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as an individual and on behalf of all
employees similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

JESUS GUZMAN, as an individual and on behalf of all employees similarly situated,

Plaintiff,

v.

CORE ENVIRONMENTAL SOLUTIONS, a California Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV03593

[Assigned for all purposes to Hon. Stuart M. Rice]

<u>CLASS AND PAGA REPRESENTATIVE ACTION</u>

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

Date:	April 22, 2025
Time:	10:30 a.m.
Courtroom:	Dept. 1
Judge:	Hon. Stuart M. Rice
Action Filed:	February 13, 2024
Trial Date:	Not Set

DECLARATION OF LILIT TUNYAN

I, LILIT TUNYAN, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the United States District Courts for the Central, Eastern, Southern and Northern Districts of California. I am the founding partner at the law firm of Tunyan Law, APC. I am a fully qualified, adult resident of the State of California, and, if called as a witness herein, I would testify truthfully to the matters set forth herein. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I am one of the attorneys of record for Plaintiff JESUS GUZMAN ("Plaintiff").

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

BACKGROUND

3. On February 13, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: (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); and (7) Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices). On April 17, 2024, Plaintiff filed his First Amended Complaint adding the eighth cause of action adding a cause of action for civil penalties Under PAGA [Cal. Lab. Code § 2699, et seq.] ("PAGA") (the "Operative Complaint.")

4. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice and Amended PAGA Notice. ("PAGA").

5. The Parties have conducted informal discovery and investigation of the facts and law. Such discovery and investigation have included, inter alia, the exchange of informal data and discoverable information in preparation for the mediation and settlement negotiations. The Parties have analyzed payroll and other data pertaining to Plaintiff and the Class during the relevant Settlement

Period, including but not limited to the numbers of former and current members of the Class, average workweeks, a 50% sample size time and pay records and average rate of hourly pay, wage and hour policies. (*Id.*)

6. After reviewing documents regarding Defendant's wage and hour policies and practices and other information obtained during the exchange of discovery, Class Counsel were able to evaluate the probability of class certification, success on the merits, and the reasonably obtainable maximum monetary exposure for all claims. Class Counsel reviewed these records and prepared a damage analysis prior to mediation. Class Counsel also investigated the applicable law regarding the claims and defenses asserted in the litigation.

7. On November 12, 2024, the Parties mediated before mediator Tagore Subramaniam, Esq. who is a highly experienced and well-regarded mediator for wage and hour class action litigation, which led to this Agreement to settle the Action. At the mediation, the Parties discussed at length the burdens and risks of continuing with the litigation considering Defendant's defenses. The Parties have reached an agreement regarding the substantive terms of a class-wide settlement, pending the Parties' agreement on a long-form class settlement agreement. The Parties then signed a long form settlement agreement ("Agreement").

8. Plaintiff and Class Counsel are aware of the burdens of proof necessary to establish liability for the claims asserted in the Action, both generally and in response to Defendant's defenses thereto. Plaintiff and Class Counsel have also taken into account Defendant's agreement to enter into a Settlement that confers substantial relief upon the Class.

9. Based on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth in this Agreement is a fair, adequate, and reasonable Settlement and is in the best interests of the Class. Solely for the purpose of settling this case, the parties agree that the requirements for establishing class action certification with respect to this class have been met and are met. If this Settlement is not approved by the Court for any reason, Defendant reserves its right to contest class certification. This Settlement, if approved by the Court, will result in the entry of the Judgment and the release of all Released Claims for all Class Members, including all within the class definition who have not elected to exclude themselves from the Settlement Class.

SUMMARY OF THE SETTLEMENT TERMS

10. Key provisions of the proposed settlement include the following:

(a) Defendant agrees not to oppose certification of a Class for purposes of Settlement only (Settlement, ¶ 12.1);

(b) Class: All non-exempt, hourly employees of Defendant who worked for Defendant in California during the Class Period (the "Class Period" is February 13, 2020 through January 11, 2025, or as modified pursuant to Paragraph 8 of the Agreement). (Settlement, ¶ 1.4, 1.11.) "Participating Class Members" are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. (Settlement, ¶ 1.8, 1.35);

(c) Settlement Amount: Defendant will pay a maximum of **$155,000.00**, referred to as the Gross Settlement Amount (or GSA herein), resulting in an estimated average **gross** payment per Class Member of approximately **$1,781.61** (Settlement, ¶ 1.21);

(d) Class Size: approximately **84** individuals who worked **3,563** workweeks as of November 1, 2024 during the Class Period as of the time of mediation and **87** individuals who worked **3,900** workweeks as of January 11, 2025. (Settlement, ¶ 4.1, 8);

(e) PAGA Group Size: approximately **75** individuals, who worked **1,355** pay periods as of November 1, 2024 during the PAGA period as of the time of mediation and **77** individuals, who worked **1,540** pay periods as of January 11, 2025 (Settlement, ¶ 4.1);

(f) PAGA Period: February 13, 2023 through January 11, 2025 or on the modified date pursuant to the Paragraph 8 of this Agreement. (Settlement, ¶ 1.31);

(g) Escalator Clause: Based on its records, Defendant estimates that, as of November 1, 2024, the number of Workweeks during the Class Period is 3,563. The parties stipulate to a 10% escalation of the estimated Workweeks in the final Workweeks' count at the end of the Class Period without any increase to the

Gross Settlement Amount. If the number of actual Workweeks during the Class Period exceeds this 10% cushion above the estimated workweek total of 3,563 (i.e., exceeds 3,919 workweeks), Defendant may elect to either (1) purchase the additional workweeks above the 10% cushion (i.e. the weeks above the 3,919 total) at a pro rata rate, or (2) cut off the release period as of the date the 10% cushion is exhausted. If Defendant elects Option (1) from the previous sentence, Defendant shall increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of Workweeks in excess of 3,919 workweeks. For example, if there is a 1% increase over the 10% cushion, then the GSA increases by 1%. Defendant shall provide the estimated Workweeks total for the entire Class Period, (i.e. from February 13, 2020 through January 11, 2025) or through the date that falls five (5) days prior to filing preliminary approval motion, whichever date is earlier, to Plaintiff's counsel five (5) days prior to filing a motion for preliminary approval of this settlement for determining the exact release period for court approval in case the escalator clause is triggered (the "Escalator Clause"). (Settlement, ¶ 8); ***Based on the updated data provided by Defendant the number of Class Members worked from February 13, 2020 through January 11, 2025 is 87 who worked a total of 3,900 workweeks. Therefore, the Escalator Clause was not triggered.***

(h) Kullar/Munoz Analysis: Plaintiff addresses the claims analysis herein, at Part V.B.3, and in more detail the Declaration of Lilit Tunyan, at Paragraph 18;

(i) No Reversion: The Settlement is a ***non-reversionary*** settlement (Settlement, ¶ 3.1);

(j) Certification: Plaintiff addresses certification requisites herein, at Part V.A., and in the Declaration of Lilit Tunyan, at Paragraphs 34-40;

(k) No Claim Form: No claim form is required (Settlement., ¶ 3.1);

(l) Class Release: The Settlement will release specified wage-and-hour claims for Class Members (those Class Members who do not opt out of the Settlement)

(Settlement, ¶¶ 1.38, 5.2);

(m) PAGA Release: The PAGA Group Members will release the PAGA Claims set forth in this Action, that were identified in the First Amended Complaint and Plaintiff's LWDA Notice Letter, regardless of whether they opt out of the class portion of the Settlement (Settlement, ¶¶ 1.39, 5.3);

(n) Release Effective Date: The Release is not active until Defendant tender all payments required under the Settlement to the Settlement Administrator (Settlement, ¶ 5);

(o) Net Settlement Amount Available to the Class: After deducting Class Counsel's attorneys' fees and costs, service award to Plaintiff, administration costs, and the payment to the LWDA, the remainder will be available for distribution to Class Members who do not opt out, with each Class Member receiving a share based on the number of workweeks each Class Member worked for Defendant within the Class Period. The Net Settlement Amount is estimated to be at least **$62,533.33**, resulting in an average **gross** payment per Class Member of **$1,781.6** and **net** payment per Class Member of at least **$718.77** before any tax withholdings. (Settlement, ¶ 3);

(p) Tax Allocation: The amounts distributed to Class Members will be characterized as 20% alleged unpaid wages, 80% to penalties and interest, and PAGA Settlement Payments will be allocated as 100% penalties. (Settlement, ¶ 3.2.4.1, 3.2.5.2);

(q) Employer's Portion of Payroll Taxes Paid Separately: Defendant's portion of payroll taxes (e.g., FICA, FUTA, etc.) owed on any settlement payments to Class Members that constitute wages will be paid separate and apart from the GSM (Settlement, ¶ 3.1);

(r) Settlement Administrator: The notice portion of the Settlement will be administered by a third-party Administrator, ILYM Group Inc. and the Parties estimated that the costs of administration should not reasonably exceed

$8,000.00. ILYM Group Inc.'s low bid for settlement administration services in the amount of **$5,550.00** was selected as the lowest bid from a competitive bidding process. (Settlement, ¶ 3.2.3);

(s) Class Data for Administration: The Settlement Administrator will receive the Class List within 14 calendar days of Preliminary Approval, use the NCOA database to update the Class List, and then use skip tracing on returned Notices (Settlement, ¶ 4.2);

(t) Notice: The Notice will issue within 14 days of receipt of the Class List (Settlement, ¶ 7.4.2). The Notice describes how to dispute workweeks, submit an objection in writing, in person, or through an attorney, or request exclusion (Settlement, ¶¶ 7.4 – 7.7);

(u) Notice Language: Notice will issue in English and Spanish (Settlement, ¶ 1.10);

(v) Objections: Objections can be submitted in person, through an attorney, or in writing to the Settlement Administrator (Settlement, ¶ 7.7);

(w) Exclusion Requests: The procedure for exclusion requests, mailing a request to the Settlement Administrator, is the same as the procedure for submitting a written objection (Settlement, ¶¶ 7.5 and 7.7);

(x) PAGA Allocation: From the GSA, **$15,000.00** will be allocated to settle claims brought pursuant to the California Private Attorneys General Act, Labor Code § 2699 et seq. ("PAGA"), and seventy-five percent (75%) of this PAGA allocation, or **$11,250.00**, will be paid to the California Labor & Workforce Development Agency. (Settlement, ¶¶ 1.34, 3.2.5.);

(y) Notice to LWDA: Notice was provided prior to the filing of this Motion. Evidence is attached to the Declaration of Lilit Tunyan;

(z) Enhancement/Service Award to Plaintiff: Defendant will not oppose the application for Class Representative Service Award of up to **$6,000.00** for Plaintiff, to be paid from the GSA (Settlement, ¶ 3.2.1);

(aa) Fees and Costs: Defendant will not oppose Class Counsel's application for fees not to exceed 33 1/3% of the GSA **($51,666.67**), and actual costs, in an amount not to exceed **$18,000.00**, to be paid out of the GSA (Settlement, ¶ 3.2.2);

(bb) Check Void Period: Settlement checks will be valid for 180 days (Settlement, ¶ 4.4.3);

(cc) Uncashed Checks: Any settlement checks that are mailed to the Class Members and remain uncashed after 180 days of the date of issuance will be cancelled, and the moneys will be directed to the California Controller's Unclaimed Property Fund (Settlement, ¶¶ 4.4.1, 4.4.3);

(dd) Judgment Notice: Settlement Agreement, Class Notice and Judgment will be posted on the Settlement Administrator's website after entry (Settlement, ¶ 7.8.1);

(ee) Confidentiality Provisions: The Settlement permits Class Counsel to discuss the Settlement with Class Members (Settlement ¶ 12.2).

11. A true and correct copy of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT is attached hereto as **Exhibit "1."**

THE SETTLEMENT IS FAIR, JUST AND REASONABLE

12. Plaintiff and counsel have diligently investigated the claims of the Class Members. Plaintiff and Class Counsel concluded, after taking into account the disputed factual and legal issues involved in this Action, the substantial risks attending further prosecution including risks related to the outcome of certification, and the substantial benefits to be received pursuant to the compromise and settlement of the Action as set forth in the Settlement, that settlement on the terms agreed to are in the best interest of Plaintiff and the putative Class and are fair and reasonable. Plaintiff's and Defendant's counsel brought to bear a great deal of experience with class actions in negotiating the settlement of this case.

13. One fundamental purpose of the class action device is to promote efficiency. Resolution at this time will forestall the need for additional expensive and time-consuming litigation that could very well result in an outcome less satisfactory than that proposed under this settlement. But, before any other consideration, we have agreed to this settlement because it is objectively reasonable. The potential for resolution benefits the class members, since they do not have to wait additional years for a similar

recovery. The efficiency of this litigation benefits the Court, the parties and their counsel. A class-wide resolution is the most realistic method for addressing the claims raised in this matter.

14. We have engaged in the necessary investigation in this case that made it possible for us to exercise informed judgment in those aspects of the settlement process in which we were involved. The exchange of time and wage data, wage and hour policy documents and data about the composition of the Class were sufficient to permit us counsel to adequately evaluate the settlement. We had more than enough information upon which to evaluate a fair and reasonable settlement amount.

15. We believe that the case was viable through to a trial. However, while Plaintiff assert a belief that this is a viable case for trial, we realize that there are always significant risks associated with certification and trials, and those risks cannot be eliminated in this case. Continued litigation of this lawsuit presented Plaintiff and Defendant with substantial legal risks and costs that were (and continue to be) difficult to assess. The risks in this matter include:

- the risk that Plaintiff would be unable to establish liability for allegedly unpaid straight time or overtime wages, *see Duran v. US Bank Nat'l Ass'n*, 59 Cal. 4th 1, 39 & fn. 33 (2014) ("*Duran*"), *citing Dilts v. Penske Logistics, LLC* 2014 WL 205039 (S.D. Cal. 2014) (dismissing certified off-the-clock claims based on proof at trial);;
- the risk that Defendant's meal and rest period policies might not ultimately support class certification or a class-wide liability finding, see *Duran*, 59 Cal. 4th at 14, n. 28 (citing Court of Appeal decisions favorable on class certification issue without expressing opinion as to ultimate viability of proposition) given also low violation rate based on the review of the sample records;
- the risk that uncertainties pertaining to the ultimate legality of Defendant's policies and practices could preclude class-wide awards of statutory penalties under Labor Code §§ 203 and 226(e);
- the risk that individual differences between Class Members could be construed as pertaining to liability and not solely to damages, see *Duran*, 59 Cal. 4th at 19;
- the risk that any civil penalties award under the PAGA could be reduced by the Court in its discretion, see Labor Code § 2699(e)(1);

- the risk that class treatment could be deemed improper as to one or more claims, except for settlement purposes;
- the risk that lengthy appellate litigation could ensue;
- the risk that violation rate estimates would prove much lower than expected.

These risks are non-exhaustive. While we remain confident that we possess credible strategies for responding to the legal and factual risks facing them, those risks cannot be disregarded. We carefully considered the risks created by all of these uncontrollable factors when evaluating the reasonableness of this proposed settlement. This Settlement provides a benefit to the Class Members that is very reasonable in light of these particular risks.

16. The Settlement is the product of arm's-length negotiations between the Parties occurring throughout the litigation. In light of the uncertainties of protracted litigation and the state of the law regarding the legal positions of the Parties, the settlement amount reflects the best feasible recovery for the Class Members. The settlement amount is, of course, a compromise figure. By necessity it took into account risks related to liability, damages, and the defenses asserted by Defendant. Moreover, each Class Member will be given the opportunity to opt-out of the Settlement, allowing those who feel they have claims that are greater than the benefits they can receive under this Settlement to pursue their own claims. For the approximately **87** members of the Class, the average ***gross*** recovery is at least **$1,781.61** per class member, and the estimated average ***net*** recovery for each Class Member is approximately **$718.77**. Given that Defendant could challenge certification and liability, this is a significant sum to have achieved in settlement. Moreover, <u>a Class Member who worked a greater number of weeks for Defendant will receive a larger share of the Settlement</u> than a Class Member who worked for a shorter amount of time during the class period.

17. The Gross Settlement Amount of **<u>$155,000.00</u>** is about 72% of the **$213,896.81** estimate of *risk-adjusted* recovery (excluding interest) at this stage in the litigation. This assessment is based on a carefully constructed model of the current fair value of the case, using estimated risks, average wage rates, numbers of employees, and the amount of time covered by the class period. While Plaintiff would certainly have preferred to recover more (and Defendant would have preferred to pay less), this outcome is in line with a carefully constructed estimate of the current fair value of the case. On that basis, it

would be unwise to pass up this settlement opportunity. My maximum calculated reasonable exposure, after removing implausible or extreme estimated recoveries, is **$1,313,245.75**, *including* PAGA penalties.

- A reasonably estimated exposure for unpaid off-the-clock work was calculated, with the assistance of an expert, to be approximately **$328,686.75** (3,563 workweeks x 3 hour of unpaid wage per workweek, which is based on the hourly average rate of $30.75 per hour)). However, with the risk factor discounts for certification and liability proof, the value of that claim is estimated by Plaintiff's counsel to be approximately **$49,303.01**, assuming certification probability of 50% and merits success at 30%.
- A reasonably estimated exposure for rest break violations over the class period was calculated at **$219,124.5** (3,563 workweeks x 2rest period premium per workweek x $30.75), but with chances of certification and proof of liability (50% and 40% respectively) for a risk-adjusted exposure of **$43,824.90**.
- A reasonably estimated exposure for meal break violations over the class period was calculated at **$219,124.5** (3,563 workweeks x 2meal period premium per workweek x $30.75) with chances of certification and liability risks (50% and 40% respectively) resulting in a risk-adjusted exposure of **$43,824.90**.
- Risk-adjusted penalty recoveries for wage statement and Labor Code § 203 penalties were estimated to be approximately **$13,130.00** and **$19,188.00**, respectively, on maximum exposures of **$131,300.00** (84 initial violations x $50 statutory penalty] + [1,271 subsequent violations x $100 statutory penalty]) and **$191,880.00** (26 employees terminated during the three-year statute of limitation x (30 days x hourly rate of $30.75 x 8 hours), or approximately $7,380.00 per individual, respectively), respectively (50% and 20% respectively).
- A reasonably estimated exposure for unreimbursed expenses was calculated at **$35,630.00 (3,563** workweeks x $10 unreimbursed business expenses per workweek), with chances of certification and liability risks (50% and 40% respectively) resulting in a risk-adjusted exposure of **$7,126.00**.

- Performing risk-adjusted valuations for all claims yields a total value in the range of **$179,396.81**, excluding PAGA. (Id.)
- PAGA penalties were calculated as having a maximum realistic exposure of **$187,500.00** (75 aggrieved employees estimated to have worked during one-year statutory period x $2,500.00 civil penalties), but a risk adjusted value of **$37,500.00**, after factoring in risks of reduction in penalties pursuant to Court discretion and the high risk of the inability to prove violations for all aggrieved employees.

As required under *Kullar v. Foot Locker Retail, Inc*., 168 Cal. App. 4th 116 (2008) and *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles*, 186 Cal. App. 4th 399 (2010), the maximum plausible and realistic recoveries versus the current risk-adjusted value of the claims are discussed in additional detail below:

(a) Key Class Data Elements at Time of Mediation:

1) Class Members: approximately 87

2) Work Weeks: approximately 3,900 workweeks during Class Period

3) PAGA Employees: approximately 77

4) Gross Settlement Amount: $155,000

(b) *KULLAR/MUNOZ* ANALYSIS: Unpaid Wages Due to Off-the-Clock Work

1) Plaintiff's claims for unpaid wages due to off-the-clock work is based on Defendant's practice of paying based on a fixed rounded intervals rather than actual time worked. Defendant produced time records for Plaintiff and sample of Class Members in response to Plaintiff's discovery request show uniformity in work start times and stop times and start times and stop times for meal breaks which seems improbable on a wide variety of job sites (nearly all time entries were recorded to an-hour or half-an hour intervals and 74% of all shifts are exactly eight hours in length and all meal breaks are exactly thirty minutes in length or one hour in length) and failure to compensate Plaintiff and Class Members for the commute from the jobsites to their

corporate office to drop the work van and materials mandating them to record the scheduled shift end time when they finish their work at the jobsite and for the commute time to their jobsites and from their jobsites back when Plaintiff and Class Members used their personal vehicles to drive to jobsites and were required to take the tools necessary for their work home and take them back to the jobsite next day or when the commute was longer than usual.

2) Defendant denies these allegations and contends they compensated for all time.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$328,686.75**
Estimated certification probability	50%
Estimated chance of prevailing on merits	30%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$49,303.01**

(c) *KULLAR/MUNOZ* ANALYSIS: Meal Periods

1) Plaintiff's claim for meal break violation is based on Defendant's policy to require Plaintiff and Class Members to take their protective garments (hazmat suits) off prior to leaving for meal periods and another ten minutes to take them back on when they were back from their meal periods cutting the actual thirty-minute meal periods short by twenty minutes. Despite that Defendant required to record thirty-minute meal periods. Defendant produced time records for Plaintiff and sample of Class Members in response to Plaintiff's informal discovery request which show shocking uniformity in start and end times for meal breaks and uniform thirty-minute or one-hour length of all recorded meal breaks. 73% of all meal periods are exactly thirty minutes. Employees are entitled to meal periods of at least 30

minutes before exceeding five hours of work and to second meal periods of not less than 30 minutes before exceeding 10 hours of work. For each meal period missed or taken late an employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay."

2) Defendant denies these allegations and maintain that the obligation is simply to "provide" meal periods, not to "ensure" that they are taken. *Brinker v. Superior Court*, 53 Cal. App. 4th 1004, 1034-41 (2012) (rejecting "ensure" standard). Defendant asserts that Plaintiff's meal period claims would not be amenable to class treatment, since individual inquires would need to be made with respect to each specific shift that each employee missed a meal or rest period, to determine why that specific employee missed that specific meal or rest period on that specific shift.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$219,124.5**
Estimated certification probability	50%
Estimated chance of prevailing on merits	40%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$43,824.90**

(d) *KULLAR/MUNOZ* ANALYSIS: Rest Breaks

1) Plaintiff's claim for rest break violation is based on Class Members being hindered from leaving Defendant's jobsites because of the deficient written policy as well as regularly missed first, second and third rest periods due to the pressure to finish the projects within certain deadlines. Employees are entitled to a rest period of at least 10 minutes every four hours worked, or major fraction thereof. For each rest period missed or taken late an

employer must pay the employee an additional one hour of compensation. Labor Code § 226.7. This additional hour of compensation is referred to as "premium pay."

2) Defendant maintains that the obligation is simply to "authorize and permit" rest periods, not to "ensure" that they are taken. *Brinker v. Superior Court*, 53 Cal. App. 4th 1004, 1034-41 (2012) (rejecting "ensure" standard). Furthermore, Defendant contends that any failure to take rest breaks was a result of employee choice, not of any policy or practice of Defendant. Finally, Defendant asserts that Plaintiff's rest breaks claims would not be amenable to class treatment, since individual inquires would need to be made with respect to each specific shift that each employee missed a rest period, to determine why that specific employee missed that specific rest break on that specific shift.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$$219,124.5**
Estimated certification probability	50%
Estimated chance of prevailing on merits	40%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$43,824.90**

(e) *KULLAR/MUNOZ* ANALYSIS: Late Pay Penalties Under Labor Code § 203

1) Labor Code § 203 provides that if an employer fails to pay an employee all wages due at termination or within 72 hours of resignation, then that employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the date they were due. Because class members stopped working for Defendant but again were not paid their full compensation for the reasons discussed above, class members did not

receive all wages due upon termination of employment.

2) Defendant argues that a good-faith belief in the legality of its employment practices precludes a finding that any withholding of wages was "willful." *See* Cal. Code Regs. § 13520 [good-faith dispute exists to a claim for waiting time penalties "when an employer presents a defense, based in law or fact which, if successful, would preclude any recovery on the part of the employee. The fact that a defense is ultimately unsuccessful will not preclude a finding that a good faith dispute did exist."].) Defendant further maintains that because of viable defenses in both law and fact that waiting-time penalties could not be awarded and, in any case, such penalties were subject to a three-year limitations period under Labor Code § 203(b) and an arbitration agreement that would bar class treatment.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$191,880.00**
Estimated certification probability	50%
Estimated chance of prevailing on merits	20%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$19,188.00**

(f) *KULLAR/MUNOZ* ANALYSIS: Wage Statement Violations

1) Plaintiff also alleged a cause of action under Labor Code § 226(a) for not including all wages, or meal and rest break premiums in the wage statements and as a result of including all nice digits of Social Security Numbers of employees instead of including only four digits as well as for including sick pay hours in the total number of hours in Class Members wage statements. That section states that an employer must provide an accurate itemized wage statement twice a month or each time wages are

paid, whichever is the more frequent. Failure to do so entitles employees 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) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars ($4,000). *See* Labor Code § 226(e).

2) Defendant contends that Labor Code § 226(e) penalties are not automatic. Rather, the employee must show that he or she suffered injury from the employer's failure to provide compliant wage statements, and that Defendant's noncompliance was knowing and intentional. Defendant contends that class members suffered no injury from any failure to issue compliant wage statements and, furthermore, that any noncompliance was not knowing and intentional. Further, because the damages for this cause of action are penalties, the statute of limitations only runs from one year prior to the filing of the original complaint. *See* Code Civ. Proc. § 340. Moreover, Defendant maintain that Plaintiff's derivative claim for wage statement penalties would fail for the same reasons that Plaintiff's underlying claims would fail. The parties discussed these issues, and in light of these and other considerations Class Counsel factored in a reduction of liability and damages for this cause of action.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$131,300.00**
Estimated certification probability	50%
Estimated chance of prevailing on merits	20%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$13,130.00**

(g) *KULLAR/MUNOZ* ANALYSIS: Unreimbursed Expenses Under Labor Code § 2802

1) Plaintiff also alleged a cause of action under Labor Code § 2802 for failure to reimburse all necessary expenses. Under Labor Code § 2802, "an employer shall indemnify his or her employee for all necessary expenditures… incurred by the employee in direct consequence of the discharge of his or her duties." Lab. Code § 2802. Plaintiff's claim for unreimbursed expenses is based upon allegation to purchase tools such as hammers, craw bars, staplers, screwdrivers, scissors, wrenches necessary to perform their work without reimbursement, to use their personal cell phones to download an application to upload job related pictures and report on the status of job assignments and projects, and failure to reimburse Plaintiff and Class Members for the mileage when they used their personal vehicles to drive to the jobsites as Plaintiff and Class Members were required to take the tools necessary for their work home and take them back to the jobsite next day or when the commute was longer than usual.

2) Defendant contends that Class Members did not incur significant expenses, and that they reimbursed for work related tools, materials and cell phone bills.

3) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$35,630.00**
Estimated certification probability	20%
Estimated chance of prevailing on merits	50%
Max recovery × certification risk × chance or success on merits = Present Settlement Value	**$7,126.00**

(h) QUASI- *KULLAR/MUNOZ* ANALYSIS: PAGA

1) The Labor Code Private Attorneys General Act, Labor Code § 2699 *et seq*., allows Plaintiff to obtain civil penalties on behalf of herself and other class

members for Defendant' violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties are recoverable, Labor Code § 2699(f) establishes civil penalties of one ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25) percent allocated to the affected employees. The limitations period is one year prior to the filing of the complaint.

2) The provisions of the Labor Code potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§ 203, 226(a), 226.7, and 510. Defendant asserted that if PAGA penalties were mandatory, an employer's PAGA liability would be huge because of the possibility of collecting multiple civil penalties for a single violation, and thus such penalties would almost always dwarf the damages available under the causes of action proper. However, PAGA penalties are not mandatory but permissive. Labor Code § 2699(e)(2) states that "a court may award a lesser amount than the maximum civil penalty amount specified by this part if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." *See also Thurman v. Bayshore Transit Management, Inc.*, 203 Cal. App. 4th 1112, 1135 (2012) [affirming reduction of PAGA penalties].) Defendant here maintain that they have a strong argument that it would be unjust to award maximum PAGA penalties.

3) Furthermore, PAGA penalties are also completely derivative of each and every other claim. Finally, under *Amaral v. Cintas Corp.*, 163 Cal. App.

4th 1157(2008), it can be argued that penalties under PAGA could, at best, be awarded only at the rates obtainable for initial violations under the applicable statutes, because Defendant had never been notified of the alleged violations. *Id.*, at 1208, 1209.

4) **Risk-adjusted Exposure Analysis**:

Calculated maximum recovery:	**$187,500.00**
Discount reduction factor for risk of Court reduction and uncertainty of proof for all aggrieved employees	20%
Max recovery × risk reduction = Present Settlement Value	**$37,500.00**

With the assistance of Class Counsel's retained damages expert, Class Counsel estimated Defendant's maximum total exposure on the PAGA claim at approximately **$187,500.00**. This number presupposes underlying claims are proven at a plausible rate and that the Court awards the full base penalties for each. Class Counsel then applied discounts in light of the countervailing arguments with regard to the other causes of action, and the Court's power to award "a lesser amount than the maximum civil liability." Accordingly, due to the speculative nature of a valuation for this claim, a discount of **80%** was applied to account for the difficulty of prevailing on this claim.

(i) ***Kullar* Summary**: Indulging the most optimistic estimates and improbably favorable outcomes, the maximum reasonable recovery is estimated to be approximately **$1,313,245.75**, including PAGA. The settlement amount is about **12%** of that amount. The calculated current settlement value is **$213,896.81** (calculated by adding the risk-adjusted amounts in the charts above together), and the settlement is **72%** of the current risk-adjusted settlement value. The bottom line is that the settlement is about **12%** of the *maximum* plausible recovery for the

84 Class Members, and it is a reasonable settlement, given that the full amount is very unlikely to be recovered.

18. This result here is fully supportable as reasonable. First, it is important to recognize the wilfulness finding required for Labor Code §§ 203 and 226 is challenging to establish. Second, rest break and meal period claims have been challenging to certify for many years, even after *Brinker*. Many risks are eliminated through settlement. And, with respect to those risks, certification rates in California are ***lower*** than conventional wisdom holds. *See, e.g.*, H. Scott Leviant, *Second Interim Report on class actions in California sheds new light on certification* (February 19, 2010), www.thecomplexlitigator.com, available at http://www.thecomplexlitigator.com/post-data/2010/2/19/second-interim-report-on-class-actions-in-california-sheds-n.html; *see also, Findings of the Study of California Class Action Litigation*, 2000-2006, available at http://www.courtinfo.ca.gov/reference/documents/class-action-lit-study.pdf (finding, at page 5, and in Table 9, at page 15, that only 21.4% of all class actions were certified either as part of a settlement ***or*** as part of a contested certification motion). Here, the estimated certification probabilities are ***above*** the average rate at which cases were certified in California over the study years, based upon data available through the California Courts websites. In sum, well *under* 20% of all cases filed as proposed class actions are ultimately certified by way of a *contested* motion. Since the recovery is roughly 12% of the maximum theoretical recovery, it meets the expected outcome under that metric. This Settlement achieves the goals of the litigation.

19. To the best of my knowledge, there are no other like class claims asserted or filed by Class Members. To the best of my knowledge, no Class Member has refrained from bringing a class action with claims similar to those raised in the Action, whether in reliance on the Action or otherwise, and who thus might be prejudiced by dismissal of the Action.

THE EXPERIENCE OF CLASS COUNSEL

20. I am a founding partner of Tunyan Law, APC and has been engaged in the practice of employment and labor law for five years focusing exclusively on plaintiffs' employment law and wage-and-hour class actions and more than twenty-five years in practice of law in general. I have handled hundreds of wage-related class actions.

21. Prior to establishing my own practice, I was an associate attorney at Moon & Yang, APC and Mahoney Law Group, APC. Since I was admitted to the California Bar, my practice has focused mainly on labor and employment class action lawsuits involving California and federal labor laws. Along with those firm's other attorneys I have successfully settled more than 50 class and PAGA matters during that time span and was routinely appointed lead or co-lead class counsel in courts in California including by way of motion for class certification. I have additionally successfully settled about 20 class and PAGA matters during the last year and a half prior to filing this motion.

22. I received my Juris Doctorate from the State Yerevan University and my LL.M. from University of Minnesota Law School. Prior to moving to California and starting to practice law in California I practiced law in Armenia for about twenty years as a licensed attorney. I have been general counsel and head of legal department for big telecommunication and financial corporations in Armenia for the last 12 years prior to moving to California. I managed corporate legal department and corporate legal and regulatory affairs and handled complex litigation matters as well as complex transactions for many years.

23. I am a current member of the California Employment Lawyers Association (CELA) and the California Consumer Attorneys Association of Los Angeles (CAALA). I have been an active member of the State Bar of California in good standing.

24. I am experienced in prosecuting employment matters, particularly class actions, and I focused a substantial percentage of my practice on wage, hour, and working conditions violations. In addition to the present case, I represented Plaintiff and the class members and have extensively worked on many wage-and-hour class cases and have been appointed as class or PAGA counsel along with other counsel and co-counsel for wage-and-hour class action lawsuits n various counties throughout California such as: *Powers v. Mario's Place Inc.,* Riverside County Superior Court, Case N CVRI2301652; *Camposeco v. Smarte Carte, Inc*., Los Angeles Superior Court, Case N 23STCV07897; *Rodriguez, et al. v. Roy Miller Painting, Inc*., Orange County Superior Court, Case N 30-2023-01314830-CU-OE-CXC; *Bazan v. Casa Martin, LLC, et al*., Los Angeles Superior Court, Case N 23STCV04670; *Empy v. 24 Windward Ave LLC*, Los Angeles County Superior Court, Case N 23STCV18608; *De Martinez v. Facility Services Partners, Inc*., Riverside County Superior Court, Case N CVRI2304625; *Hernandez v. Caliber*

Aerospace, LLC, et al., Los Angeles Superior Court, Case N 23STCV20323; *Mejia v. KF Casitas, LLC,* Los Angeles Superior Court, Case N 23STCV06090; *Athey v. Walker Evans Enterprises,* Riverside Country Superior Court, Case N CVRI2301534; *White v. SGB Ventures, LLC,* Tulare County Superior Court, Case N VCU296946; *Viveros v. D and T Restaurants, Inc., at al.*, Los Angeles Superior Court, Case N 23STCV10019; *Galvan v. Western Sky Dairy, LLC*, Kern Country Superior Court, Case N BCV-23-100992; *Rocke v. Pink Chicku LLC*, Santa Clara County Superior Court, Case N23CV41357; *Oregel v. Diablo Range Framing, Inc*., Contra Costa County Superior Court, Case N C23-00697; *Gonzalez v. RV Retailer San Diego, LLC, et al.,* Riverside County Superior Court, Case N CVRI2301403; *Evans, et al. v. Downtown Women's Center*, Los Angeles County Superior Court, Case N 22STCV06578 (class certification motion granted in part); *Sanchez v. Anodizing Industries, Inc*., Los Angeles County Superior Court, Case N 21STCV30722; *Godoy v. Intertrade Industries, LTD,* Orange County Superior Court, Case No. 30-2020-01151921-CU-OE-CXC; *Fuentes v. Actron Manufacturing Inc.*, Los Angeles Superior Court, Case N 20STCV31099; *Gonzalez v. Community Health Systems, Inc.,* San Bernardino County Superior Court, *Case N* CIVDS2015678; *Rodriguez v. Progress Lighting, Inc. et al*., San Bernardino County Superior Court, Case N CIVDS2023894; *Castillo v. Gibson Overseas, Inc*., San Bernardino Superior Court, Case N CIVDS2022537; *Mumphrey v. People's Care Northern California, Inc. et al.*, San Joaquin County Superior Court, Case N STK-CV-UOE-2019-0016397; *Ochoa v. Orlando Spring Corp,* Los Angeles Superior Court, Case N 20STCV343129; *Findley v. USC, et al.,* Los Angeles Superior Court, Case N 20STCV47290; *Maldonado v. Techmer PM, LLC*, Los Angeles Superior Court, Case N 20STCV21918; *Huerta v. IRS*, Los Angeles Superior Court, Case N 20STCV09163; *Mata v. Marukai Corporation*; Los Angeles Superior Court, Case N 20STCV00959; *Tapia v. Home &Body*; Orange County Superior Court, Case N 30-2020-01155185-CU-OE-CXC; *Ruvalcaba v. Quinn Group, Inc.*, Los Angeles Superior Court, Case N 20STCV41323; *Bravo v. FIDM*, Los Angeles Superior Court, Case N 19STCV25338; *Lomeli v. Plaskolite et al.,* Los Angeles Superior Court, Case N 21STCV14611; *Alcantar v. Classic Salads LLC,* Santa Cruz County Superior Court, Case N 21CV002309; *Casas v. Freedom Solar Services, et al.*, Los Angeles Superior Court, Case N 21STCV20233; *Serrano v. Barstow Community Hospital*, San Bernardino Superior Court, Case N CIVDS2006967; *Lopez v. Fairway Staffing Services*, et al., Los Angeles Superior Court, Case N 21STCV26640; *Linden v. Marugame Udon USA, LLC*, Los Angeles Superior Court, Case No. 20STCV00728; *Salter v. U.S. Reports*, et al., Los Angeles Superior Court, Case N 19STCV30384; *Perez v. Torn & Glasser, Inc.,* Los Angeles Superior Court, Case N 21STCV43614; *Gomez v. Arya Ice Cream Distributing Co., Inc*, Los Angeles Superior Court, Case N 21STCV31170; *Herrera v. Coastal Construction & Lumber*, Santa Cruz County Superior Court, Case N 22CV394683; *Garcia v. San Jose Water Company,* Santa Clara County Superior Court, Case No. 22CV396328; *Ramirez v. Partners Personnel Management Services LLC*, Los Angeles Superior Court, Case N 21STCV31253; *Ramirez v. Merrill Gardens LLC*, Eastern District Court of California, Case N1:22-cv-00542-DAD-SAB; *Garcia v. Tri-Valley Plastering, Inc.*, Fresno County Superior Court, Case N 22CECG00591; *Garcia v. South Valley Companies, Inc.*, Kern County Superior Court, Case N BCV-22-100465; *Morales v. Wiseguys Custom Home Theater, LLC,* San Diego Superior Court, Case N37-2019-00070151-CU-OE-CTL.

25. Artur Tunyan is another partner and attorney at Tunyan Law, APC. He received his Juris Doctorate from the State Yerevan University and his LL.M. from the American University of Armenia and University of Illinois Chicago, School of Law. Prior to moving to California and starting to practice law in California he practiced law in Armenia for about twenty-five years. He oversaw international donor-funded projects for the judiciary and managed public-private partnership initiatives in sectors such as energy, banking, finance, and aviation. He managed complex transactions and litigation matters for many years.

26. My current contingent billing rate is consistent with my practice area, legal market and accepted hourly rates considering also that I practiced law in another country for additional 20 years which brings a total of almost 25 years of experience practicing law. The 2024-2025 Adjusted Laffey Matrix states that an attorney with 4 to 7 years experience can reasonably charge $581 per hour. See http://www.laffeymatrix.com/see.html.

REASONABLENESS OF THE REQUESTED FEE AWARD

27. When this case was taken on a contingent fee basis, with the firm agreeing to assume responsibility for litigation costs, the ultimate result was far from certain. In the course of this litigation, Tunyan Law, APC and the Sentinel Firm, APC, paid filing fees, Westlaw fees, copy charges and

mailing, telephone and mail charges. There was never a guarantee that Tunyan Law, APC, would recoup those expenditures. The firm took on this case, which necessarily required the firm to forego other opportunities, given finite resources to devote to cases.

28. Because of the uncertainty of the outcome in this and other wage and hour litigation undertaken by Tunyan Law, APC, we took this case with the expectation that a risk enhancement, either in the form of a lodestar multiplier or a percentage of the fund award equivalent thereto, would be available if we prevailed. This expectation stems from the fact that many cases we undertake as putative class actions do not resolve successfully.

29. Class Counsel's experience in employment class actions was integral in evaluating the strengths and weaknesses of the case against Defendant and the reasonableness of the settlement. Practice in the narrow fields of wage and hour litigation requires skill and knowledge concerning the rapidly evolving substantive law (state and federal), as well as the procedural law of class action litigation.

30. In the past four years, I have settled many wage-and-hour class actions. Just as the Court in *Chavez v. Netflix, Inc.*, 162 Cal. App. 4th 43, 66, n.11 (2008) observed, it has been my experience, that attorney fee awards of one-third of a common settlement fund are the rule, rather than the exception. Here, Class Counsel agrees that they will seek no more than one third of the settlement amount in fees. This is consistent with common practice, consistent with Ninth Circuit practice, consistent with California law approving the percentage of the fund method to award fees from a common fund, *Laffitte v. Robert Half Intern. Inc.*, 1 Cal. 5th 480, 503 (2016), and not inappropriate in light of the many hours expended by attorneys and paralegals performing work for Plaintiff before and after the filing of this matter. That work includes:

(a) Numerous interviews with Plaintiff, class members and review of documents provided by Plaintiff;

(b) Investigation of the matter and exploring the corporate structure of Defendant;

(c) Legal research and investigation regarding the Defendant's practices at numerous points in the litigation;

(d) Preparation of multiple drafts of the original complaint and finalization and filing of the original complaint;

(e) Preparation and filing of First Amended Complaint;

(f) Extensive "meet and confer" efforts with Defendant's counsel regarding obtaining relevant documents and information through informal discovery and selecting a mediator and mediation date;

(g) Attending court hearings;

(h) Drafting the LWDA Notice letter;

(i) Drafting joint statements and joint stipulations;

(j) Review of payroll and time data;

(k) Working with opposing counsel for the receipt of a representative sampling and analyzing the same with the aid of expert consultants and Plaintiff to perform analyses of liability and exposure, preparation of a damages model with the aid of a statistics expert, review and revisions to the damage model and supporting data analysis;

(l) Conferences with Defendant's counsel regarding mediation, sample data and settlement negotiations;

(m) Preparing mediation brief;

(n) Attending mediation;

(o) Communicating with Plaintiff who requested updates or other information regarding this matter;

(p) Drafting, negotiating, and reviewing multiple drafts of the Settlement Agreement and attachments;

(q) Preparation of the initial motion for preliminary approval and multiple revisions thereafter.

31. I anticipate that Class Counsel will spend an additional 35 hours on this matter, appearing at the hearing of preliminary approval, answering class member calls, working with the administrator to finalize documents in mailing format, conferring with counsel over any notice issues, drafting the final

approval motion and motion for fees and costs, appearing at the final approval hearing, and resolving any post-approval issues that may arise, and appearing at a final accounting hearing. Class Counsel has also incurred costs in this matter that will be detailed at the time final approval is sought. Class Counsel has agreed to a cap on recoverable costs of $18,000, and if total incurred costs exceed the cap, Class Counsel will request no more than the agreed-upon cap.

THE CONTRIBUTION OF PLAINTIFF AND THE REASONABLENESS OF THE REQUESTED INCENTIVE AWARD

32. Here, Plaintiff seeks an Enhancement Payment of **$6.000.00**. This amount is very reasonable given the risks undertaken by Plaintiff for involvement in the Action. Taking the risk of filing a lawsuit against an employer deserves recognition, especially in light of the settlement achieved by Plaintiff. Additionally, Plaintiff was actively involved in the litigation, discovery, mediation and settlement negotiations of this Action, expending considerable effort in advancing the interests of the Class. Plaintiff provided information to counsel before the filing of this matter; actively assisted with informal discovery and settlement process (which included conferring with counsel prior to mediation, during the mediation and after the mediation); and, regularly conferred with counsel regarding the case whenever questions arose. I estimate that Plaintiff contributed dozens of hours of time to the prosecution of this matter. Plaintiff's declaration also confirms that Plaintiff was an active participant in the filing and settlement of this case. The enhancement also recognizes the considerable risks Plaintiff undertook on behalf of the Class as well as the personal risk of facing intrusive discovery and potential disclosure to future employers that Plaintiff sued a former employer, making future employment prospects uncertain and that Plaintiff releases claims beyond wage-and-hour claims released by Class Members.

THE THIRD-PARTY ADMINISTRATOR

33. The parties have agreed that administration will be handled by a third-party administrator. In counsel's experience as class counsel in similar wage-and-hour actions with a similar number of employees, ILYM Group, Inc. is fully capable of administering the settlement at a competitive and reasonable cost and should be approved by the Court to administer the settlement notice process. ILYM Group, Inc. was selected because it submitted a low bid in the amount of **$5,550.00** for administration services. ILYM Group, Inc. has also provided a declaration confirming its experience and its

implementation of measures designed to protect Class Member data and Class Settlement funds. Plaintiff's counsel do not have any conflicts of interest with the selected administrator ILYM Group, Inc.

CLASS CERTIFICATION

34. The class is ascertainable by objective criteria. The Class Members are: All individuals employed by Defendant in California and classified as "non-exempt" at any time during the Class Period (the "Class Period" is February 13, 2020 through January 11, 2025, or as modified pursuant to Paragraph 8 of the Agreement). "Settlement Class Members" are those Class Members who do not submit timely exclusion requests to the Settlement Administrator. (Settlement, ¶¶ 1.4, 1.11, 1.35)

35. The class is sufficiently numerous. Based upon Defendant' records, Defendant represented that there are approximately 87 Class Members as of January 11, 2025. Plaintiff's counsel believes that the data is reliable.

36. Plaintiff is typical of the Class. Plaintiff was an employee of Defendant. Plaintiff worked during the class period. Plaintiff's claims are typical of the claims of the Class proposed in this settlement. Like other class members, Plaintiff experienced work under policies and procedures impacting wage and hour compliance. No unique defenses applicable to Plaintiff have been identified that do not also exist as to other Class Members.

37. Common *issues* exist. Here, Class Members have shared a common interest in determining whether Defendant violated wage and hour requirements under state and related federal law, including the following issues: i. Whether or not Defendant paid proper wages to the Class; ii. Whether or not Defendant provided meal periods to the Class; iii. Whether or not Defendant provided rest periods to the Class; iv. Whether or not Defendant paid compensation timely upon separation of employment to former Class Members; v. Whether or not Defendant paid compensation timely throughout Class Members' employment; vi. Whether or not Defendant provided accurate itemized wage statements to the Class; vii. Whether or not waiting-time penalties are available to the Class for violation of California Labor Code § 203; viii. Whether or not Defendant reimbursed for necessary business expenses pursuant to California Labor Code § 2802; ix. Whether or not Defendant engaged in unlawful or unfair business practices affecting the Class in violation of California Business and Professions Code §§ 17200-17208; and x. Whether or not Plaintiff and the Class are entitled to

penalties pursuant to PAGA.

38. From our review of the documentation provided, we determined that for purposes of these claims, Defendant's policies and practices are either identical, or sufficiently similar, to raise the same questions of liability, and applied to all Class Members. Because Class Members would have to prove the same issues of law and fact to prevail, and because their potential legal remedies are identical, it would be preferable to resolve all Class Members' claims by means of the Settlement than to require each Class Member to litigate his or her individual claims. Therefore, common questions predominate over any questions that may be unique to individual Class Members, and class-wide settlement is superior to any other method of resolution.

39. My declaration, in Paragraphs above, summarizes the firm's experience that establishes its adequacy to represent the Class. Plaintiff's counsel has no known conflicts of interest with absent Class Members. Plaintiff has demonstrated, through participation in this action, a willingness to serve as a representative for the Class. Plaintiff has no known conflicts of interest with absent Class Members and have agreed to place the class interests above Plaintiff's own. Plaintiff' actions also demonstrate adequacy.

40. By consolidating all of these potential individual actions into one proceeding, this Court's use of the class action device enables it to manage this litigation in a manner that serves the economics of time, effort and expense for the litigants and the judicial system. Absent class treatment, similarly situated employees with small but potentially meritorious claims for damages would, as a practical matter, have no means of redress because of the time, effort and expense required to prosecute individual actions. Moreover, in the context of settlement, superiority concerns are almost non-existent, since case management is controlled and a methodology for trial need not be identified.

<u>EXHIBITS</u>

41. As noted above, a true and correct copy of the CLASS ACTION AND PAGA SETTLEMENT AGREEMENT is attached hereto as **Exhibit "1."** The Settlement includes Exhibit A (the "Notice to Class Members").

42. Attached hereto as **Exhibit "2"** is a true and correct copy of the submission of the proposed settlement to the Department of Industrial Relations, through its online submission portal.

PAGA SETTLEMENT NOTIFICATION TO DIR

43. 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 16th day of January 2025, at Glendale, California.

LILIT TUNYAN, "Declarant"

Exhibit “1”

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Attorneys for Plaintiff JESUS GUZMAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SPRING STREET

JESUS GUZMAN, as an individual and on behalf of all employees similarly situated,

Plaintiff,

v.

CORE ENVIRONMENTAL SOLUTIONS, a California Corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 24STCV03593

[Assigned for all purposes to Hon. Stuart M. Rice]

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

Complaint Filed: February 13, 2024
Trial: None Set

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff JESUS GUZMAN ("Plaintiff") and Defendant CORE ENVIRONMENTAL SOLUTIONS ("Defendant"). The Agreement refers to Plaintiff and Defendant collectively as "Parties," or individually as "Party."

1. DEFINITIONS.

1.1. "Action" means the Plaintiff's lawsuit alleging wage and hour violations against Defendant captioned *Guzman v. Core Environmental Solutions*, Case No. 24STCV03593 initiated on February 13, 2024, pending in Superior Court of the State of California, County of Los Angeles.

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

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

1.4. "Class" or "Class Members" means all persons who worked for Defendant in California as an hourly paid, non-exempt employee during the Class Period.

1.5. "Class Counsel" means Tunyan Law, APC and The Sentinel Firm, APC.

1.6. "Class Counsel Fees Payment" and "Class Counsel Litigation Expenses Payment" mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys' fees and costs/expenses, respectively, incurred to prosecute the Action.

1.7. "Class Data" means Class Member identifying information in Defendant's possession including the Class Member's name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.

1.8. "Class Member" or "Settlement Class Member" means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non-

Participating Class Member who qualifies as a PAGA Group Member).

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

1.10. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English and Spanish in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.

1.11. "Class Period" means the period from February 13, 2020 through January 11, 2025, or as modified pursuant to Paragraph 8 of the Agreement.

1.12. "Class Representative" means the named Plaintiff in the operative complaint in the Action seeking Court approval to serve as a Class Representative for settlement purposes only.

1.13. "Class Representative Service Payment" means the payment to the Class Representative for initiating the Action and providing services in support of the Action.

1.14. "Court" means the Superior Court of California, County of Los Angeles.

1.15. "Defendant" means named Defendant CORE ENVIRONMENTAL SOLUTIONS.

1.16. "Defense Counsel" means GORDON REES SCULLY MANSUKHANI, LLP.

1.17. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, the day after the deadline for filing a notice of appeal from the Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

1.18. "Final Approval" means the Court's order granting final approval of the Settlement.

1.19. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.

1.20. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.

1.21. "Gross Settlement Amount" means **One Hundred Fifty-Five Thousand Dollars and Zero Cents ($155,000.00)** which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment and the Administrator's Expenses.

1.22. "Individual Class Payment" means a Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

1.23. "Individual PAGA Payment" means the PAGA Group Member's pro rata share of 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods worked during the PAGA Period.

1.24. "Judgment" means the judgment entered by the Court based upon the Final Approval.

1.25. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).

1.26. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).

1.27. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.

1.28. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.

1.29. "PAGA Group Members" means all persons who worked for Defendant in California as an hourly paid, non-exempt employee during the PAGA Period.

1.30. "PAGA Pay Period" means any Pay Period during which a PAGA Group Member worked for Defendant for at least one day during the PAGA Period.

1.31. "PAGA Period" means the period from February 13, 2023 through January 11, 2025 or as modified pursuant to Paragraph 8 of the Agreement.

1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq*.).

1.33. "PAGA Notice" means Plaintiff's February 11, 2024 letter to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).

1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, which will be $15,000.00, allocated 25% to the PAGA Group Members ($3,750.00) and the 75% to LWDA ($11,250.00) in settlement of PAGA claims.

1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.

1.36. "Plaintiff" means JESUS GUZMAN, the named plaintiff in the Action.

1.37. "Preliminary Approval" means the Court's Order Granting Preliminary Approval of the Settlement.

1.38. "Released Class Claims" means the claims being released by all Participating Class Members as described in Paragraph 5.2 below.

1.39. "Released PAGA Claims" means the claims being released as described in Paragraphs 5.2 and 5.3 below.

1.40. "Released Parties" means: Defendant and each of its former and present directors, officers, shareholders, owners, agents, employees, attorneys, insurers, reinsurers, predecessors, successors, assigns, administrators, fiduciaries, trustees, principals, heirs, representatives, accountants, auditors, and consultants.

1.41. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the Class Settlement signed by the Class Member.

1.42. "Response Deadline" means forty-five (45) days after the Administrator mails Notice to Class Members and PAGA Group Members and shall be the last date on which Class

Members may: (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or her Objection to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.43. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

1.44. "Workweek" means any week during which a Class Member worked for Defendant for at least one day, during the Class Period.

2. RECITALS.

2.1. On February 13, 2024, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendant for: (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); and (7) Violation of Bus. & Prof. Code § 17200 et seq. (Unfair Business Practices). On April 17, 2024, Plaintiff filed a First Amended Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, et seq.]. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint"). Defendant denies the allegations in the Operative Complaint and in the PAGA Notice, denies any failure to comply with the laws identified in in the Operative Complaint and/or the PAGA Notice, and denies any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code § 2699.3(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

2.3. On November 12, 2024, the Parties participated in an all-day mediation presided over by Tagore Subramaniam, Esq. and reached an agreement to settle the Action.

2.4. Prior to the mediation, Plaintiff obtained, through informal discovery, documents, data, and information necessary to evaluate the claims in the Action, including a 50% sample of pay and time records for the Class. Plaintiff's investigation was sufficient to satisfy the criteria for Court approval set forth in *Dunk v. Foot Locker Retail, Inc.*, 48 Cal. App. 4th 1794, 1801 (1996) and *Kullar v. Foot Locker Retail, Inc.*, 168 Cal. App. 4th 116, 129-130 (2008) ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

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

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay a maximum of $155,000.00 as the Gross Settlement Amount, and to separately pay any and all employer-side payroll taxes owed on the Wage Portion of each Individual Class Payment. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Group Members to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than $6,000 in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member. Defendant will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. Plaintiff will seek Court approval for any Class Representative Service Payment in the Final Approval Motion. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099.

Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment, and agrees to indemnify Defendant and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Plaintiff's obligations to pay taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33 and 1/3%, which is currently estimated to be $51,666.67 and a Class Counsel Litigation Expenses Payment of not more than $18,000.00. Defendant will not oppose requests for these payments. Plaintiff will seek Court approval for Class Counsel Fees Payment and Class Litigation Expenses Payment in the Final Approval Motion. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and agrees to indemnify Defendant and hold it harmless for any responsibility, liability, claim, complaint, damages, penalties, interest or any other actual or potential damages arising from Plaintiff's obligations to pay taxes owed on these Payments or from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed $8,000.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than $8,000.00, the Administrator will retain the remainder in the Net Settlement Amount. ILYM Group, Inc. has been selected as the Administrator, based upon its "not to exceed" bid of $5,550.00.

3.2.4. To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all

Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.

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

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

3.2.5. To the LWDA and PAGA Group Members: PAGA Penalties in the amount of $15,000.00 be paid from the Gross Settlement Amount, with 75% ($11,250.00) allocated to the LWDA PAGA Payment and 25% ($3,750.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Group Members' 25% share of PAGA Penalties ($3,750.00) by the total number of PAGA Period Pay Periods worked by all PAGA Group Members during the PAGA Period and (b) multiplying the result by each PAGA Group Member's PAGA Period Pay

Periods. PAGA Group Members assume full responsibility and liability for any employee taxes owed on their Individual PAGA Payments, and the Class Notice will clearly state that this responsibility and liability is the Participating Class Members' and not Defendant's.

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

4. <u>SETTLEMENT FUNDING AND PAYMENTS.</u>

4.1. <u>Class Workweeks and PAGA Group Member Pay Periods</u>. As of November 1, 2024, the number of Workweeks worked by 84 class members during the Class Period is estimated to be 3,563, and 75 Aggrieved Employees during the PAGA Period who worked a total of 1,355 PAGA Pay Periods.

4.2. <u>Class Data</u>. Not later than fourteen (14) days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform required tasks under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

4.3. <u>Funding of Gross Settlement Amount</u>. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes as to the Wage Portion of the Gross Settlement Amount by transmitting the funds to the Administrator no later than fifteen (15) days after the Effective Date.

4.4. <u>Payments from the Gross Settlement Amount</u>. Within fourteen (14) days after Defendant fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

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

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

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

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

5. RELEASES OF CLAIMS.

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

5.1. Plaintiff's Release.

5.1.1. Scope of Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from any and all of the claims, whether known or unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or have existed, upon any theory of law or equity now existing, including, but not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts. Additionally, Plaintiff releases the Released Parties of all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or suspected, arising from their employment with the Defendant, including, without limitation: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California and the United States Constitution; (8) the California Labor Code; (9) the Family and Medical Leave Act; (10) the California Family Rights Act; (11) the Worker Adjustment and Retraining Notification Act; (12) the Employee Retirement Income Security Act; (13) the Immigration Reform and Control Act; (14) the California Business and Professions Code, sections 17200, et seq.; (15) the California Government Code; and (16) the California Wage Orders (collectively "Claim" or "Claims") which Plaintiff now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any time had, owned or held, or claimed to have, own or hold against any of the Released Parties up to and including, as of the final approval of this Settlement Agreement. (Everything released based on the above as well as everything released as part of the Released Class Claims discussed below will be referred to as "Plaintiff's Release.") Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

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

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

5.2. Release by Participating Class Members: All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or suspected, that each Settlement Class Member had, now has, or may hereafter claim to have against the Released Parties stated in the Plaintiff's Operative Complaint, raised by Plaintiff to the LWDA (in the PAGA Notice or elsewhere), or that could have been stated based on the facts alleged in the Operative Complaint or PAGA Notice to the LWDA ("Released Class Claims"). The Released Class Claims include without limitation violations of Labor Code sections 90.5, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2802; applicable IWC Wage Orders, including but not limited to Nos. 3-2001 and 5-2001; Code of Regulations, Title 8, Section 11000 et seq., and Business & Professions Code section 17200, et. seq. If Participating Class Members are also PAGA Group Members, they also hereby are deemed to release the Released Parties, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and/or the PAGA Notice, including without limitation all PAGA penalties based on claims of the Labor Code sections, IWC Wage Orders, or regulations cited above. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

5.3. Release by Non-Participating Class Members Who Are PAGA Group Members: All Non-Participating Class Members who are PAGA Group Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice attached hereto as **Exhibit B**, including without limitation PAGA penalties based on claims of alleged violations of Labor Code sections 90.5, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2802; applicable IWC Wage Orders, including but not limited to Nos. 3-2001 and 5-2001; Code of Regulations, Title 8, Section 11000 et seq., and Business & Professions Code section 17200, et. seq.

6. MOTION FOR PRELIMINARY APPROVAL.

Plaintiff shall prepare and file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with the Court's current checklist for Preliminary Approvals.

6.1. Defendant's Declaration in Support of Preliminary Approval. Within seven (7) days of the full execution of this Agreement, Defendant will prepare and deliver to Class Counsel a signed Declaration from Defense Counsel disclosing all facts relevant to any actual or potential conflicts of interest with the Administrator that Defendant or Defense Counsel may have. In this Declaration, Defense Counsel shall aver that they are not aware of any other pending class action asserting claims that will be extinguished or adversely affected by the Settlement.

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

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

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

7. SETTLEMENT ADMINISTRATION.

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

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

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

7.4. Notice to Class Members.

7.4.1. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class Data.

7.4.2. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice (with Spanish translation) substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

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

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

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

7.5. Requests for Exclusion (Opt-Outs).

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

7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

7.5.3. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement, regardless whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Group Members are deemed to release the claims identified in Paragraph 5.3 of this Agreement and are eligible for an Individual PAGA Payment.

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

7.7. Objections to Settlement.

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

7.7.2. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline, or as otherwise extended for re-mailed Class Notices as described herein.

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

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

7.8.1. Website, Email Address and Toll-Free Number. The Administrator will post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, the Class Notice, the Final Approval and the Judgment on the Administrator's website. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

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

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

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

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

7.8.6. Final Report by Settlement Administrator. Within fourteen (14) days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least fourteen (14) days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court.

8. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.

Based on its records, Defendant estimates that, as of November 1, 2024, the number of Workweeks during the Class Period is estimated to be 3,563. The parties stipulate to a 10% escalation of the estimated Workweeks in the final Workweeks' count at the end of the Class Period without any increase to the Gross Settlement Amount. If the number of actual Workweeks during the Class Period exceeds this 10% cushion above the estimated workweek total of 3,563 (i.e., exceeds 3,919 workweeks), Defendant may elect to either (1) purchase the additional workweeks above the 10% cushion (i.e. the weeks above the 3,919 total) at a pro rata rate, or (2) cut off the release period as of the date the 10% cushion is exhausted. If Defendant elects Option (1) from the previous sentence, Defendant shall increase the Gross Settlement Amount by a pro-rata dollar value equal to the number of Workweeks in excess of 3,919 workweeks. For example, if there is a 1% increase over the 10% cushion, then the GSA increases by 1%. Defendant shall provide the estimated Workweeks total for the entire Class Period, (i.e. from

February 13, 2020 through January 11, 2025) or through the date that falls five (5) days prior to filing preliminary approval motion, whichever date is earlier, to Plaintiff's counsel five (5) days prior to filing a motion for preliminary approval of this settlement for determining the exact release period for court approval in case the escalator clause is triggered.

9. DEFENDANT'S RIGHT TO WITHDRAW

If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 15% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all Settlement Administration Expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than seven (7) days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.

10. MOTION FOR FINAL APPROVAL.

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

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

10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final

Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval.

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

10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

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

11. AMENDED JUDGMENT.

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

12. ADDITIONAL PROVISIONS.

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

12.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendant and Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the

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

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

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

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

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

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

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

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

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

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

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

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

12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code § 1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the

Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from Defendant.

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

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

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

To Plaintiff:

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

To Defendant:

Seth Weisburst
sweisburst@grsm.com
Christopher Keller
ckeller@grsm.com
Vanessa Santellan
vsantellan@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
315 Pacific Ave.
San Francisco, California 94111
Telephone: (415) 986-5900
Facsimile: (415) 986-8054

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

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

Plaintiff & Class Representative:

Dated: 12/18/2024 | 4:03 PM PST

By: DocuSigned by: [signature] 5ED6C5C7C1D34F5...

JESUS GUZMAN

Dated: 12/18/2024 | 4:06 PM PST

TUNYAN LAW, APC

By: DocuSigned by: Lilit Tunyan C1FEE94AA91E49A...

Lilit Tunyan
Artur Tunyan

Attorneys for Plaintiff JESUS GUZMAN

Dated: 12/18/2024 | 7:11 PM EST

THE SENTINEL FIRM, APC

By: DocuSigned by: Seung Yang 25EC7A6D1E304B3...

Seung Yang
Tiffany Hyun

Attorneys for Plaintiff JESUS GUZMAN

Defendant:

Dated: 12/17/24

CORE ENVIRONMENTAL SOLUTIONS

By: Jennifer Polson
Print Name

Signature

President
Title

Defendant's Counsel:

Dated: December 23, 2024

GORDON REES SCULLY MANSUKHANI, LLP

By:
Seth Weisburst

Attorneys for Defendant
CORE ENVIRONMENTAL SOLUTIONS

Exhibit "A"

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

Guzman v. Core Environmental Solutions
Los Angeles Superior Court Case No. 24STCV03593

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

You may be eligible to receive money from an employee class action lawsuit ("Action") against Defendant CORE ENVIRONMENTAL SOLUTIONS ("Defendant") for alleged wage and hour violations. The Action was filed by Defendant's former employee, plaintiff Jesus Guzman ("Plaintiff") and seeks payment of back wages, penalties, and expense reimbursements for a class of non-exempt hourly employees ("Class Members") who worked for Defendant in California during the Class Period (February 13, 2020 to---------) and (2) penalties under the California Private Attorney General Act ("PAGA") for all hourly employees who worked for Defendant during the PAGA Period (February 13, 2023 to --------------) ("PAGA Group Members").

The proposed Settlement has two main parts: (1) a Class Settlement in which Defendant has agreed to fund Individual Class Payments, and (2) a PAGA Settlement in which Defendant has agreed to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be $______ (less withholding) and your Individual PAGA Payment is estimated to be $______**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant's records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work for Defendant in California during the PAGA Period.)

The above estimates are based on Defendant's records showing that **you worked ______ workweeks** during the Class Period and **you worked ______ pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during the respective periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or do not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment that requires Defendant to make payments under the Settlement and requires Class Members and PAGA Group Members to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

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

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

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

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendant that are covered by this Settlement (Released Claims).
You Can Opt-out of the Class Settlement but not the PAGA Settlement **The Opt-out Deadline is ______________**	If you do not want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section **6** of this Notice. You cannot opt-out of the PAGA portion of the proposed Settlement. Defendant must pay Individual PAGA Payments to all PAGA Group Members and the PAGA Group Members must give up their rights to pursue a PAGA Claim based on the claimed violations at issue.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement **Written Objections Must be Submitted by ______________**	All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section **7** of this Notice.
You Can Participate in the ______________ Final Approval Hearing	The Court's Final Approval Hearing is scheduled to take place on ______________. You do not have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section **8** of this Notice.
You Can Challenge the Calculation of Your Workweeks/Pay Periods **Written Challenges Must be Submitted by ______________**	The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to Defendant's records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by ______________. See Section **4** of this Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendant. The Action alleges that Defendant did not comply with California labor laws by failing to pay all wages, wages due upon termination, and reimbursable expenses, and by failing to provide meal periods, rest breaks, and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under PAGA (Labor Code §§ 2698, et seq.). Plaintiff is represented by the following attorneys in the Action: Tunyan Law, APC and The Sentinel Firm, APC ("Class Counsel.")

Defendant strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

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

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

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

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

1. <u>Defendant Will Pay $155,000.00 as the Gross Settlement Amount (Gross Settlement)</u>. Defendant has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California LWDA. Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than fifteen (15) days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.

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

   A. Up to $51,666.67 (33 and 1/3% of the Gross Settlement] to Class Counsel for attorneys' fees and up to $18,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

   B. Up to $6,000 as a Class Representative Award to Plaintiff for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive for representing the Class in this Action other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

   C. Up to $8,000 to the Administrator for services administering the Settlement (estimated to be $---,000.00).

   D. $15,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the PAGA Group Members based on their PAGA Period Pay Periods.

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

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

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendant are asking the Court to approve an allocation of 20 % of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion.). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant will separately pay employer-side payroll taxes it owes on the Wage portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

   Although Plaintiff and Defendant have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You will assume full responsibility and liability for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. Defendant is not responsible or liable for any taxes that may be owed on your Payments. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

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

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

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

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

8. Administrator. The Court has appointed a neutral company, ILYM Group, Inc. (the "Administrator") to send this Notice, calculate and make payments, and process Class Members' Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator's contact information is contained in Section 9 of this Notice (further below).

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

   The Participating Class Members will be bound by the following release:

   > All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from any and all claims, charges, complaints, liens, demands, causes of action, obligations, damages and liabilities, known or suspected, that each Settlement Class Member had, now has, or may hereafter claim to have against the Released Parties stated in the Plaintiff's Operative Complaint, raised by Plaintiff to the LWDA, or that could have been stated based on the facts alleged in the Operative Complaint or notice to the LWDA ("Released Class Claims"). The Released Class Claims include without limitation violations of Labor Code sections 90.5, 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2802; applicable IWC Wage Orders, including but not limited to Nos. 3-2001 and 5-2001; Code of Regulations, Title 8, Section 11000 et seq., and Business & Professions Code section 17200, et. seq. Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

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

    The PAGA Group Members' Releases for Participating and Non-Participating Class Members are as follows:

    > All Participating and Non-Participating Class Members who are PAGA Group Members are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties, from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and/or the PAGA Notice attached to the Settlement Agreement as Exhibit B, including all PAGA penalties based on claims of violating Labor Code sections 90.5, 201,

202, 203, 204, 226, 226.7, 510, 512, 558, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 2802; applicable IWC Wage Orders, including but not limited to Nos. 3-2001 and 5-2001; Code of Regulations, Title 8, Section 11000 et seq.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

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

2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing $3,750 by the total number of PAGA Pay Periods worked by all PAGA Group Members and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual PAGA Group Member.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until _______________ to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

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

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) including those who also qualify as PAGA Group Members. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if any).

2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every PAGA Group Member who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

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

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

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the

Action as *Guzman v. Core Environmental Solutions*, Case No. 24STCV03593 pending in Los Angeles Superior Court, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by _____________, or it will be invalid.** Section 9 of this Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Defendant are asking the Court to approve. At least 16 days before the _____________ Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, approval of Counsel's Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website __________________________ or the Court's website http://www.lacourt.org/casesummary/ui/index.aspx.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or may wish to object to the amounts requested by Class Counsel or Plaintiff. **The deadline for sending written objections to the Administrator is _____________**. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action and include your name, current address, telephone number, and approximate dates of employment for Defendant and sign the objection. Section 9 of this Notice has the Administrator's contact information.

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

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but do not have to, attend the Final Approval Hearing on _____________ at ________ in Department 1 of the Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or virtually via LACourtConnect (https://www.lacourt.org/lacc/. Check the Court's website for the most current information.

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

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendant and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to

ILYM Group, Inc.'s website at ________________________. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to http://www.lacourt.org/casesummary/ui/index.aspx and entering the Case Number for the Action, Case No. 24STCV03593. You can also make an appointment to personally review court documents in the Clerk's Office at the Stanley Mosk Courthouse by calling (213) 830-0800.

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

Class Counsel:
Lilit Tunyan
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Artur Tunyan
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535 N Brand Blvd. Suite 285
Glendale, California 91203
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Seung Yang
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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

Settlement Administrator:
ILYM Group, Inc.
Email Address:
Mailing Address:
Telephone:
Fax Number:

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

11. WHAT IF I CHANGE MY ADDRESS?

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

Exhibit "B"

TUNYAN LAW

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

February 11, 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
Agent for Service of Process for
Core Environmental Solutions
Jennifer Polson
855 N. Todd Avenue,
Azusa, California 91702

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

Re: Guzman v. Core Environmental Solutions

To Whom It May Concern:

Please be advised that The Sentinel Firm, APC has been retained by Jesus Guzman ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer Core Environmental Solutions ("Defendant"). 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 Defendant. 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 Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

Plaintiff wishes to pursue a PAGA representative action on behalf of himself 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 Defendant in California as an hourly paid, non-exempt employee at any time within the applicable statutory period (hereafter, the "Aggrieved Employees").

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

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including Los Angeles County. Defendant has a corporate office and mailing address in Los Angeles County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as a foreman supervisor from June 12, 2023 to January 15, 2024. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week and from 9-12 hours each workday.

Throughout Plaintiff's employment, Defendant committed numerous labor code violations under state law. As discussed below, Plaintiff's experience working for Defendant 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.

During the statutory time period, Defendant maintained a policy and practice of failing to pay Plaintiff and the Aggrieved Employees for all hours worked. Defendant regularly used a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendant's operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Plaintiff and the Aggrieved Employees were required to record their scheduled time as opposed to the actual time worked. Accordingly, Defendant frequently paid Plaintiff and the Aggrieved Employees less than all their work time. Some of this unpaid work also should have been paid at the overtime rate. Throughout the statutory period, Plaintiff and the Aggrieved Employees received additional remuneration in the form of bonuses. However, Defendant has not compensated Plaintiff and the Aggrieved Employees at the proper overtime and sick pay rate. Defendant did not include the additional remuneration paid to Plaintiff and the Aggrieved Employees in the regular rate of pay for purposes of calculating overtime rate of pay and sick pay. During the statutory time period, Defendant also 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 work beyond their scheduled shift time but record their scheduled time. Additionally, Plaintiff and the Aggrieved Employees would spend about ten minutes off-the-clock to take their work uniforms off prior to leaving for meal periods and another ten minutes to take the uniforms back on when they were back from their meal periods cutting the actual thirty-minute meal periods short by twenty minutes. Additionally, during the statutory period Defendant failed to compensate Plaintiff and the Aggrieved Employees for the commute time to their jobsites. In maintaining a practice of not paying all wages owed, Defendant failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

As a result, Defendant is 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, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant 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 were required to miss, take late or interrupted meal periods due to the number of assignments they were required to complete for each project within certain deadlines. Additionally, Plaintiff and the Aggrieved Employees would spend about ten minutes off-the-clock to take their work uniforms off prior to leaving for meal periods and another ten minutes to take the uniforms back on when they were back from their meal periods cutting the actual thirty-minute meal periods short by twenty minutes. Plaintiff and the Aggrieved Employees were also not authorized to take their second meal periods. Accordingly, Defendant's 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). Defendant, 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, Defendant is 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.

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant 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 were required to miss, take late or interrupted rest periods due to the number of assignments they were required to complete for each project within certain deadlines. Accordingly, Defendant's 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). Defendant, 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, Defendant is 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.

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

Defendant's 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 Defendant' 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 Defendant. 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 Defendant to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendant's 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, Defendant is 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 directions of the employer.

Throughout the statutory period, Defendant wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendant without reimbursement. Plaintiff and the Aggrieved Employees were required to purchase tools and materials necessary to perform their work but were not reimbursed for those tools. Plaintiff and the Aggrieved Employees were also required to use their personal vehicles to drive to Defendant's jobsites but were not reimbursed for mileage. Plaintiff and the Aggrieved Employees incurred these substantial expenses as a direct result of performing their job duties for Defendant, and Defendant 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, Defendant failed, and continues 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 Defendant's employ. These unpaid wages include wages for unpaid work time, missed meal periods, and missed rest periods.

Defendant's 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 Defendant 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, Defendant is 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).

Defendant 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 Defendant 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 Defendant the greater of their actual damages caused by Defendant's failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding $4,000 dollars per employee.

Moreover, Defendant is 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, Defendant 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 Defendant, all wages for all rest periods not authorized and permitted by Defendant, and all wages for all hours worked. As a result, Defendant owe employees the legally required wages for unpaid wages, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendant is 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 Defendant 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 Defendant 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 Defendant 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

Exhibit "2"

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

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

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

Seth Weisburst
sweisburst@grsm.com
Christopher Keller
ckeller@grsm.com
Vanessa Santellan
vsantellan@grsm.com
GORDON REES SCULLY MANSUKHANI, LLP
275 Battery Street, Suite 2000 San Francisco, California 94111
Telephone: (415) 986-5900
Facsimile: (415) 986-8054

Attorneys for Defendant CORE ENVIRONMENTAL SOLUTIONS

[✓] **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third-party cloud service **CASEANYWHERE**. I did not receive an error message.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on January 16, 2025 at Glendale, California.

KAREN ARELLANO Karen Arellano