciliación de Demanda Colectiva y de Demanda Representativa de la Ley General de Abogados Privados de 2004 (“PAGA”) (“Aviso”) es describir brevemente la Demanda e informarle de sus derechos y opciones en relación con la Demanda y el Acuerdo de Conciliación propuesto.

Usted está recibiendo este aviso porque según los registros de KEMPER SPORTS usted trabajó para KEMPER SPORTS como empleado no exento en California durante algún tiempo entre el 30 de enero de 2020 y el 18 de abril de 2025 (“Período de la Demanda Colectiva”) y no firmó un acuerdo de arbitraje con renuncia de demanda colectiva. Esto significa que usted es un posible Miembro de la Demanda Colectiva y tiene derecho a informarse sobre el Acuerdo de Conciliación propuesto.

Además, usted también es un Empleado de PAGA si actualmente está empleado o ha estado empleado anteriormente como empleado no exento de KEMPER SPORTS y trabajó para KEMPER SPORTS dentro de California en cualquier momento durante el período comprendido entre el 30 de enero de 2023 y el 18 de abril de 2025 (“Período de PAGA”).

Este Aviso le informa de sus opciones en virtud de este Acuerdo de Conciliación, que incluyen cómo puede participar en este Acuerdo de Conciliación y recibir su parte de los ingresos del Acuerdo de Conciliación, cómo puede excluirse del Acuerdo de Conciliación de la demanda colectiva, o cómo puede oponerse al Acuerdo de Conciliación de la demanda colectiva.

¿De qué se trata el caso?

El 30 de enero de 2024, la Demandante presentó una demanda colectiva putativa. El 25¹ de mayo de 2024³, la Demandante presentó una Primera Querella Enmendada alegando las siguientes reclamaciones contra los Demandados: (1) incumplimiento del pago de todos los salarios; (2) incumplimiento de la obligación de conceder períodos de comida; (3) incumplimiento de la obligación de autorizar y permitir períodos de descanso; (4) incumplimiento del pago oportuno de

1 todos los salarios al término de la relación laboral; (5) incumplimiento de la obligación de
2 presentar declaraciones salariales detalladas y exactas; (6) incumplimiento de la obligación de
3 indemnizar los gastos empresariales necesarios; (7) violación de la Ley de Competencia Desleal
4 de California, Sección 17200 y siguientes del Código de Empresas y Profesiones de California; y
5 (8) violación de las disposiciones del Código Laboral que conllevan la imposición de sanciones
6 civiles en virtud de la Ley de Abogados Generales Privados del Código Laboral de 2004 [Sección
7 2699 y siguientes del Código Laboral] (“PAGA”).

8 PAGA permite a los empleados presentar una demanda representativa en su propio nombre, en
9 nombre de otros empleados actuales y exempleados, y en nombre del Estado de California para
10 reclamar el pago de sanciones civiles por presuntas violaciones del Código Laboral.

11 La Demanda tiene por objeto la reclamación de los salarios impagados de un colectivo de todos
12 los empleados actuales y exempleados no exentos de KEMPER SPORTS que trabajaron en
13 California en cualquier momento durante el Período de la Demanda Colectiva (la “Demanda
14 Colectiva” o “Miembros de la Demanda Colectiva”). La Demanda también solicita sanciones en
15 virtud de PAGA para todos los empleados actuales y exempleados no exentos de KEMPER
16 SPORTS que trabajaron en California en cualquier momento durante el Período de PAGA
17 (“Empleados de PAGA”).

18 **Los Demandados niegan todas y cada una de las alegaciones de la Demanda, niegan cualquier
19 responsabilidad o delito de cualquier tipo, y creen que han tratado, y siguen tratando, a sus
20 empleados de forma justa y cumpliendo plenamente la ley.**

SUS DERECHOS Y OPCIONES EN ESTE ACUERDO DE CONCILIACIÓN:	
NO HACER NADA – RECIBIR DINERO	Si no hace nada, se le considerará un “Miembro del Acuerdo de Conciliación de Demanda Colectiva” en el Acuerdo de Conciliación y recibirá su parte individual de la conciliación en virtud del Acuerdo de Conciliación si el Tribunal aprueba definitivamente el Acuerdo de Conciliación. Asimismo, usted renunciará a sus derechos a presentar Reclamaciones Exoneradas contra el Demandado, según se explica con mayor detalle a continuación.
EXCLUIRSE VOLUNTARIAMENTE DEL ACUERDO DE CONCILIACIÓN DE DEMANDA COLECTIVA. FECHA LÍMITE PARA EXCLUIRSE: <<RESPONSE DEADLINE>>	Tiene la opción de excluirse del Acuerdo de Conciliación de Demanda Colectiva. Si decide hacerlo, debe enviar por correo al Administrador, por escrito, un Formulario de Solicitud de Exclusión debidamente rellenado. Si se excluye, NO recibirá ningún pago en virtud del Acuerdo de Conciliación (más allá del basado en la Reclamación de PAGA, si corresponde). Los Formularios de Solicitud de Exclusión deben enviarse a más tardar el <<RESPONSE DEADLINE>>.
OBJETAR EL ACUERDO DE CONCILIACIÓN. FECHA LÍMITE PARA PRESENTAR OBJECIONES POR ESCRITO: <<RESPONSE DEADLINE>>	Para objetar al Acuerdo de Conciliación de Demanda Colectiva, debe enviar por correo una explicación por escrito de por qué no está conforme con el Acuerdo de Conciliación al Administrador del Acuerdo de Conciliación rellenando y enviando el Formulario de Objeción, comparecer en la Audiencia de Aprobación Definitiva o contratar a un abogado a su cargo para que objete en su nombre. Esta opción sólo está disponible si no se excluye del Acuerdo de Conciliación. No presente el Formulario de Solicitud de Exclusión si desea objetar. Las objeciones <i>por escrito</i> deben presentarse a más

tardar el <<RESPONSE DEADLINE>>.

¿Cuáles son los términos del Acuerdo de Conciliación?

Sujeto a la aprobación definitiva del Tribunal, los Demandados abonarán un pago total máximo en virtud del Acuerdo de Conciliación de \$1,500,000.00 (el “Monto Bruto del Acuerdo de Conciliación”) en concepto de: (a) Pagos del Acuerdo de Conciliación de Demanda Colectiva individuales a los Miembros del Acuerdo de Conciliación de la Demanda Colectiva; (b) Pago por Servicios a la Demandante (hasta \$5,000.00); (c) honorarios de abogados (sin superar el 33 y 1/3% del Monto Bruto del Acuerdo de Conciliación, \$500,000.00) y costas del litigio a los Abogados de la Demanda Colectiva (sin superar los \$30,000) (“Honorarios y Costas de los Abogados de la Demanda Colectiva”); (d) el importe de \$100,000.00 asignados a sanciones civiles en virtud de la Ley PAGA (la “Asignación de PAGA”), de los cuales se pagará a la LWDA el 75% (es decir, \$75,000.00 (“Pago de Sanciones de PAGA”) y el 25% restante (es decir, \$25,000.00) se distribuirá a los Empleados de PAGA (los “Pagos del Acuerdo de Conciliación de PAGA”); y (e) pago al Administrador del Acuerdo de Conciliación por los servicios de administración del acuerdo de conciliación (que se estima que no será mayor de \$15,950.00) (“Gastos Administrativos”).

El “Monto Neto del Acuerdo de Conciliación” se calculará deduciendo del Monto Bruto del Acuerdo de Conciliación los Honorarios y Costas de los Abogados de la Demanda Colectiva, el Pago por Servicio a la Demandante, el Pago de Sanciones de PAGA, y los Gastos Administrativos. Los Pagos del Acuerdo de Conciliación de la Demanda Colectiva y Pagos del Acuerdo de Conciliación de PAGA (definidos a continuación) se pagarán del Monto Neto del Acuerdo de Conciliación.

Los Miembros de la Demanda Colectiva que no soliciten su exclusión del Acuerdo de Conciliación oportuna y adecuadamente (los “Miembros del Acuerdo de Conciliación de la Demanda Colectiva”) recibirán una parte prorrateada del Monto Neto del Acuerdo de Conciliación, menos los Pagos del Acuerdo de Conciliación de PAGA por un total de \$25,000.00, en función del número total de semanas laborales que haya trabajado el Miembro del Acuerdo de Conciliación de Demanda Colectiva durante el Período de la Demanda Colectiva (el “Pago del Acuerdo de Conciliación de Demanda Colectiva”). La parte del Monto Neto del Acuerdo de Conciliación pagada a un Miembro del Acuerdo de Conciliación de Demanda Colectiva = Monto Neto del Acuerdo de Conciliación (menos \$25,000.00 apartados para todos los Pagos del Acuerdo de Conciliación de PAGA) × (las semanas laborales trabajadas por un Miembro del Acuerdo de Conciliación de Demanda Colectiva ÷ las semanas laborales trabajadas por todos los Miembros del Acuerdo de Conciliación de la Demanda Colectiva).

Los Empleados de PAGA recibirán una parte prorrateada de los \$25,000.00 del Acuerdo de Conciliación de PAGA asignada a los Empleados de PAGA (el “Pago del Acuerdo de Conciliación de PAGA”) en función del número total de períodos de pago trabajados por cada Empleado de PAGA durante el Período de PAGA, independientemente de que soliciten su exclusión del Acuerdo de Conciliación. La parte del Pago del Acuerdo de Conciliación de PAGA pagada a un Empleado de PAGA = \$25,000.000 × los períodos de pago trabajados por un Empleado de PAGA (durante el Período de PAGA) ÷ los períodos de pago trabajados por todos los Empleados de PAGA (durante el Período de PAGA).

El pago total a un particular, incluyendo su Pago del Acuerdo de Conciliación de Demanda Colectiva y su Pago del Acuerdo de Conciliación de PAGA, es su “Pago Individual del Acuerdo de Conciliación”. La estimación de su Pago Individual del Acuerdo de Conciliación asciende a <<Estimated Payment>>, que incluye su pago del Acuerdo de Conciliación de Demanda Colectiva por un monto estimado de <<Estimated Individual Settlement Class Payment>> y su pago del acuerdo de conciliación de PAGA por un monto estimado de <<Estimated Individual PAGA Settlement Payment>>. Esto es meramente una estimación. Su parte definitiva la determinará el Administrador del Acuerdo de Conciliación.

Las estimaciones anteriores están hechas en función de los registros de los Demandados en los que se indica que usted trabajó [REDACTED] semanas laborales durante el Período de la Demanda Colectiva y trabajó [REDACTED] Períodos de Pago durante el Período de PAGA. Puede tratar de impugnar el número de sus semanas laborales. Tales impugnaciones deben: (i) hacerse por escrito; (ii) indicar su nombre completo; (iii) incluir una declaración de que pretende impugnar la estimación de su Pago Individual del Acuerdo de Conciliación indicada en este Aviso de Demanda Colectiva; (iv) indicar el número de semanas laborales que cree haber trabajado durante el Período de la Demanda Colectiva; y (v) enviarse por correo postal al Administrador del Acuerdo de Conciliación con franqueo a más tardar el <<RESPONSE DEADLINE>> (la “Fecha Límite de Respuesta”) a:

Debe presentar pruebas documentales que respalden su argumento. El Administrador del Acuerdo de Conciliación evaluará las pruebas presentadas y tomará una decisión inicial sobre qué cifras deben aplicarse. Las partes presentarán ante el Tribunal todas las Impugnaciones de Semanas Laborales presentadas por los Miembros de la Demanda Colectiva junto con las pruebas presentadas por los Miembros de la Demanda Colectiva, así como la decisión tomada en función de dichas pruebas. Aunque el Administrador del Acuerdo de Conciliación puede adoptar la decisión inicial en relación con las Impugnaciones sobre Semanas Laborales, el tribunal puede revisar cualquier decisión que adopte el Administrador del Acuerdo de Conciliación en cuanto a Impugnaciones de Semanas Laborales.

A efectos fiscales, los pagos a los Miembros de la Demanda Colectiva se asignarán a razón de 1/3 en concepto de salarios y 2/3 en concepto de intereses y sanciones. Todos los Pagos del Acuerdo de Conciliación de PAGA se asignarán al 100% en concepto de sanciones. La parte salarial de los Pagos Individuales del Acuerdo de Conciliación estará sujeta a la retención de los impuestos locales, estatales y federales aplicables, y el Administrador del Acuerdo de Conciliación deducirá la parte correspondiente al empleado de los impuestos sobre la nómina aplicables de la parte salarial de los Pagos Individuales del Acuerdo de Conciliación. La parte de los Pagos Individuales del Acuerdo de Conciliación en concepto de sanciones civiles, y los intereses se clasificarán como otros ingresos misceláneos y se declararán en el formulario 1099-MISC del IRS si así lo exigen las leyes fiscales reguladoras. Los impuestos adeudados por dichos ingresos misceláneos correrán a cargo de los Miembros de la Demanda Colectiva que reciban dichos pagos. La parte correspondiente al empleador de cualquier impuesto sobre la nómina será abonada por separado por los Demandados.

Todos los cheques para los Pagos Individuales del Acuerdo de Conciliación pagados a los Miembros de la Demanda Colectiva seguirán siendo válidos y negociables durante ciento ochenta (180) días a partir de la fecha de emisión del cheque y, a partir de entonces, se anularán automáticamente si no han sido reclamados o negociados por un Miembro de la Demanda Colectiva dentro de ese plazo. Cualquier Pago Individual del Acuerdo de Conciliación que no haya sido reclamado o negociado por un Miembro de la Demanda Colectiva dentro de los ciento ochenta (180) días a partir de su fecha de emisión se transferirán a la Contraloría del Estado de California para conservarse como propiedad no reclamada a nombre de cada uno de los receptores de los cheques que figuren como sus beneficiarios. Incluso en el supuesto de que el Pago Individual del Acuerdo de Conciliación no sea cobrado, reclamado o negociado por el Miembro de la Demanda Colectiva en el plazo de ciento ochenta (180) días desde su fecha de emisión, el Miembro del Acuerdo de Conciliación de Demanda Colectiva seguirá sujeto a las Reclamaciones Exoneradas de la Demanda Colectiva, a menos que dicho Miembro de la Demanda Colectiva haya presentado oportunamente un Formulario de Solicitud de Exclusión válido.

La “Fecha de Entrada en Vigor” del Acuerdo de Conciliación será la fecha en la que hayan ocurrido todos los siguientes hechos: (i) las Partes estipulen solicitar la remisión del caso al tribunal estatal y se remita la Demanda; (ii) el tribunal estatal apruebe definitivamente el Acuerdo de Conciliación y (iii) la Sentencia del tribunal estatal aprobando el Acuerdo de Conciliación pase

a ser Definitiva. Se entenderá por Definitiva la última de las siguientes fechas: (a) si ningún Miembro de la Demanda Colectiva objeta el Acuerdo de Conciliación, el día en que el Tribunal dicte Sentencia; (b) si uno o más Miembros de la Demanda Colectiva presentan oportunamente una objeción al Acuerdo de Conciliación, la fecha posterior de las siguientes: (1) la fecha en que haya expirado el plazo para todos los recursos relativos a las objeciones al Acuerdo de Conciliación y a la orden de aprobación definitiva; o (2) si se solicita un recurso de apelación, revisión o auto, la fecha en que el tribunal superior de revisión dicte su resolución denegando cualquier petición (cuando el tribunal inmediatamente inferior haya confirmado la sentencia) o confirmando la sentencia; o bien (c) si se recurre en apelación la Sentencia del Tribunal, la fecha en que se confirme la Sentencia en apelación, la fecha de desestimación de dicho recurso de apelación o la expiración del plazo para presentar una petición de revisión ante cualquier tribunal de apelación competente, o bien, (d) si se presenta una petición de revisión, la fecha de denegación de la petición, o la fecha en que se dicte la Sentencia del Tribunal, de conformidad con dicha petición. No obstante, si la Agencia para el Desarrollo Laboral y de la Mano de Obra de California ("LWDA") haya iniciado una investigación o emitido una Citación antes de la Fecha de Entrada en Vigor, tal y como se determina en la definición anterior, la Fecha de Entrada en Vigor se ampliará hasta la fecha en que la LWDA concluya su investigación o resuelva la Citación (la que sea posterior), o si la LWDA objeta al Acuerdo de Conciliación, la fecha en que se resuelva y deje de ser recurrible la objeción de la LWDA al Acuerdo de Conciliación. Los Demandados financiarán el Monto Bruto del Acuerdo de Conciliación en un plazo de veintiún (21) días a partir de la Fecha de Entrada en Vigor. El Administrador del Acuerdo de Conciliación deberá enviar los cheques por correo a más tardar catorce (14) días naturales después de la recepción del Monto Bruto del Acuerdo de Conciliación de parte de los Demandados.

POR FAVOR, TENGA PACIENCIA Y MANTENGA ACTUALIZADO AL ADMINISTRADOR DEL ACUERDO DE CONCILIACIÓN SOBRE SU NUEVA DIRECCIÓN EN CASO DE QUE SE MUDE DESPUÉS DE RECIBIR ESTE AVISO O DE QUE HAYA RECIBIDO ESTE AVISO COMO CORREO REENVIADO.

Ninguna de las Partes ni sus abogados hacen declaración alguna sobre las consecuencias fiscales de este Acuerdo de Conciliación o de su participación en el mismo. Los Miembros de la Demanda Colectiva deben consultar con sus propios asesores fiscales acerca de las consecuencias fiscales del Acuerdo de Conciliación. Los Abogados de la Demanda Colectiva no pueden ofrecer asesoramiento sobre las consecuencias fiscales estatales o federales de los pagos a los Miembros de la Demanda Colectiva.

¿Qué reclamaciones se exoneran en virtud del Acuerdo de Conciliación propuesto?

Reclamaciones Exoneradas de la Demanda Colectiva. Aquellos Miembros de la Demanda Colectiva que no presenten oportunamente un Formulario de Solicitud de Exclusión válido al Administrador del Acuerdo de Conciliación (es decir, Miembros del Acuerdo de Conciliación de la Demanda Colectiva), y sus respectivos representantes, agentes, abogados, herederos, administradores, sucesores y cesionarios, anteriores y actuales, tras el pago íntegro del Monto Bruto del Acuerdo de Conciliación, liberarán y exonerarán plena y definitivamente a los Demandados y cualquiera de sus matrices, filiales, predecesoras, sucesoras y afiliadas pasadas, presentes y futuras, directas o indirectas, así como cada uno de sus directivos, administradores, empleados, socios, miembros, accionistas y agentes pasados, presentes y futuros, abogados, aseguradores, reaseguradores y cualquier persona física o jurídica que pudiera ser responsable conjuntamente con los Demandados ("Partes Exoneradas") de las Reclamaciones Exoneradas de la Demanda Colectiva.

Las Reclamaciones Exoneradas de la Demanda Colectiva se definen como todas las reclamaciones que se alegaron, o que razonablemente podrían haberse alegado, basándose en los hechos expuestos en la Querella, sin limitación, las reclamaciones de (1) incumplimiento del pago de los salarios mínimos; (2) incumplimiento del pago de los salarios por horas extraordinarias; (3)

incumplimiento de la obligación de conceder períodos de comida o de abonar una prima en su lugar; (4) incumplimiento de la obligación de autorizar y permitir períodos de descanso o pagar una prima en su lugar; (5) incumplimiento del pago oportuno de los salarios, incluyendo el momento del despido/finalización de la relación laboral; (6) incumplimiento de la obligación de presentar declaraciones salariales detalladas y exactas; (7) incumplimiento de la obligación de reembolsar a los empleados los gastos comerciales; (8) prácticas comerciales desleales; ~~(9) incumplimiento del pago de los salarios de vacaciones y/o permisos por enfermedad;~~ y, ~~(10) reclamaciones por violaciones de las secciones 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 227.3,~~ 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 del Código Laboral de California y de las secciones 17200 y siguientes del Código de Empresas y Profesiones de California (derivadas de las violaciones del código laboral enumeradas anteriormente) o cualquier Orden Salarial aplicable del IBC (“Reclamaciones Exoneradas de la Demanda Colectiva”). Los Miembros de la Demanda Colectiva no exoneran ninguna reclamación que no pueda ser exonerada por ley, incluyendo, sin limitación, reclamaciones por beneficios adquiridos, despido improcedente, violación de la Ley de Equidad en el Empleo y la Vivienda, seguro de desempleo, incapacidad, seguridad social, indemnización por accidentes laborales, o reclamaciones basadas en hechos ocurridos fuera del Período de la Demanda Colectiva.

Reclamaciones Exoneradas de PAGA. Además, tras el pago íntegro del Monto Bruto del Acuerdo de Conciliación, se considerará que todos los Empleados de PAGA exoneran, en su nombre y en el de sus respectivos representantes, agentes, abogados, herederos, administradores, sucesores y cesionarios anteriores y actuales, a las Partes Exoneradas de todas las reclamaciones por sanciones de PAGA que se hayan alegado, o que razonablemente podrían haberse alegado durante el Período PAGA, en función de los hechos expuestos en la Querella y en el Aviso de PAGA, incluyendo, sin limitación, las reclamaciones por sanciones de PAGA derivadas de (1) incumplimiento del pago de los salarios mínimos; (2) incumplimiento del pago de los salarios por horas extraordinarias; (3) incumplimiento de la obligación de conceder períodos de comida o de abonar una prima en su lugar; (4) incumplimiento de la obligación de autorizar y permitir períodos de descanso o pagar una prima en su lugar; (5) incumplimiento del pago oportuno de los salarios, incluyendo el momento del despido/finalización de la relación laboral; (6) incumplimiento de la obligación de presentar declaraciones salariales detalladas y exactas; (7) incumplimiento de la obligación de reembolsar a los empleados los gastos comerciales; ~~(9) incumplimiento del pago de los salarios de vacaciones y/o permisos por enfermedad;~~ ~~(9)~~ reclamaciones de sanciones en virtud de la Ley de Abogados Generales Privados por violaciones de las secciones 201-204, 210, ~~218.5,~~ ~~218.6,~~ 226, 226.3, 226.7, ~~227.3,~~ 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802 del Código Laboral de California, y de las secciones 2698 y siguientes (“PAGA”), o cualquier Orden Salarial aplicable del IBC (“Reclamaciones Exoneradas de PAGA”).

¿Cuáles son mis opciones en esta cuestión?

Usted tiene dos opciones en virtud de este Acuerdo de Conciliación, cada una de las cuales se explica con más detalle a continuación. Usted puede: (A) permanecer en la Demanda Colectiva y recibir un Pago Individual del Acuerdo de Conciliación; o (B) excluirse del Acuerdo de Conciliación. Si elige la opción (A), también puede objetar al Acuerdo de Conciliación, como se explica a continuación.

OPCIÓN A. Permanecer en la Demanda Colectiva. Si desea permanecer en la Demanda Colectiva y ser elegible para recibir un Pago Individual del Acuerdo de Conciliación, **no tiene que hacer nada.** Al permanecer en la Demanda Colectiva y recibir el dinero del acuerdo para resolver sus reclamaciones de la demanda colectiva, usted da su consentimiento a la exoneración de las Reclamaciones Exoneradas de la Demanda Colectiva, según se describen anteriormente. Si usted es un Empleado de PAGA, se le incluirá automáticamente y se le emitirá su Pago del Acuerdo de Conciliación de PAGA. Esto significa que usted exonerará las Reclamaciones Exoneradas de PAGA.

Las cantidades abonadas a los Miembros del Acuerdo de Conciliación de la Demanda Colectiva

no contarán ni se tendrán en cuenta para determinar la elegibilidad o el cálculo de beneficios para los empleados (por ejemplo, vacaciones, pago de días festivos, planes de jubilación, planes de compensación diferida no calificados, etc.), ni modificarán de otro modo los criterios de elegibilidad de cualquier plan de beneficios de pensión de los empleados o plan de previsión social de los empleados patrocinado por los Demandados, salvo que la ley disponga lo contrario.

Objetar el Acuerdo de Conciliación: Si usted es un Miembro de la Demanda Colectiva, y no solicita su exclusión del Acuerdo de Conciliación, puede objetar al Acuerdo de Conciliación antes de su aprobación definitiva por parte del Tribunal, presentando una objeción por escrito o exponiendo su objeción en la Audiencia de Aprobación Definitiva.

Para plantear una objeción al Acuerdo de Conciliación, un Miembro de la Demanda Colectiva debe enviar un Formulario de Objeción al Administrador del Acuerdo de Conciliación por correo de primera clase de EE. UU. a la dirección especificada en el Aviso en el Formulario de Objeción a más tardar el [REDACTED]. Si decide no presentar una objeción por escrito utilizando el Formulario de Objeción, la objeción por escrito debe incluir: (1) su nombre completo, dirección y los cuatro últimos dígitos de su número de la Seguridad Social; (2) su firma; (3) el nombre y número del caso (*Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et al.*, Tribunal Superior del Condado de Orange, caso n.º 30-2024-01376524-CU-OE-CX); y (4) llevar franqueo postal a más tardar del <<RESPONSE DEADLINE>> y enviarse al Administrador del Acuerdo de Conciliación a la dirección indicada anteriormente. Cualquier Miembro de la Demanda Colectiva que no presente oportunamente sus objeciones por escrito en la forma especificada anteriormente podrá comparecer y objetar en la Audiencia de Aprobación Definitiva. **Incluso si presenta una objeción, estará sujeto a los términos del Acuerdo de Conciliación, incluyendo la exoneración de las Reclamaciones Exoneradas de la Demanda Colectiva y las Reclamaciones Exoneradas de PAGA según lo establecido anteriormente, a menos que el Tribunal no apruebe definitivamente el Acuerdo de Conciliación.**

Independientemente de la forma, una objeción por sí sola no satisfará el requisito de que un Miembro de la Demanda Colectiva intervenga formalmente y se convierta en parte registrada en la demanda para apelar una Sentencia dictada tras una Orden que apruebe definitivamente este Acuerdo de Conciliación, tal y como se exige en virtud de la decisión del Tribunal Supremo de California en el caso *Hernandez v. Restoration Hardware*, 4 Cal. 5ª 260 (2018).

OPCIÓN B. Solicitar la exclusión de la Demanda Colectiva y no recibir dinero de la parte de la Demanda Colectiva del Acuerdo de Conciliación (los Empleados de PAGA igualmente recibirán su parte del Pago de PAGA a los empleados). No puede solicitar la exclusión de la parte PAGA de este Acuerdo de Conciliación. Sin embargo, si no desea formar parte de la Demanda Colectiva, debe rellenar y devolver el Formulario de Solicitud de Exclusión incluido al Administrador del Acuerdo de Conciliación. Para que su solicitud de exclusión sea válida, debe estar firmada, fechada e incluir los cuatro últimos dígitos de su número de seguridad social (para confirmar su identidad y asegurarse de que sólo las personas que soliciten la exclusión queden excluidas del acuerdo de conciliación).

El Formulario de Solicitud de Exclusión (para excluirle del Acuerdo de Conciliación de la Demanda Colectiva) debe llevar franqueo postal a más tardar del <<RESPONSE DEADLINE>>. Si no presenta el formulario de Solicitud de Exclusión dentro de plazo (de lo que dará fe el franqueo postal), su solicitud de exclusión del Acuerdo de Conciliación se rechazará, se le considerará Miembro del Acuerdo de Conciliación de la Demanda Colectiva y quedará sujeto a la exoneración de las Reclamaciones Exoneradas, según lo descrito anteriormente, y todos los demás términos del Acuerdo de Conciliación. Si presenta un formulario de Solicitud de Exclusión dentro del plazo para solicitar la exclusión, no se le emitirá un Pago Individual del Acuerdo de Conciliación, no estará sujeto al Acuerdo de Conciliación de la Demanda Colectiva (ni a la exoneración de las Reclamaciones Exoneradas de la Demanda Colectiva), y no tendrá derecho a objetar, apelar o hacer comentarios sobre el Acuerdo de Conciliación de la Demanda Colectiva. Los Empleados de PAGA no pueden excluirse voluntariamente del Pago del Acuerdo de Conciliación de PAGA y se

les emitirá igualmente un Pago del Acuerdo de Conciliación de PAGA y estarán sujetos a las Reclamaciones Exoneradas de PAGA, independientemente de que presenten o no un Formulario de Solicitud de Exclusión y de que cobren o no su cheque del Pago Individual del Acuerdo de Conciliación.

IMPORTANTE: NO PRESENTE UN FORMULARIO DE SOLICITUD DE EXCLUSIÓN SI DESEA QUE SE LE INCLUYA EN EL ACUERDO DE CONCILIACIÓN DE LA DEMANDA COLECTIVA Y RECIBIR SU PARTE DEL DINERO DISPONIBLE PARA USTED COMO PARTE DEL ACUERDO DE CONCILIACIÓN.

¿Cuál es el siguiente paso en la aprobación del Acuerdo de Conciliación?

El Tribunal celebrará una Audiencia de Aprobación Definitiva el <<FINAL APPROVAL HEARING DATE & TIME>>, en el Departamento CX1035 del Tribunal Superior del Condado de Orange, sito en 751 W. Santa Ana Boulevard, Santa Ana, California 92701. Como se ha descrito anteriormente, si desea asistir a la Audiencia de Aprobación Definitiva a distancia, puede hacerlo a través del proceso de registro en línea del tribunal disponible a través de la página web del tribunal en <https://www.occourts.org/media-relations/civil.html>. Si desea asistir en persona a la Audiencia de Aprobación Definitiva, puede hacerlo en el Tribunal Superior del Condado de Orange, 751 W. Santa Ana Boulevard, Santa Ana, California 92701. La Audiencia de Aprobación Definitiva podrá aplazarse sin previo aviso a los Miembros de la Demanda Colectiva. Usted no está obligado a asistir a la Audiencia de Aprobación Definitiva para recibir un Pago Individual del Acuerdo de Conciliación.

Si el Tribunal concede la Aprobación Definitiva del Acuerdo de Conciliación, la Orden por la que se conceda la Aprobación Definitiva y se dicte Sentencia, la Primera Querella Enmendada, la carta de aviso a la LWDA, el Acuerdo de Conciliación y el presente Aviso se publicarán en un sitio web del Administrador del Acuerdo de Conciliación durante un período mínimo de 180 días a partir de la entrada de dicha Orden en el registro del Tribunal. Ese sitio web es: <<website>>.

¿Quiénes son los abogados que representan a las Partes?

Los abogados que representan a las Partes en la Demanda son:

Abogados de la Demanda Colectiva	Abogados de los Demandados
Lilit Tunyan ltunyan@tunyanlaw.com	Michael J. Burns mburns@sevfarth.com
Artur Tunyan atunyan@tunyanlaw.com	Andrew M. McNaught amcnaught@sevfarth.com
TUNYAN LAW, APC 535 N. Brand Blvd., Suite 285 Glendale, California 91203 Teléfono: (323) 410-5050	SEYFARTH SHAW LLP 560 Mission Street, 31st Floor San Francisco, California 94105 Teléfono: (415) 397-2823 Facsímil: (415) 397-8549
Seung Yang seung.yang@thesentinelfirm.com	Laura E. Heyne lheyne@sevfarth.com
Tiffany Hyun tiffany.hyun@thesentinelfirm.com	SEYFARTH SHAW LLP 2029 Century Park East, Suite 3500 Los Angeles, CA 90067-3021 Teléfono: (310) 277-7200 Facsímil: (310) 201-5219
THE SENTINEL FIRM, APC 355 S. Grand Ave., Suite 1450 Los Angeles, California 90071 Teléfono: (213) 985-1150 Facsímil: (213) 985-2155	

¿Cómo puedo obtener información adicional?

Este Aviso resume la Demanda y los términos básicos del Acuerdo de Conciliación. Hay más detalles en la Estipulación Conjunta del Acuerdo de Conciliación de Demanda Colectiva y Demanda Representativa de PAGA adjunta y [Modificación al Estipulación Conjunta del Acuerdo de Conciliación de Demanda Colectiva y Demanda Representativa de PAGA adjunta](#) a la Declaración de Lilit Tunyan en apoyo a la Moción para la Aprobación Preliminar de la Demandante y a la Declaración Suplementaria de Lilit Tunvan en apoyo a la Moción para la Aprobación Preliminar de la Demandante. La Estipulación Conjunta del Acuerdo de Conciliación de Demanda Colectiva y Demanda Representativa de PAGA, Modificación al Estipulación Conjunta del Acuerdo de Conciliación de Demanda Colectiva y todos los demás registros relacionados con la Demanda están disponibles para su consulta y/o copia en la Oficina de Registros Civiles del Tribunal Superior del Condado de Orange. Asimismo, puede consultar los documentos presentados en este caso en el sitio web del Tribunal, en: <https://www.occourts.org/media-relations/civil.html>. Es posible que necesite el número de caso para acceder y consultar los documentos del caso (30-2024-01376524-CU-OE-CXC). NOTA: Si decide acceder a los documentos en línea, el Tribunal le cobrará una tasa por el acceso.

**POR FAVOR, NO SE PONGA EN
CONTACTO CON EL TRIBUNAL PARA
SOLICITAR INFORMACIÓN SOBRE ESTE
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EXHIBIT B

REQUEST FOR EXCLUSION FORM

**Superior Court of California for the County of Orange
Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.
Case No. 30-2024-01376524-CU-OE-CXC**

If you want to receive a Class Settlement Payment, you should not fill out this form. You are not required to do anything at this time. This form is to be used only if you want to exclude yourself from the Settlement.

If you decide to exclude yourself from the Settlement: (1) you will not receive any payment under the Settlement (except as to the PAGA Claim, if applicable); (2) you will not be able to object to the Settlement; and (3) you will not be bound by the class settlement or the class release if it is ultimately approved by the Court.

To be excluded from the Settlement, you must complete this Request for Exclusion Form and mail it to the Settlement Administrator at the address listed below, postmarked no later than [Response Deadline--60 days following the date of mailing].

[INSERT NAME OF SETTLEMENT

ADMINISTRATOR]

[INSERT INFO]

Request for Exclusion

I hereby certify that I am or was employed by Defendants as a non-exempt, hourly employee in California for some period of time between January 30, 2020 and -----.

I have received the Notice of Class Action Settlement ("Notice") in the Action, and I request to be excluded from the Settlement. I understand that by submitting this Request for Exclusion Form, I will not be bound by the class settlement, including the Released Class Claims, as described in the Notice and in the Settlement Agreement on file with the Court, and I will not receive a payment from the class settlement. I understand that I cannot exclude myself from the PAGA Settlement Payment and that I will still receive a pro-rata share of the PAGA Settlement Amount and will be bound by the Released PAGA Claims regardless of whether I exclude myself from the Class Settlement Payment.

Full Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: (____) _____

Last four digits of your SSN: _____

Signature of Class Member (or Legal Representative): _____

Date: _____

FORMULARIO DE SOLICITUD DE EXCLUSIÓN

**Tribunal Superior de California para el Condado de Orange
Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.
Caso n.º 30-2024-01376524-CU-OE-CXC**

Si desea recibir un Pago del Acuerdo de Conciliación de la Demanda Colectiva, no debe llenar el presente formulario. No tiene que hacer nada. Este formulario debe usarse únicamente si desea excluirse del Acuerdo de Conciliación.

Si decide excluirse del Acuerdo de Conciliación: (1) no recibirá ningún pago en virtud del Acuerdo de Conciliación (excepto en lo que respecta a la Reclamación PAGA, si corresponde); (2) no podrá objetar al Acuerdo de Conciliación; y (3) no estará sujeto al acuerdo de conciliación de la demanda colectiva o a la exoneración de la demanda colectiva en caso de que el Tribunal la apruebe definitivamente.

Para excluirse del Acuerdo de Conciliación, debe llenar este Formulario de Solicitud de Exclusión y enviarlo por correo al Administrador del Acuerdo de Conciliación a la dirección indicada a continuación, con franqueo a más tardar del [Fecha Límite de Respuesta--60 días después de la fecha de envío].

**[INSERTAR EL NOMBRE DEL
ADMINISTRADOR DEL ACUERDO DE
CONCILIACIÓN]
[INSERTAR LA INFORMACIÓN]**

Solicitud de Exclusión

Por el presente certifico que soy o fui empleado por los Demandados como empleado no exento, por horas, en California durante algún período de tiempo entre el 30 de enero de 2020 y el -----.

Yo he recibido el Aviso de Acuerdo de Conciliación de la Demanda Colectiva ("Aviso") de la Demanda, y solicito que se me excluya del Acuerdo de Conciliación. Yo comprendo que, al presentar este Formulario de Solicitud de Exclusión, no estaré sujeto al acuerdo de conciliación de la demanda colectiva, incluyendo las Reclamaciones Exoneradas de la Demanda Colectiva, según se describen en el Aviso y en el Acuerdo de Conciliación que se encuentra en los archivos del Tribunal, y que no recibiré un pago del acuerdo de conciliación de la demanda colectiva. Yo comprendo que no puedo excluirme del Pago del Acuerdo de Conciliación de PAGA y que igualmente recibiré una parte prorrateada del Monto del Acuerdo de Conciliación de PAGA y estaré sujeto a las Reclamaciones Exoneradas de PAGA independientemente de que me excluya de recibir el Pago del Acuerdo de Conciliación de la Demanda Colectiva.

Nombre completo: _____

1 Dirección. Calle: _____
2 Ciudad, estado, código postal: _____
3 Número de teléfono: (____) _____
4 Cuatro últimos dígitos de su número de la Seguridad Social: _____
5 Firma del Miembro de la Demanda Colectiva (o su representante legal): _____
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EXHIBIT C

OBJECTION FORM

Superior Court of California for the County of Orange

Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.

Case No. 30-2024-01376524-CU-OE-CXC

USE AND RETURN THIS FORM ONLY IF YOU WISH TO OBJECT TO THE CLASS SETTLEMENT.

If you do not wish to object to the Class Settlement, you should NOT fill out this form. You do not need to take any action.

If you wish to object to the Class Settlement, you must write your name, address, and last four digits of your Social Security number, sign on the following page, and return this form by mail or delivery to the Settlement Administrator, at the following mailing address, postmarked or delivered on or before

[RESPONSE DEADLINE--60 days following the date of mailing].

TBD

[INSERT MAILING ADDRESS]

I wish to object to the Class Settlement on the following grounds:

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Full Name: _____

Street Address: _____

City, State, Zip Code: _____

Telephone Number: (____ __) _____

Last four digits of your SSN: _____

Signature of Class Member (or Legal Representative): _____

Date: _____

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FORMULARIO DE OBJECCIÓN

**Tribunal Superior de California para el Condado de Orange
Kimberly M. Wilhelm v. Kemper Sports Management, LLC, et. al.**

Caso n.º 30-2024-01376524-CU-OE-CXC

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**UTILICE Y DEVUELVA ESTE FORMULARIO ÚNICAMENTE SI DESEA OBJETAR
AL ACUERDO DE CONCILIACIÓN DE LA DEMANDA COLECTIVA.**

**Si usted no desea objetar el Acuerdo de Conciliación de la Demanda Colectiva, NO debe
rellenar este formulario. No tiene que hacer nada.**

Si usted desea objetar el Acuerdo de Conciliación de la Demanda Colectiva, debe escribir su
nombre, dirección, y los cuatro últimos dígitos de su número de la Seguridad Social, firmar en la
página siguiente, y devolver este formulario por correo o entregarlo al Administrador del Acuerdo
de Conciliación en la dirección postal que figura a continuación, con franqueo o entrega personal
a más tardar el **[FECHA LÍMITE DE RESPUESTA--60 días después de la fecha de envío].**

POR DEFINIR

[INSERTAR LA DIRECCIÓN POSTAL]

Yo deseo objetar el Acuerdo de Conciliación de la Demanda Colectiva por los siguientes motivos:

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Nombre completo: _____

Dirección. Calle: _____

Ciudad, estado, código postal: _____

Número de teléfono: (____ __) ____ ____

Cuatro últimos dígitos de su número de la Seguridad Social: _____

Firma del Miembro de la Demanda Colectiva (o su representante legal):

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Exhibit “6”

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18
6 and not a party to the within action; my business address is 535 N Brand Blvd. Suite 285
7 Glendale, CA 91203.

8 On the date indicated below, I served the documents described as: **1. SUPPLEMENTAL
9 DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR
10 PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION
11 SETTLEMENT; 2. FIRST AMENDMENT TO JOINT STIPULATION OF CLASS AND
12 PAGA REPRESENTATIVE ACTION SETTLEMENT; 3. AMENDED PROPOSED
13 ORDER GRANTING PRELIMINARY APPROVAL OF CLASS AND PAGA
14 REPRESENTATIVE ACTION SETTLEMENT** on the interested parties in this action by
15 sending a true copy thereof to interested parties as follows and as stated on the attached service
16 list:

17 Labor & Workforce Development Agency
18 Attn. PAGA Administrator
19 1515 Clay Street, Ste. 801
20 Oakland, CA 94612
21 PAGAFilings@dir.ca.gov

22 [✓] **BY ONLINE SUBMISSION:** I hereby certify that these documents were served from
23 Glendale, California, by online submission to Labor & Workforce Development Agency
24 portal using the link <https://dir.tfaforms.net/315>.

25 I declare under penalty of perjury under the laws of the State of California that the above is
26 true and correct.

27 Executed on August 8, 2025 at Glendale, California.

28 Lilit Tunyan
Name


Signature

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of
6 18 and not a party to the within action; my business address is 355 S. Grand Ave., Suite 1450
7 Los Angeles, CA 90071.

8 On the date indicated below, I served the document described as: **SUPPLEMENTAL**
9 **DECLARATION OF LILIT TUNYAN IN SUPPORT OF PLAINTIFF'S MOTION FOR**
10 **PRELIMINARY APPROVAL OF CLASS AND PAGA REPRESENTATIVE ACTION**
11 **SETTLEMENT** on the interested parties in this action by sending a true copy thereof to
12 interested parties as follows and as stated on the attached service list:

13 **SEYFARTH SHAW LLP**

14 Michael J. Burns

15 mburns@seyfarth.com

16 Andrew M. McNaught

17 amcnaught@seyfarth.com

18 560 Mission Street, 31st Floor

19 San Francisco, California 94105

20 Telephone:(415) 397-2823

21 Facsimile:(415) 397-8549

22 **SEYFARTH SHAW LLP**

23 Laura E. Heyne

24 lheyne@seyfarth.com

25 2029 Century Park East, Suite 3500

26 Los Angeles, CA 90067-3021

27 Telephone: (310) 277-7200

28 Facsimile: (310) 201-5219

Attorneys for Defendants KEMPER SPORTS MANAGEMENT, LLC, KEMPER SPORTS
MANAGEMENT HOLDINGS, LLC

20 [✓] **BY E-MAIL:** I hereby certify that this document was served from Glendale,
21 California, by e-mail delivery on the parties listed herein at their most recent known e-
22 mail address or e-mail of record in this action.

23 [✓] **BY ELECTRONIC SERVICE:** Based on an agreement of the parties to accept electronic
24 service, I caused the documents to be sent to the persons at the electronic service addresses
25 listed above via electronic mail. I did not receive an error message.

26 I declare under penalty of perjury under the laws of the State of California that the above is
27 true and correct.

28 Executed on August 8, 2025 at Los Angeles, California.

Karen Arellano

Name

Signature