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Attorneys for ROYA NOORI and PAOLA OLIVO, on behalf of themselves,
all others similarly situated, and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN DIEGO

ROYA NOORI and PAOLA OLIVO on
behalf of themselves, all others similarly
situated, and on behalf of the general
public,

Plaintiffs,

v.

VISTA COMMUNITY CLINIC; and
DOES 1-100,

Defendants.

Case No.: 37-2023-00000144-CU-OE-CTL
(Consolidated with Case No.
37-2023-00005665-CU-OE-CTL)

*[Assigned for All Purposes to the
Honorable James A. Mangione; Dept. C-75]*

**DECLARATION OF DAVID MARA, ESQ.,
IN SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS AND PAGA ACTION
SETTLEMENT, CONDITIONAL
CERTIFICATION, APPROVAL OF
CLASS NOTICE, SETTING OF FINAL
APPROVAL HEARING DATE**

Date: September 13, 2024
Time: 9:00 a.m.

Complaint Filed: January 3, 2023
Trial Date: None Set

1 I, DAVID MARA, declare as follows:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for Plaintiffs and the putative
3 class in this matter. I am duly admitted to practice before all the courts of the state of
4 California. The following facts are within my personal knowledge and, if called to testify,
5 I could and would competently testify thereto.
- 6 2. I graduated from California Western School of Law and was admitted to practice law in
7 California in May 2004.
- 8 3. I extensively handle employment cases which involve violations of the California Labor
9 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class actions
10 and cases alleging violations of the Private Attorneys General Act of 2004 (“PAGA”). I have
11 litigated over three hundred and fifty (350) class action and PAGA lawsuits over the course
12 of approximately 20 years.
- 13 4. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County
14 Superior Court, Case No. GIC834348) which was the underlying case in the California
15 Supreme Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012)
16 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer
17 obligations to provide, and employee rights to receive, meal and rest periods under
18 California law.
- 19 5. I am frequently called upon to author Amicus Curiae briefs on behalf of Consumer
20 Attorneys of California (“CAOC”). For example, I authored the Amicus Curiae briefs on
21 behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, (The
22 California Supreme Court ruling that, like meal periods, employers must relieve
23 employees of all duty and relinquish all control to satisfactorily discharge its obligation to
24 authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The
25 California Supreme Court ruling that the time spent on the employer’s premises waiting
26 for, and undergoing, required exit searches of packages, bags, or personal technology
27 devices voluntarily brought to work is compensable hours worked within the meaning of
28

1 the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No.
2 H049185 (A brief asking the California Court of Appeal for the Sixth Appellate District
3 to determine whether mandatory drive time of personal vehicles should be considered
4 hours worked within the meaning of the Wage Orders' suffered or permitted test.).
5 *Davidson v. O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188)(a brief
6 seeking Review *En Banc* of an order denying class certification in a wage and hour
7 matter).

8 6. I am also a member of CAOC's Amicus Committee that determines the cases in which
9 the organization will agree to provide amicus support.

10 7. I have also lectured as a panelist for California Employment Lawyers Association
11 regarding a host of wage and hour issues.

12 8. I have been named as class counsel in the following certified cases as a result of the court
13 granting a motion for class certification: *Mario Norona v. B&G Delivery System, Inc.*
14 (Sacramento County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald*
15 *Schroeder v. YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH);
16 *John Martin v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-
17 cv-00990-DAD-SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.*
18 (District of Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San
19 Diego County Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Denson Sales,*
20 *et al. v. United Road Services, Inc. et al* (Northern District of California, Case No. 19-cv-
21 08404-JST), *Eric Mendez v. M&N Consulting, Inc. dba A-Line Messenger Service* (San
22 Bernardino County Superior Court, Case No. CIVDS1923624); *Denson Sales v.*
23 *Professional Auto Transport, Inc. et al.* (San Bernardino County Superior Court, Case No.
24 CIVDS2010153); *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County Superior
25 Court, Case No. 37-2019-00063361-CU-OE-CTL); and *Ashton Harden v. Mushiana*
26 *Transport Inc.* (Sacramento County Superior Court, Case No. 34-2021-00301950-CU-
27 OE-GDS).

1 9. I have also been named as class counsel in numerous cases during the settlement process.
2 Here is a non-exhaustive list of cases where I have been named as class counsel in cases
3 during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo County Superior
4 Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services, Inc.* (Kern
5 County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance Beverage*
6 *Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz v. Altura*
7 *Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577); *George*
8 *Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No.
9 RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County
10 Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare*
11 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-
12 CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of
13 California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*
14 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*
15 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*
16 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case
17 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County
18 Superior Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San
19 Mateo County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron,*
20 *LLC; et al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*
21 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.
22 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San
23 Bernardino County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega*
24 *Velazquez v. Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case
25 No. CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside
26 County Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba*
27 *NCI Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO);
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1 *Larry Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case
2 No. 30-2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San
3 Bernardino County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw*
4 *Industries, Inc.; et al.* (San Bernardino County Superior Court, Case No.
5 CIVSB2024674); *Joshua Rael v. Intercontinental Hotels Group Resources, Inc.* (Los
6 Angeles County Superior Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro*
7 *Flat Glass, LLC* (Kern County Superior Court, Case No. BCV-21-101357).

8 10. On November 14, 2022, Plaintiff Roya Noori provided written notice to the California
9 Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific
10 provisions of the Labor Code she contends were violated and the theories supporting her
11 contentions.

12 11. On January 3, 2023, Plaintiff Noori filed this wage-and-hour class action lawsuit in the
13 Superior Court of California, County of San Diego (Case No. 37-2023-00000144-CU-
14 OE-CTL). The lawsuit alleged the following causes of action against Defendant: (a)
15 failure to pay all straight time wages; (b) failure to pay all overtime wages; (c) failure to
16 provide meal periods; (d) failure to authorize and permit rest periods; (e) failure to adopt
17 a compliant sick pay/paid time off policy; (f) knowing and intentional failure to comply
18 with itemized employee wage statement provisions; (g) failure to pay all wages due at the
19 time of termination of employment; (h) failure to reimburse/illegal deductions; and (i)
20 violation of the Unfair Competition Law.

21 12. On February 8, 2023, Plaintiff Noori filed a representative Private Attorneys General Act
22 of 2004 (“PAGA”) action in the Superior Court of California, County of San Diego,
23 asserting allegations like those asserted in her wage-and-hour class action lawsuit (Case
24 No. 37-2023-00005665-CU-OE-CTL).

25 13. On July 31, 2023, the Court granted Plaintiff Noori’s request to consolidate her wage-and-
26 hour class action lawsuit (Case No. 37-2023-00000144-CU-OE-CTL) and representative
27 PAGA action (Case No. 37-2023-00005665-CU-OE-CTL) and designated the former as
28

1 the lead case.

2 14. On August 16, 2023, Plaintiff Noori filed a first amended complaint that added Plaintiff
3 Olivo as a named plaintiff.

4 15. The Parties conducted significant investigation and discovery of the facts and law both
5 before and after this action was filed. Through informal discovery, Defendant produced
6 over nine hundred (900) separate policy documents. These documents included policy
7 documents that covered Class Members' employment with Defendant, such as employee
8 handbooks. Included within these documents were Defendant's wage and hour policies,
9 including its meal and rest period policies. Defendant also produced a sampling of time
10 and wage records for Class Members which Plaintiffs had an expert review and analyze.
11 This sampling included over eight (80) Excel files that contained Class Members' pay
12 data and over fifty (50) Excel and PDF files that contained Class Members' time data.
13 Plaintiffs also requested, and Defendant produced, the number of current and former
14 employees, as well as the number of workweeks worked by Class Members during the
15 relevant time period, to establish a potential exposure model in preparation for mediation.
16 Plaintiffs also located and interviewed several Class Members who worked for Defendant
17 throughout the Class Period. From this discovery, Plaintiffs and their Counsel were able
18 to analyze Defendant's liability in this action and prepare a realistic damage model.

19 16. The Parties attended an all-day mediation presided over by respected wage and hour
20 mediator David Rotman on January 18, 2024. This meditation was successful. The Parties
21 then met and conferred over all the terms of the settlement and finalized their settlement
22 in the Parties' Agreement. The Parties' Agreement is attached hereto as **Exhibit 1**.

23 17. Plaintiffs contend that Defendant does not provide employees with meal periods that
24 conform with California law. Employers have an obligation under California law to
25 provide employees with thirty (30) minute meal periods. Under California Labor Code
26 section 512(a), "[a]n employer may not employ an employee for a work period of more
27 than five hours per day without providing the employee with a meal period of not less
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1 than 30 minutes” Cal. Lab. Code § 512(a). An employer “satisfies this obligation [to
2 provide meal periods] if it relieves its employees of all duty, relinquishes control over
3 their activities and permits them a reasonable opportunity to take an uninterrupted 30-
4 minute break, and does not impede or discourage them from doing so.” *Brinker Restaurant*
5 *Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040. Here, Plaintiffs contend that
6 Defendant’s time records show non-compliant meal periods.

7 18. In *Donohue v. AMN Services, LLC*, the California Supreme Court issued a decision,
8 wherein it ruled that time records showing late, short, or missed meal periods raises a
9 rebuttable presumption that the meal periods were not provided: “If time records show
10 missed, short, or delayed meal periods with no indication of proper compensation, then a
11 rebuttable presumption arises” that the meal periods were not provided in accordance with
12 California law. *Donohue v. AMN Services, LLC* (2021) 11 Cal.5th 58, 74. Plaintiffs
13 contend that, here, the time records show non-compliant meal periods. In these shifts,
14 under *Donohue*, Plaintiffs contend that it is presumed that meal period violations occurred.

15 19. Defendant asserts that its meal period policy is lawful and that it provides employees with
16 meal periods in compliance with California law. Defendant alleges that if litigation
17 continues it would be able to show that it advised employees of the right to take a meal
18 period in compliance with California law. Defendant contends that employees either took
19 a lawful meal period or knowingly and voluntarily decided to skip the meal period or take
20 a late or short meal period. Defendant contends that this evidence would rebut the
21 presumption under *Donohue v. AMN Services, LLC*. Defendant also asserts that in
22 rebutting the presumption, the Court or fact finder would have to ask each employee why
23 their time records show a non-compliant meal period. Defendant contends that, due to
24 this, class certification is not proper as individualized issues would predominate.
25 Defendant also asserts that the evidence in this case shows that it paid meal period
26 premiums in shifts in which employees were not provided with compliant meal periods.
27 Thus, Defendant contends that to the extent an employee was not provided the opportunity
28

1 to take a legally compliant meal period, they were provided a meal premium.

2 20. Plaintiffs allege that that employees are not provided with lawful rest periods. Employers
3 have an obligation to provide employees with ten (10) minute rest periods. An employer's
4 obligation to provide its employees with rest periods arises under the Industrial Welfare
5 Commission Wage Orders. Wage Order 4-2001, Section 12(A) states, "[e]very employer
6 shall authorize and permit all employees to take rest periods, which insofar as practicable
7 shall be in the middle of each work period. The authorized rest period time shall be based
8 on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4)
9 hours or major fraction thereof."

10 21. In California, the ten (10) minute rest break must be a net ten (10) minutes in a suitable
11 rest area. None of the time allotted for rest breaks can be consumed by the time it takes to
12 get to a suitable rest area. *See Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th
13 257, 267-268 (relying on January 3, 1986 and February 22, 2002 Department of Labor
14 Standards Enforcement Letters wherein the DLSE ruled that the net ten-minute language
15 for rest breaks means ten minutes of time in a rest area and cannot include time it takes to
16 get to and from the rest area). The employer must show that it clearly articulates the right
17 to a net ten (10) minutes, which means it must clearly communicate what "net" ten minutes
18 means and that, regardless of what happens along the way to or from the rest area,
19 employees are entitled to a full ten-minutes in the rest area. *See Bufile v. Dollar Fin. Grp.,*
20 *Inc.* (2008) 162 Cal.App.4th 1193, 1199 (the "onus is on the employer to clearly
21 communicate the authorization and permission [to take rest breaks] to its employees.").
22 Plaintiffs contend that Defendant does not provide employees with rest periods that are a
23 net ten minutes at a suitable rest area.

24 22. Defendant argues that it permits and authorizes lawful rest periods. Defendant maintains
25 an express written rest period policy that advises employees they will receive a paid break
26 of 10 consecutive minutes for shifts lasting from 3.5 to 6 hours and two 10-minute rest
27 periods for shifts longer than 6 hours and up to 10 hours, and three 10-minute rest periods
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1 for shifts longer than 10 hours and up to 14 hours. Defendant further contends that it
2 informs employees that they get ten full, duty-free minutes of rest and that this time does
3 not include the time it takes to get to a suitable rest area. Defendant contends that if
4 litigation continues, it would provide declarations from employees which show that
5 employees received full ten-minute rest breaks at a suitable rest area. Defendant contends
6 that the Court would have to ask each employee whether they received full ten-minute
7 breaks. Defendant asserts that doing so would defeat class certification.

8 23. Plaintiffs also pursued claims for failure to provide accurate itemized wage statements and
9 waiting time penalty claims. These claims are derivative of Plaintiffs' meal period and
10 rest period claims. Should Plaintiffs' meal period and rest period claims fail, these claims
11 would also fail.

12 24. Defendant contends that even if Plaintiffs were successful in their meal period and rest
13 period claims, they would have to prove Defendant "willfully" failed to pay employees
14 the appropriate wages due upon separation of employment. "A willful failure to pay wages
15 within the meaning of Labor Code Section 203 occurs when an employer intentionally
16 fails to pay wages to an employee when those wages are due. However, a good faith
17 dispute that any wages are due will preclude imposition of waiting time penalties under
18 Section 203." Cal. Code Regs. Tit. 8 § 13520. "A 'good faith dispute' that any wages are
19 due occurs when an employer presents a defense, based in law or fact, which would
20 preclude any recovery on the part of the employee. The fact that a defense is ultimately
21 unsuccessful will not preclude a finding that a good faith dispute did exist." *Id.* Defendant
22 contends that any failure to pay wages due at the separation of employment was not
23 willful. Defendant argues that it would not be liable for waiting time penalties because a
24 "good faith dispute" exists over the payment of those wages. *See* Cal. Code Regs. Tit. 8 §
25 13520; *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.

26 25. Defendant contends that Plaintiffs would also have to prove that Defendant "knowingly
27 and intentionally" failed to comply with wage statement requirements under Labor Code
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1 section 226. *Naranjo v. Spectrum Security Services, Inc.* (May 6, 2024, No. S279397)
2 ____Cal.5th____ [2024 Cal. LEXIS 2438, at *3]. Defendant maintains that it reasonably and
3 in good faith believes that it was providing a complete and accurate wage statement in
4 compliance with California law.

5 26. Defendant also argues that Plaintiffs’ meal and rest period claims cannot form the basis
6 of their wage statement claim. Defendant relies on the case *Maldonado v. Epsilon Plastics,*
7 *Inc.* (2018) 22 Cal.App.5th 1308, for the position that employees do not suffer injury under
8 California Labor Code section 226(a) so long as the wage statements correctly reflected
9 the hours worked and the pay received even if the pay is later determined to be inaccurate.

10 27. Plaintiffs also seek PAGA penalties. PAGA allows the private enforcement of certain
11 California Labor Code sections relating to wage and hour violations. The statute of
12 limitations for PAGA violations goes back one year. As Plaintiffs’ PAGA claims are based
13 on the same alleged unlawful conduct as their class claims, Plaintiffs’ PAGA claims are
14 subject to the same risks on the merits as Plaintiffs’ class claims.

15 28. Defendant maintains that Plaintiffs’ PAGA claims face manageability concerns consistent
16 with the class certification challenges. Specifically, Defendant has due process rights
17 which would not permit Plaintiffs to attempt to generalize violations from disparate
18 anecdotal evidence. *Duran v. U.S. Bank National Assn.*, 59 Cal.4th 1 (2014). Defendant
19 asserts that Plaintiffs cannot stack multiple PAGA penalties for the same underlying
20 conduct, i.e., failure to pay minimum wages/failure to pay all wages or overtime. *Plotnik*
21 *v. Meihaus* (2014) 208 Cal.App.4th 1590, 1612.

22 29. The Court may reduce any PAGA penalties awarded under Section 2699, subdivision
23 (e)(2). The likelihood of the Court reducing the PAGA penalties awarded to the Aggrieved
24 Employees – assuming liability is proven as to each of Plaintiffs’ claims – is higher in this
25 case where these same individuals may also be receiving money for the same unlawful
26 conduct under the class claims. *See Avila v. Cold Spring Granite Co.* (E.D. Cal. Jan. 12,
27 2018) Case No. 1:16-cv-001533-AWI-SKO, 2018 U.S. Dist. LEXIS 6142 *17 (“Because
28

1 the PAGA penalties sought are at least partially duplicative of penalties granted by the
2 underlying Labor Code violations, *see, e.g.*, Cal. Lab. Code §§ 203, 226, 558(a), 1194.2,
3 and because a Court has discretion in whether and in what amount to award PAGA
4 penalties, *see* Cal. Lab. Code § 2699(e)(2), Plaintiffs recognizes that the potential PAGA
5 penalties are highly uncertain.”). As such, the Court will likely reduce any PAGA penalty
6 amount awarded to the Aggrieved Employees.

7 30. Plaintiffs allege that Defendant failed to provide lawful meal periods to employees
8 because Defendant’s time records show late, short, or the absence of meal periods. The
9 sampling of time records produced shows these occurrences in approximately 12% of
10 shifts. Relying on the California Supreme Court’s decision, in *Donohue v. AMN Services,*
11 *LLC* (2021) 11 Cal.5th 58, Plaintiffs’ claim these records raised a rebuttable presumption
12 that Defendant failed to discharge its duty to provide meal periods. If Plaintiffs were to
13 prevail on this claim for the entire class period, Plaintiffs and the Class Members would
14 be entitled to the following potential damages: \$1,941,903 (68,571 shifts with meal period
15 violations x \$28.32 per hour = \$1,941,903).

16 31. Defendant disagrees. It contends its policies communicated to employees comply with
17 California law and will thus be used to rebut the presumption that it did not provide meal
18 periods. Thus, it will argue, the instances in the time records are reflective of employee
19 choice after Defendant has offered and provided the opportunity for meal periods and
20 Defendant does not have to “police meal breaks and ensure no work thereafter is
21 performed.” *Brinker Restaurant Corp. v. Superior Court* (2012) 53 Cal.4th 1004, 1040.
22 Should the factfinder side with Defendant, Plaintiffs would take nothing on their meal
23 period claim. Given the all or none prospect, Plaintiffs had to compromise to make
24 settlement possible.

25 32. Plaintiffs allege that Defendant fails to provide lawful rest periods to employees because
26 Defendant does not provide a net ten-minute rest period to employees whereby the time it
27 takes to get to and from a suitable break area is excluded from total rest period time.

1 Defendant's policies make no mention of an authorization to take a net-ten minute rest
2 break and certainly provide no explanation as to what a "net" ten minute rest period
3 actually means – i.e., more than ten minutes away from workstations. If Plaintiffs were to
4 prevail on this claim, class-wide exposure could be: \$17,261,606 (609,520 shifts over 3.5
5 hours x \$28.32 = \$17,261,606).

6 33. Defendant contends that this amount should be zero because it has a lawful rest period
7 policy and practice. Specifically, Defendant contends its policy permits ten minutes to
8 employees wherein employees are free of all duty and control, which necessarily means
9 employees receive ten minutes in suitable rest areas and does not include the time it takes
10 to get to and from the break room. That aside, Defendant also relies on the California
11 Supreme Court decision, in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257,
12 wherein the Court reasoned that rest breaks necessarily only permit employees an ability
13 to go five minutes away from a workstation so that they could get back to their
14 workstations five minutes later. This language, Defendant argues, would mean a net ten-
15 minute rest break is provided when the employee has to be back to work within ten
16 minutes of leaving it. Accordingly, Defendant claims Plaintiffs should take nothing on
17 this claim and, if the factfinder agreed, Plaintiffs would take nothing. Although remaining
18 confident in their position, Plaintiffs had no way of knowing how the factfinder would
19 rule on this issue and a substantial discount had to be given to make settlement possible.

20 34. In light of the all-or-nothing risks their claims faced, Plaintiffs and their Counsel believe
21 that the settlement amount of \$3,000,000 – with an average settlement share amount
22 estimated at \$1,137.42 – is a reasonable and fair settlement amount.

23 I declare under penalty of perjury under the laws of the State of California that all the
24 foregoing is true and correct.

25
26 Date: August 19, 2024

MARA LAW FIRM, PC

Signed:  _____
David Mara, Esq.

Exhibit 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement (“Settlement Agreement” or “Agreement”) is made by and between Plaintiffs Roya Noori and Paola Olivo (“Plaintiffs,” “Plaintiff Noori,” and “Plaintiff Olivo”) and Defendant Vista Community Clinic (“Defendant”). The Agreement refers to Plaintiffs and Defendant as “Parties,” or individually as “Party.”

A. DEFINITIONS.

1. “Action” means the lawsuit alleging wage and hour violations against Defendant captioned *Noori v. Vista Community Clinic* initiated by Plaintiff Noori on January 3, 2023, as amended, and pending in the Superior Court of the State of California, County of San Diego (Case No. 37-2023-00000144-CU-OE-CTL) (consolidated with Case No. 37-2023-00005665-CU-OE-CTL).
2. “Administrator” means ILYM Group, Inc., the neutral entity the Parties have agreed to appoint to administer the Settlement.
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.
4. “Aggrieved Employee” means all current and former non-exempt, hourly employees who were employed by Defendant in California at any time during the PAGA Period.
5. “Class” means all current and former non-exempt, hourly employees who were employed by Defendant in California at any time during the Class Period.
6. “Class Counsel” means Justice Law Corporation and Mara Law Firm, PC.
7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” means the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
8. “Class Data” means Class Members’ identifying information in Defendant’s possession, including the Class Member’s: (a) full name; (b) last-known mailing address; (c) social security number; (d) phone number; (e) email address; and (f) number of Workweeks and PAGA Pay Periods.
9. “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 an Aggrieved Employee).
10. “Class Member Address Search” means the Administrator’s investigation and search for current Class Members’ mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address Database (“NCOA”), skip traces, and direct contact by the Administrator with Class Members.

11. “Class Notice” means the Court approved notice of Settlement and hearing date for Final Approval, to be mailed to Class Members in the form, without material variation, attached as **Exhibit A** and incorporated by reference into this Agreement.
12. “Class Period” means the period from January 3, 2019, through January 18, 2024.
13. “Class Representatives” means the named Plaintiffs in the Operative Complaint in the Action seeking Court approval to serve as the Class Representatives.
14. “Class Representative Service Payments” means the payment to the Class Representatives for initiating the Action and providing services in support of the Action.
15. “Court” means the Superior Court of California, County of San Diego.
16. “Defendant” means Vista Community Clinic, the named defendant of the Action.
17. “Defense Counsel” means Messner Reeves LLP.
18. “Effective Date” means fourteen (14) calendar days after 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: (i) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (ii) 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 (iii) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
19. “Final Approval” means the Court’s order granting final approval of the Settlement.
20. “Final Approval Hearing” means the Court’s hearing on the motion for Final Approval of the Settlement.
21. “Gross Settlement Amount” means \$3,000,000 which is the total amount Defendant agrees to pay under the Settlement with the exception of the employer’s share of payroll taxes. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, and Administration Expenses Payment. Defendant shall pay the employer’s share of payroll taxes separately and apart from the Gross Settlement Amount.
22. “Individual Class Payment” means the Participating Class Member’s pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.

23. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of twenty-five percent (25%) of the PAGA Penalties calculated according to the number of pay periods worked during the PAGA Period.
24. "Judgment" means the judgment entered by the Court based upon the Final Approval.
25. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
26. "LWDA PAGA Payment" means seventy-five percent (75%) of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
27. "Net Settlement Amount" means the Gross Settlement Amount less the following payments in the amounts approved by the Court: (a) Individual PAGA Payments; (b) LWDA PAGA Payment; (c) Class Representative Service Payments; (d) Class Counsel Fees Payment; (e) Class Counsel Litigation Expenses Payment; and (f) Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
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.
29. "PAGA" means the Private Attorneys General Act of 2004 (Labor Code section 2698, *et seq.*).
30. "PAGA Notice" means Plaintiff Noori's letter sent to the LWDA and Defendant on November 14, 2022 providing notice pursuant to Labor Code section 2699.3, subd. (a).
31. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one (1) day during the PAGA Period.
32. "PAGA Period" means the period from February 8, 2022, through January 18, 2024.
33. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated seventy-five percent (75%) to the LWDA and the twenty-five percent (25%) to the Aggrieved Employees in settlement of PAGA claims.
34. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
35. "Plaintiffs" means Plaintiff Noori and Plaintiff Olivo, the named plaintiffs in the Action.
36. "Preliminary Approval" means the Court's order granting preliminary approval of the Settlement.

37. “Preliminary Approval Hearing” means the Court’s hearing on the motion for Preliminary Approval of the Settlement.
38. “Released Class Claims” means the claims being released as described in Section E.2. below.
39. “Released PAGA Claims” means the claims being released as described in Section E.3. below.
40. “Released Parties” means Defendant and its parents, predecessors, successors, all affiliates, subsidiaries, officers, directors, members, agents, employees, and stockholders.
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.
42. “Response Deadline” means forty-five (45) calendar days after the Administrator mails the Class Notice 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 Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional fourteen (14) calendar days beyond the original Response Deadline to submit the Requests for Exclusion or objections.
43. “Settlement” means the disposition of the Action effected by this Settlement Agreement and the Judgment.
44. “Workweek” means any week during which a Class Member worked for Defendant for at least one (1) day during the Class Period.

B. RECITALS.

1. On November 14, 2022, Plaintiff Noori provided written notice to the LWDA and Defendant of the specific provisions of the Labor Code he contends were violated and the theories supporting his contentions.
2. On January 3, 2023, Plaintiff Noori, represented by Mara Law Firm, PC, filed a wage-and-hour class action lawsuit in the Superior Court of California, County of San Diego (Case No. 37-2023-00000144-CU-OE-CTL). The lawsuit alleged the following causes of action against Defendant: (a) failure to pay all straight time wages; (b) failure to pay all overtime wages; (c) failure to provide meal periods; (d) failure to authorize and permit rest periods; (e) failure to adopt a compliant sick pay/paid time off policy; (f) knowing and intentional failure to comply with itemized employee wage statement provisions; (g) failure to pay all wages due at the time of termination of employment; (h) failure to reimburse/illegal deductions; and (i) violation of the Unfair Competition Law.

3. On February 8, 2023, Plaintiff Noori filed a representative PAGA action in the Superior Court of California, County of San Diego, asserting allegations like those asserted in her wage-and-hour class action lawsuit (Case No. 37-2023-00005665-CU-OE-CTL).
4. On March 21, 2023, Plaintiff Olivo, represented by Justice Law Corporation, filed a wage-and-hour class action lawsuit in the Superior Court of California, County of San Diego (Case No. 37-2023-00011846-CU-OE-NC). The lawsuit alleged violation of: (a) Labor Code sections 510 and 1198 (unpaid overtime); (b) Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (c) Labor Code sections 226.7 (unpaid rest period premiums); (d) Labor Code sections 1194 and 1197 (unpaid minimum wages); (e) Labor Code sections 201 and 202 (final wages not timely paid); (f) Labor Code section 226(a) (noncompliant wage statements); (g) Labor Code sections 2800 and 2802 (unreimbursed business expenses); and (h) Business & Professions Code section 17200, *et seq.*
5. On July 31, 2023, the Court granted Plaintiff Noori's request to consolidate her wage-and-hour class action lawsuit (Case No. 37-2023-00000144-CU-OE-CTL) and representative PAGA action (Case No. 37-2023-00005665-CU-OE-CTL) and designated the former as the lead case.
6. On August 16, 2023, Plaintiff Noori filed a first amended complaint that added Plaintiff Olivo as a named plaintiff ("Operative Complaint").
7. On October 9, 2023, the Court granted Plaintiff Olivo's request to dismiss her wage-and-hour class action lawsuit (Case No. 37-2023-00011846-CU-OE-NC).
8. After engaging in discovery, investigations, and negotiations, on January 18, 2024, the Parties remotely attended mediation with the mediator David Rotman that eventually resulted in the settlement of this Action, subject to the Court's approval.
9. Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in the Operative Complaint, and denies any and all liability for the causes of action alleged.
10. The Parties conducted significant investigation and discovery of the facts and law both before and after the Action was filed. Defendant produced several documents relating to its policies, practices, and procedures regarding reimbursement of business expenses, paying non-exempt employees for all hours worked, and meal and rest breaks along with payroll, timekeeping, and operational policies. As part of Defendant's production, Plaintiffs also reviewed time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to understand the number of Workweeks and PAGA Pay Periods. Plaintiffs also located and interviewed several Class Members who worked for Defendant throughout the Class Period. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130.

11. The Court has not granted class certification.
12. The Parties, Class Counsel, and Defense Counsel represent they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement Agreement.

C. MONETARY TERMS.

1. Gross Settlement Amount. Defendant promises to pay \$3,000,000 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any employer payroll taxes) prior to the deadline stated in Section D of this Settlement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
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:
 - a. To Plaintiffs: Class Representative Service Payments of no more than \$10,000 to each Plaintiff (totaling \$20,000) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members). Defendant will not oppose Plaintiffs' request for the Class Representative Service Payments that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiffs will seek Court approval for any Class Representative Service Payments no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves the Class Representative Service Payments less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payments using IRS Form 1099. Plaintiffs assume full responsibility and liability for employee taxes owed on the Class Representative Service Payments.
 - b. To Class Counsel: A Class Counsel Fees Payment of no more than \$1,050,000 (35% of the Gross Settlement Amount) and a Class Counsel Litigation Expenses Payment of no more than \$50,000. Defendant will not oppose requests for these payments provided that do not exceed these amounts. Plaintiffs and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than sixteen (16) court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Class Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator may purchase an annuity to

utilize U.S. treasuries and bonds or other attorney fee deferral vehicles for Class Counsel. The Administrator will also pay the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment using one or more IRS Form 1099. Class Counsel assume full responsibility and liability for taxes owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment, hold Defendant harmless, and indemnify Defendant from any dispute or controversy regarding any division or sharing of any of these payments.

- c. To the Administrator: An Administration Expenses Payment not to exceed \$25,000 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses Payment is less or the Court approves payment less than \$25,000, the Administrator will retain the remainder in the Net Settlement Amount.
- d. To Each Participating Class Member: An Individual Class Payment is 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 during the Class Period.
 - i. Tax Allocation of Individual Class Payments. Twenty percent (20%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of wage claims ("Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on IRS Form W-2. Eighty percent (80%) of each Participating Class Member's Individual Class Payment will be allocated to the settlement of claims for interest and penalties ("Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS Form 1099. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payments.
 - ii. 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.
- e. To the LWDA and Aggrieved Employees: PAGA Penalties in the sum of \$150,000 to be paid from the Gross Settlement Amount, seventy-five percent (75%) of which (\$112,500) will be allocated to the LWDA as the LWDA PAGA Payment and twenty-five percent (25%) of which (\$37,500) will be allocated to the Aggrieved Employees as their Individual PAGA Payments.
 - i. The Administrator will calculate each Individual PAGA Payment by: (a) dividing the amount of the Aggrieved Employees' twenty-five percent (25%) share of PAGA Penalties (\$37,500) by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period;

and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods during the PAGA Period. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

- ii. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. In addition, the Administrator will report the Individual PAGA Payments on IRS Form 1099.

D. SETTLEMENT FUNDING AND PAYMENTS.

1. Workweeks and Pay Periods. Based on a review of its records to date, Defendant estimates there are 1,499 Class Members who worked a total of 149,892 Workweeks, and 1,031 Aggrieved Employees who worked a total of 32,363 PAGA Pay Periods through the mediation date of January 18, 2024.
2. Funding of Gross Settlement Amount. Defendant shall fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than the Effective Date.
3. Payments from the Gross Settlement Amount. Within fourteen (14) calendar days after Defendant fully funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Administration Expenses Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments. Disbursement of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.
 - a. 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 United States Postal Service ("USPS") mail, postage prepaid. The face of each check shall state checks that are not cashed within one hundred eighty (180) calendar days after the date of mailing will be voided. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notices were returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees, including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notices were 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 Administrator must update the recipients' mailing addresses using the NCOA.

- b. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are returned undelivered without USPS forwarding address. Within seven (7) calendar days of receiving a returned check, the Administrator will remail checks to the USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator shall send a replacement check to any Class Member whose original check was lost or misplaced if requested by the Class Member prior to the void date.
- c. 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 Code of Civil Procedure section 384, subd. (b).
- d. 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 Settlement.

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

- 1. Plaintiffs' Release. Plaintiffs and their former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally release and discharge the Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged based on the facts contained in the Operative Complaint; and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the PAGA Notice ("Plaintiffs' Release"). Plaintiffs' Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiffs acknowledge they may discover facts or law different from, or in addition to, the facts or law Plaintiffs now know or believe to be true but agree Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them.
 - a. Plaintiffs' Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive and relinquish the provisions, rights, and benefits, if any, of section 1542 of the 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.

- b. This release expressly excludes any and all claims and any damages that arise from claims Plaintiff Noori has or may have against Defendant and/or the Released Parties for violations of Labor Code section 1102.5, Government Code section 12940, *et seq.*, and wrongful termination in violation of California public policy, which are pending in a separate matter. These claims are expressly carved out and preserved from Plaintiff Noori's release.
2. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the facts contained in the Operative Complaint and that occurred during the Class Period. Except as set forth in Section E.3. of this Agreement, 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.
3. Release by Aggrieved Employees. All Participating and Non-Participating Class Members, who are Aggrieved Employees, are deemed to release, on behalf of themselves and their 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 facts stated in the Operative Complaint and PAGA Notice that occurred during the PAGA Period.

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

1. Plaintiffs' Responsibilities. Plaintiffs will move for an order: (a) conditionally certifying the Class for settlement purposes only; (b) seeking Preliminary Approval of the Settlement; (c) setting a date for the Final Approval Hearing; and (d) approving the Class Notice.
 - a. Before or at the Preliminary Approval Hearing, Plaintiffs will submit a proposed order granting conditional certification of the Class and Preliminary Approval of the Settlement; appointing the Class Representatives, Class Counsel, and Administrator; approving the Class Notice; and setting the Final Approval Hearing.
 - b. Defendant agrees it will not oppose Plaintiffs' Motion for Preliminary Approval of the Settlement Agreement so long as the motion is consistent with the terms of the Settlement Agreement.

- c. The amounts of Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, and Class Representative Service Payments shall be determined by the Court, and the Court's determination on these amounts shall be final and binding. The Court's approval or denial of any amount requested for these items are not material conditions of this Agreement and are to be considered separate and apart from the fairness, reasonableness, and adequacy of the Agreement. Any order or proceeding relating to an application for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, and Class Representative Service Payments shall not operate to terminate or cancel this Agreement.
 - d. If the Court declines to conditionally certify the Class or to preliminarily approve all material aspects of the Agreement with prejudice, the Agreement will be null and void, and the Parties will have no further obligations under the Agreement.
- 2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible for: (a) expeditiously finalizing and filing the Motion for Preliminary Approval no later than thirty (30) calendar days after the full execution of this Agreement; (b) obtaining a prompt hearing date for the Motion for Preliminary Approval; and (c) 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.
 - 3. Duty to Cooperate. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Settlement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone or email, and in good faith, to modify the Settlement and otherwise satisfy the Court's concerns.

G. SETTLEMENT ADMINISTRATION.

- 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, the Administrator 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 Payment. The Parties and their counsel represent they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 2. Employer Identification Number. The Administrator shall have and use its own "Employer Identification Number" for purposes of calculating payroll tax withholdings and providing reports to state and federal tax authorities.
- 3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a "Qualified Settlement Fund" under US Treasury Regulation section 468B-1.

4. Notice to Class Members.

- a. Class Data. No later than fourteen (14) calendar 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 under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers the Class Data omitted Class Members' 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 their best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.
- b. No later than three (3) business days after receipt of the Class Data, the Administrator shall notify Class Counsel that the list has been received and state the number of Class Members, Aggrieved Employees, Workweeks, and PAGA Pay Periods in the Class Data.
- c. Before mailing Class Notices, the Administrator shall update Class Member addresses using the NCOA. Using best efforts to perform as soon as possible, and in no event later than fourteen (14) calendar days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data the Class Notice in the form attached to this Agreement as **Exhibit A** via first-class USPS mail. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts.
- d. No later than three (3) business days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall remail 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 remail the Class Notice to the most current address obtained.
- e. The deadlines for Class Members' written objections, challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional fourteen (14) calendar days beyond the forty-five (45) calendar days otherwise provided in the Class Notice for all Class Members whose Class Notice is remailed. The Administrator will inform the Class Member of the extended deadline with the remailed Class Notice.

- f. 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 or email, and in good faith, 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 no later than fourteen (14) calendar days after receipt of Class Notice or the deadline dates in the Class Notice, whichever is later.

5. Requests for Exclusion (Opt-Outs).

- a. Class Members who wish to exclude themselves (opt out of) the Class Settlement must send the Administrator by fax, email, or mail a signed written Request for Exclusion no later than forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notices are remailed). 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: (i) full name; (ii) present address; (iii) email address or telephone number; and (iv) a simple statement electing to be excluded from the Settlement. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.
- b. 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 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 susceptible to challenge.
- c. 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 Section E.2. and Section E.3. of this Agreement, regardless of whether the Participating Class Member receives the Class Notice or objects to the Settlement.
- d. 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, Participating and Non-Participating Class Members who are Aggrieved Employees

are deemed to release the claims identified in Section E.3. of this Agreement and are eligible for an Individual PAGA Payment.

6. Challenges to Calculation of Workweeks and PAGA Pay Periods.

- a. Each Class Member shall have forty-five (45) calendar days after the Administrator mails the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notices are remailed) 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 and PAGA Pay Periods 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 PAGA Pay Periods shall be final and not appealable or susceptible to challenge. The Administrator shall promptly provide copies of all challenges to the calculation of Workweeks and PAGA Pay Periods to Defense Counsel and Class Counsel along with the Administrator's determination of the challenges.

7. Objections to Settlement.

- a. Only Participating Class Members may object to the class action components of the Settlement and/or this Settlement Agreement, including contesting the fairness of the Settlement Agreement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payments.
- b. Participating Class Members may send signed written objections to the Administrator by fax, email, or mail. The written objection must: (i) indicate what the Class Member is objecting to; (ii) explain why the Class Member is objecting; (iii) include any fact that support the objection; and (iv) include the Class Member's full name, present address, and email address or telephone number.
- c. Alternatively, 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 no later than forty-five (45) calendar days after the Administrator's mailing of the Class Notice (plus an additional 14 calendar days for Class Members whose Class Notices are remailed).

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.

- a. Website, Email Address, and Toll-Free Number. The Administrator will establish and maintain and use a website to post information of interest to Class Members. This information includes the date, time, and location for the Final Approval Hearing and copies of the Settlement Agreement, Motion for Preliminary Approval, Preliminary Approval, Class Notice, motion for Final Approval, motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments, Final Approval, and Judgment. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes, and emails.
- b. Requests for Exclusion (Opt-Outs). The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
- c. 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: (i) Class Notices mailed or remailed; (ii) Class Notices returned undelivered; (iii) Requests for Exclusion (whether valid or invalid) received; (iv) objections received; (v) challenges to Workweeks and/or PAGA Pay Periods received and/or resolved; and (vi) checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion.
- d. Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Settlement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- e. Administrator’s Declaration. No later than sixteen (16) court days before the date by which Plaintiffs are 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: (i) mailing of Class Notice; (ii) Class Notices returned as undelivered; (iii) remailing of Class Notices; (iv) attempts to locate Class Members; (v) total number of Requests for Exclusion received (both valid or invalid); and (vi) total number of written objections received. 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.
- f. Final Report by Administrator. Within ten (10) calendar 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 fifteen (15) calendar 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.

H. MOTION FOR FINAL APPROVAL. No later than sixteen (16) court days before the calendared Final Approval Hearing, Plaintiffs will file in Court a motion for Final Approval of the Settlement that includes a request for approval of the PAGA Settlement under Labor Code section 2699, subd. (l), proposed Final Approval order, and proposed Judgment.

1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for the Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or Administration Expenses Payment shall not constitute a material modification to the Settlement within the meaning of this section. If the Court does not grant Final Approval of the Agreement, or if the Court's Final Approval is reversed or materially modified on appellate review, then the Parties will make a good faith effort to revise the terms of the Agreement. If that process fails, the Settlement will be null and void. In such event, the Parties reserve their rights with respect to the prosecution and defense of the Action. Any disputes arising out of or relating to this Agreement will be submitted to the mediator for resolution. The Parties will split the costs of the mediator for any such time incurred by the mediator in reaching such resolution, and the Parties will bear their own attorneys' fees and other costs incurred.
3. Continuing Jurisdiction of the Court. The Parties agree after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and Settlement solely for purposes of: (a) enforcing this Agreement and/or Judgment; (b) addressing settlement administration matters; and (c) addressing such post-Judgment matters as are permitted by law.
4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, the Parties, their counsel, and all Participating Class Members who did not object to the Settlement as provided in this Settlement, 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 Settlement 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.

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 expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing any additional settlement administration costs reasonably incurred after remittitur on a 50-50 basis. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payments, Class Counsel Fees Payment, or Class Counsel Litigation Expenses Payment shall not constitute a material modification of the Judgment within the meaning of this section if the Gross Settlement Amount remains unchanged.

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

J. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE. Based on its records, Defendant estimates, as of October 31, 2023 extrapolated to the date of the mediation, there were: (1) 1,499 Class Members who worked a total of 149,892 Workweeks; and (2) 1,031 Aggrieved Employees who worked a total of 32,363 PAGA Pay Periods. If it is determined that the number of Workweeks through the Class Period exceeds ten percent (10%) or more of 149,892 (*i.e.*, more than 164,881 Workweeks), then at Defendant's option, either the: (a) Gross Settlement Amount shall increase proportionally over the ten percent (10%) increase (*e.g.*, if the number of Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%); or (b) Class Period shall end as of the date the Workweeks within the Class Period reach 164,881 Workweeks.

K. DEFENDANT'S RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion identified by the Administrator is ten percent (10%) or more of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree 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 Settlement provided Defendant will remain responsible for paying all settlement administration costs incurred to that point. Defendant must notify Class Counsel and the Court of its selection to withdraw no later than thirty (30) calendar days after the expiration of the Response Deadline. A late election will have no effect.

L. ADDITIONAL PROVISIONS.

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. Moreover, nothing in this Agreement should be intended or construed as an admission by Plaintiffs that Defendant's defenses in the Action have merit. The Parties agree class certification and representative treatment is for purposes of this Agreement only. If, for any reason, the Court does not grant Preliminary Approval or Final Approval, or enter Judgment, Defendant reserves the right to contest certification of any class for any reasons, Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class

certification on any grounds available and to contest Defendant's defenses. This Agreement and the Parties' willingness to settle will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate this Agreement).

2. Confidentiality Prior to Preliminary Approval. Plaintiffs, Class Counsel, Defendant, and Defense Counsel separately agree, until the Motion for Preliminary Approval 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: (a) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (b) to counsel in a related matter; (c) to the extent necessary to report income to appropriate taxing authorities; (d) in response to a court order or subpoena; or (e) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to notify the other of any judicial or agency order, inquiry, or subpoena seeking such information. Plaintiffs, 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, with a 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 section does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
3. No Solicitation. The Parties separately agree that they and their 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 section 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.
4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibit shall constitute the entire Agreement between the Parties relating to the Agreement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent they are authorized by Plaintiffs and Defendant 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.
6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement Agreement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence, and supplementing points and authorities as requested by the Court. If the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement Agreement, or on any modification of the Settlement Agreement that may become

necessary to implement the Settlement Agreement, the Parties will seek the assistance of the mediator and/or the Court for resolution.

7. No Prior Assignments. The Parties separately represent and warrant 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.
8. No Tax Advice. Neither Plaintiffs, 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.
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.
10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
11. Applicable Law. All terms and conditions of this Agreement and its exhibit will be governed by and interpreted according to the internal laws of the State of California, without regard to conflict of law principles.
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 the Party was the drafter or participated in the drafting.
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.
14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Evidence Code section 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. No later than ninety (90) calendar 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, Plaintiffs shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destructions, of Class Data.
15. Headings. The descriptive heading of any section of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. If 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.
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 U.S. mail, or the day sent by email or messenger, addressed as follows:

To Plaintiffs:

Douglas Han
Shunt Tatavos-Gharajeh
Halina Szymanski
Justice Law Corporation
751 North Fair Oaks Avenue, Suite 101
Pasadena, California 91103
(Tel) (818) 230-7502
(Fax) (818) 230-7259
dhan@JusticeLawCorp.com
statavos@JusticeLawCorp.com
hszymanski@JusticeLawCorp.com

David Mara
Jill Vecchi
Mara Law Firm, PC
2650 Camino Del Rio North, Suite 302
San Diego, California 92108
(Tel) (619) 234-2833
(Fax) (619) 234-4048
dmara@maralawfirm.com
jvecchi@maralawfirm.com

To Defendant:

Kathleen Carter
Jeffrey R. Gillette
Messner Reeves LLP
611 Anton Boulevard, Suite 450
Costa Mesa, California 92626
(Tel) (949) 335-7905
(Fax) (949) 438-2304
kcarter@messner.com
jgillette@messner.com

18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (*e.g.*, 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.

19. Stay of Litigation. The Parties agree 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 Code of Civil Procedure section 583.330 to extend the date to bring a case to trial under Code of Civil Procedure section 583.310 for the entire period of this settlement process.

Dated: 6/13/2024 _____

Roya Noori

By: _____
DocuSigned by:
Roya Noori
06F2E2EBE3AB49F...

Dated: _____

Paola Olivo

By: _____

Dated: 6/13/2024 _____

Mara Law Firm, PC [Approving as to Form Only]

By: _____
DocuSigned by:
David Mara
4579A5166C10447...
David Mara, Esq.
Jill Vecchi, Esq.
Attorneys for Plaintiff Roya Noori

Dated: _____

Justice Law Corporation [Approving as to Form Only]

By: _____
Douglas Han, Esq.
Shunt Tatavos-Gharajeh, Esq.
Halina Szymanski, Esq.
Attorneys for Plaintiff Paola Olivo

Dated: _____

Roya Noori

By: _____

Dated: 06/14/2024

Paola Olivo

By:  _____

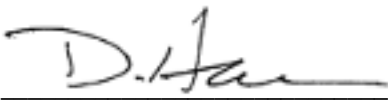
Dated: _____

Mara Law Firm, PC [Approving as to Form Only]

By: _____
David Mara, Esq.
Jill Vecchi, Esq.
Attorneys for Plaintiff Roya Noori

Dated: June 14, 2024

Justice Law Corporation [Approving as to Form Only]

By:  _____
Douglas Han, Esq.
Shunt Tatavos-Gharajeh, Esq.
Halina Szymanski, Esq.
Attorneys for Plaintiff Paola Olivo

Dated: 7/8/24

Vista Community Clinic

By: 
On behalf of Vista Community Clinic

Dated: 7/11/24

Messner Reeves LLP [Approving as to Form Only]

By: Jeffrey R. Gillette
Kathleen Carter, Esq.
Jeffrey R. Gillette, Esq.
Attorneys for Defendant

Exhibit *A*

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

Noori v. Vista Community Clinic (Case No. 37-2023-00000144-CU-OE-CTL) (consolidated with Case No. 37-2023-00005665-CU-OE-CTL)

The Superior Court for the State of California, County of San Diego (“Court”) authorized this Class Notice (“Class Notice”). Read it carefully! It’s not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee class action lawsuit (“Action”) against Defendant Vista Community Clinic (“Defendant”) for alleged wage and hour violations. The Action was filed by Plaintiffs Roya Noori and Paola Olivo (“Plaintiffs,” “Plaintiff Noori,” and “Plaintiff Olivo”), former employees of Defendant. Collectively, Plaintiffs and Defendant are the “Parties.” The Action seeks payment of:

- (1) Unpaid wages for a class of current and former non-exempt, hourly employees who were employed by Defendant in California at any time during the period from January 3, 2019, through January 18, 2024 (“Class,” “Class Members,” “Class Period”); and
- (2) Penalties under the Private Attorneys General Act of 2004 (“PAGA”) for all current and former non-exempt, hourly employees who were employed by Defendant in California at any time during the period from February 8, 2022, through January 18, 2024 (“Aggrieved Employees” and “PAGA Period”).

The Settlement has two main parts: (1) Class Settlement requiring Defendant to fund “Individual Class Payments” (the Participating Class Members’ pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period); and (2) PAGA Settlement requiring Defendant to fund “Individual PAGA Payments” (the Aggrieved Employees’ pro rata share of twenty-five percent [25%] of the PAGA Penalties calculated according to the number of Pay Periods worked during the PAGA Period).

Based on Defendant’s records, and the Parties’ current assumptions, your Individual Class Payment is estimated to be \$ [REDACTED] (less withholding) and your Individual PAGA Payment is estimated to be \$ [REDACTED]. The actual amount you may receive likely will be different and will depend on several 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 didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing you worked [REDACTED] “Workweeks” (defined as any week during the Class Period during which a Class Member worked for Defendant for at least one [1] day) during the Class Period and worked [REDACTED] “Pay Periods” (any Pay Period during the PAGA Period during which an Aggrieved Employee worked for Defendant for at least one [1] day) during the PAGA Period. If you believe you worked more Workweeks or Pay Periods during either period, you can submit a challenge by the deadline date. See Section 4 of this Class Notice.

The Court has already preliminarily approved the Settlement and approved this Class 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 Class 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 Plaintiffs and Plaintiffs' 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 Aggrieved Employees to give up their rights to assert certain claims against Defendant.

If you worked for Defendant during the Class Period and/or PAGA Period, you have two (2) basic options under the Settlement:

1. **Do Nothing.** You don't have to do anything to participate in the Settlement and be eligible for an Individual Class Payment and/or 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 the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt out of the Settlement, you will not receive an Individual Class Payment but will preserve your right to personally pursue Class Period wage claims against Defendant. Moreover, if you are an Aggrieved Employee, you remain eligible for an Individual PAGA Payment. You cannot opt out of the PAGA portion of the settlement.

Defendant won't retaliate against you for any actions you take with respect to the 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 Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against Defendant 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 don't want to fully participate in the 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 will no longer be eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the Settlement. See Section 6 of this Class Notice. You cannot opt out of the PAGA portion of the Settlement. Defendant must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).

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 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 Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Class Notice.
You Can Participate in the Final Approval Hearing	The Court’s “Final Approval Hearing” is scheduled to take place on . You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person or by telephone. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Class 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 Individual PAGA Payment (if any) depend on how many Workweeks you worked at least one (1) day during the Class Period and how many Pay Periods you worked at least one (1) day during the PAGA Period, respectively. The number of Workweeks and number of PAGA Pay Periods you worked according to Defendant’s records is stated on the first page of this Class Notice. See Section 4 of this Class Notice.

1. WHAT IS THE ACTION ABOUT?

Plaintiffs are former employees of Defendant. The Action accuses Defendant of violating California labor laws by failing to: (1) pay overtime wages; (2) provide meal period premiums; (3) provide rest period premiums; (4) pay minimum wages; (5) timely pay final wages; (6) provide compliant wage statements; (7) reimburse business expenses; and (8) comply with the requirements of Business & Professions Code section 17200, *et seq.* Based on the same claims, Plaintiffs have also asserted a claim for civil penalties under Labor Code section 2698, *et seq.* (PAGA). Plaintiffs are represented by attorneys Douglas Han, Shunt Tatavos-Gharajeh, and Halina Szymanski of Justice Law Corporation and David Mara and Jill Vecchi of Mara Law Firm, PC.

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 Plaintiffs or Defendant is correct on the merits. In the meantime, the Parties hired an experienced, neutral mediator to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful following a full day of mediation. By signing the “Class Action and PAGA Settlement Agreement” (“Settlement Agreement,” “Settlement,” or “Agreement”) and agreeing to jointly ask the Court to enter a Judgment ending the Action and enforcing the Settlement Agreement, the Parties have negotiated

a Settlement that is subject to the Court's final approval. Both sides agree the Settlement is a compromise of disputed claims. By agreeing to settle, Defendant does not admit any violations or concede the merit of any claims.

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

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

1. Defendant Will Pay \$3,000,000 as the "Gross Settlement Amount". Defendant agreed to deposit the Gross Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement Amount to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Administration Expenses Payment, and PAGA Penalties to be paid to the California Labor and Workforce Development Agency ("LWDA").
 - a. Assuming the Court grants final approval, Defendant shall fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than the Effective Date.
 - b. "Effective Date" means fourteen (14) calendar days after both of the following have occurred: (i) the Court enters a "Judgment" on its order granting final approval of the Settlement; and (ii) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (1) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (2) 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 (3) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
2. Court Approved Deductions from Gross Settlement Amount. At the Final Approval Hearing, Plaintiffs and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - a. Up to \$1,050,000 (35% of the Gross Settlement Amount) to Class Counsel as their "Class Counsel Fees Payment" and up to \$50,000 as their "Class Counsel Litigation Expenses Payment". To date, Class Counsel have worked and incurred expenses on the Action without payment.

- b. Up to \$10,000 to each Plaintiff (totaling \$20,000) as their “Class Representative Service Payments” for filing the Action, working with Class Counsel, and effectively representing the Class. The Class Representative Service Payments will be the only monies Plaintiffs will receive other than Plaintiffs’ Individual Class Payments and any Individual PAGA Payments.
 - c. Up to \$25,000 to the Administrator as the “Administration Expenses Payment” for services administering the Settlement.
 - d. Up to \$150,000 for “PAGA Penalties”, seventy-five percent (75%) of which (\$112,500) will be paid to the LWDA as the LWDA PAGA payment and twenty-five percent (25%) of which (\$37,500) will be paid to the Aggrieved Employees as their Individual PAGA Payments based on their PAGA Pay Periods.
- 3. Right to Object. Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.
- 4. Net Settlement Amount 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 Amount (“Net Settlement Amount”) by making Individual Class Payments to Participating Class Members based on their Workweeks.
- 5. Taxes Owed on Payments to Class Members. The Parties are asking the Court to approve an allocation of twenty percent (20%) of each Individual Class Payment to taxable wages (“Wage Portion”) and eighty percent (80%) to interest and penalties (“Non-Wage Portion”). The Wage Portion is subject to withholdings and will be reported on IRS Form W-2. Defendant will separately pay employer 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 Form 1099.
 - a. While the Parties 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 are responsible for paying all taxes (including penalties and interest on back taxes) on any payments received from the Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the Settlement.
- 6. Need to Promptly Cash Payment Checks. The face of each check shall state checks that are not cashed within one hundred eighty (180) calendar days after the date of mailing will be voided. The Administrator will cancel all checks not cashed by the void date. 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 (“UCP”) in the name of the Class Member. If the monies represented by your check is sent to the California Controller’s UCP, you should consult the rules of the UCP for instructions on how to retrieve your money.

7. 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 that you wish to opt out. The easiest way to notify the Administrator is to send a written and signed “Request for Exclusion” by [REDACTED]. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member’s: (a) full name; (b) present address; (c) email address or telephone number; and (d) a simple statement electing to be excluded from the Class Settlement. Non-Participating Class Members will not receive Individual Class Payments but will preserve their rights to personally pursue wage and hour claims against Defendant.
 - a. You cannot opt out of the PAGA portion of the Settlement. In other words, 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.
8. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant final approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. The Parties agreed, in either case, the Settlement will be void: (a) Defendant will not pay any money; and (b) Class Members will not release any claims against Defendant.
9. Administrator. The Court has appointed a neutral company ILYM Group, Inc. (“Administrator”) to send this Class Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member challenges over Workweeks, mail and remail 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 Class Notice.
10. Participating Class Members’ Release. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement Agreement. This means unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or its 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 the Settlement Agreement. The Participating Class Members will be bound by the following release:
 - a. All Participating Class Members, on behalf of themselves and their former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release the “Released Parties” (Defendant and its parents, predecessors, successors, all affiliates, subsidiaries, officers, directors, members, agents, employees, and stockholders) from all claims that were alleged, or reasonably could have been alleged, based on the facts contained in the Action and that occurred during the Class Period. Except for the PAGA Penalties for those Participating Class Members also qualifying as Aggrieved Employees, 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.

11. Aggrieved Employees' PAGA Release. After the Judgment is final and Defendant has fully funded the Gross Settlement Amount and separately paid all employer payroll taxes, all Aggrieved Employees will be barred from asserting PAGA claims against Defendant, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who are Non-Participating Class Members, 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 the Settlement. The Aggrieved Employees will be bound by the following release:

- a. All Participating and Non-Participating Class Members, who are Aggrieved Employees, are deemed to release, on behalf of themselves and their 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 facts stated in the Action and PAGA notice to the LWDA that occurred during the PAGA Period.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by: (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period; and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member during the Class Period.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by: (a) dividing \$37,500 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the PAGA Period; and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee during the PAGA Period.
3. Workweek / Pay Period Challenges. The number of Workweeks you worked during the Class Period and the number of Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated on the first page of this Class Notice. You have until [REDACTED] to challenge the number of Workweeks and/or PAGA 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 Class Notice has the Administrator's contact information.

- a. 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 PAGA 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 PAGA Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and counsel for Defendant. 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, via first-class United States Postal Service ("USPS") mail, postage prepaid, a single check to every Participating Class Member, including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and Individual PAGA Payment.
2. Non-Participating Class Members. The Administrator will send, via first-class USPS mail, postage prepaid, a single Individual PAGA Payment check to every Aggrieved Employee who is a Non-Participating Class Member.
3. **Your check will be sent to the same address as this Class Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Class 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 full name, present address, email address or telephone number, and a simple statement that you do not want to participate in the Class 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 *Noori v. Vista Community Clinic* (Case No. 37-2023-00000144-CU-OE-CTL) (consolidated with Case No. 37-2023-00005665-CU-OE-CTL), and include your identifying information (full name, present address, and email address or telephone number). You must make the request yourself. If someone else makes the request for you, it will not be valid. The Administrator must be sent your request to be excluded by [REDACTED], or it will be invalid. Section 9 of the Class 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 Class Settlement. A Participating Class Member who disagrees with any aspect of the Agreement, the motion for final approval and/or motion for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payments may wish to object. The deadline for sending written objections to the Administrator is [REDACTED]. Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action as *Noori v. Vista Community Clinic* (Case No. 37-2023-00000144-CU-OE-CTL) (consolidated with Case No. 37-2023-00005665-CU-OE-CTL) and include your full name, present address, email address or telephone number, and signature. Section 9 of this Class 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 Class Notice for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on [REDACTED] at [REDACTED] in Department C-75 of the San Diego County Superior Court located at 330 West Broadway San Diego, California 92101. At the Final Approval Hearing, the judge will decide whether to grant final approval of the Settlement and how much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiffs, and Administrator. The Court will invite comments from objectors, Class Counsel, and counsel for Defendant before deciding.

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

9. HOW CAN I GET MORE INFORMATION?

The Settlement Agreement sets forth everything the Parties have promised to do under the Settlement Agreement. The easiest way to read the Settlement Agreement, Judgment, or any other Settlement documents is to go to Administrator's website at [REDACTED]. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Court's website by going to <https://roa.sdcourt.ca.gov/roa/> and entering the Case No. Case No. 37-2023-00000144-CU-OE-CTL (consolidated with Case No. 37-2023-00005665-CU-OE-CTL). You can also go to the Court in person at the address listed in Section 8 of this Class Notice and request copies of the court documents.

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

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Administrator:

[ADMINISTRATOR]
[MAILING ADDRESS]
[TELEPHONE NUMBER]
[FAX NUMBER]
[EMAIL]

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your Settlement check before cashing it, the Administrator will replace it if 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 California Controller's Unclaimed Property Fund at https://www.sco.ca.gov/search_upd.html 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.