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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

Coordination Proceeding
Special Title (Rule 3.550)
Black & Decker Wage and Hour Cases
Included Actions:

Mancillas v. Stanley Black & Decker, Inc.

Cosico and Martell v. Stanley Black & Decker, Inc., et al.

Judicial Council Coordination Proceeding
Case No. **JCCP 5218**

[Hon. David S. Cohn]

**DECLARATION OF KANE MOON IN
SUPPORT OF PLAINTIFFS' MOTION
FOR PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

*[Filed with the Notice of Motion and Motion
for Preliminary Approval, Declaration of
Plaintiff Paul Mancillas, Declaration of
Plaintiff Matt Martell, Declaration of Plaintiff
Edward Cosico, and [Proposed] Order]*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
NO. CIVSB2123358

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
NO. 21CV002218

PRELIMINARY APPROVAL HEARING

Date: January 30, 2023

Time: 10:00 AM

Dept: S26

Complaint Filed: August 30, 2021

Trial Date: Not set

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Attorneys for Plaintiffs Matt Martell and Edward Cosico

I, KANE MOON, declare as follows:

2. I have personal knowledge of the matters set forth herein and could competently testify to the facts described herein.

3. This is a wage and hour class action and PAGA representative action. Plaintiffs Paul Mancillas (“Plaintiff Mancillas”), Matt Martell (“Plaintiff Martell”), and Edward Cosico (“Plaintiff Cosico”) (collectively the “Plaintiffs”) seek to represent a class of non-exempt, hourly-paid employees who work or worked for Defendants Stanley Black Decker, Inc. (“SBD”) and Stanley Convergent Security Solutions, Inc. (“SCSS”) (collectively the “Defendants”) (collectively Plaintiffs and Defendants are the “Parties”) in California during the period from August 30, 2017 through the date the court issues an order granting preliminary approval of the class and PAGA representative action settlement for various violations of the California Labor Code. Plaintiff Mancillas worked for Black and Decker (U.S.) Inc., a subsidiary of Defendant SBD as a machine operator for approximately 4 years, from approximately October 2016 to November 2020, and was classified as non-exempt during the entirety of his employment. Plaintiff Martell was employed by Defendant SCSS until approximately five months ago, when Securitas acquired SCSS such that Plaintiff Martell is now an employee of Securitas. Plaintiff Martell was employed by Defendant SCSS from approximately December 2019, as a Service Technician III out of the Fremont Office, until its acquisition in approximately July 2022. Plaintiff Cosico was hired by Defendant SCSS in approximately March 2019 as a Fire Inspector, and he is now employed by Securitas as a result of the acquisition. Plaintiffs Martell and Cosico are paid on an hourly basis and classified as non-exempt. During Plaintiffs’ employment, Plaintiffs and other class members typically worked 5 days per workweek, and in excess of 8

1 hours each workday. Plaintiffs were subjected to the same unlawful labor practices as their
2 coworkers.

3 4. Plaintiffs' claim for unpaid wages is multi-fold and stems, in part, from Defendants'
4 unlawful practice of not incorporating all remunerations into the calculation of regular rate of pay
5 and Defendants' failure to pay Plaintiffs and the putative class for off-the-clock work.
6 Additionally, Defendants' records also reflect a 44.9% meal period violation rate (including a
7 97.6% violation rate with respect to the second meal breaks; however, this figure does not
8 consider waivers of second meal periods that were in place). Furthermore, many of the employee
9 handbooks produced by Defendants did not have any specific policies regarding meal and rest
10 breaks. Additionally, Plaintiffs and class members were required use their personal cell phones
11 for work without reimbursement by Defendants, and warehouse employees, like Plaintiff
12 Mancillas, were required to purchase gloves, boots, safety glasses, and other miscellaneous
13 items, but were not reimbursed by Defendants. In addition to the foregoing claims, Plaintiffs
14 bring derivative claims against Defendants for waiting time penalties, wage statement violations,
15 unfair business practices, and PAGA.

16 5. Because of Defendants' alleged violations of various provisions of the Labor Code,
17 Plaintiff Mancillas filed a class and representative action on August 30, 2021, which, in its
18 amended form, alleges that Defendants systematically: (1) failed to pay minimum wages, (2)
19 failed to pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize
20 and permit rest periods, (5) failed to indemnify necessary business expenses, (6) failed to timely
21 pay wages at termination, (7) failed to provide accurate itemized wage statements, (8) engaged in
22 unfair business practices, and (9) violated civil penalty provisions recoverable as PAGA penalties
23 pursuant to Labor Code section 2698 *et seq* ("Mancillas Action").

24 6. On November 9, 2021, Plaintiffs Martell and Cosico filed a class action and alleges
25 that Defendants systematically: (1) failed to pay minimum and straight time wages, (2) failed to
26 pay overtime compensation, (3) failed to provide meal periods, (4) failed to authorize and permit
27 rest period, (5) failed to provide accurate itemized wage statements, (6) failed to indemnify
28 necessary business expenses, and (7) engaged in unfair business practices ("Cosico Action").

1 7. On or about December 10, 2021, Defendants filed a petition to coordinate the
2 Mancillas Action and the Cosico Action. This Court heard and granted Defendants’ petition on or
3 about March 9, 2022.

4 8. Defendants ardently oppose the merits of this case and deny Plaintiffs’ factual
5 allegations. Defendants maintained that they complied with all of their meal and rest period
6 obligations and that meal period waivers were in use where allowed by law. Defendants argued
7 that everyone in fact had an opportunity to take uninterrupted meal and rest periods to which they
8 were entitled, and any violation was the result of employees’ choice to take a late or short meal
9 or rest break. Defendants argued that Plaintiffs and the putative class members were paid all
10 wages owed, and extra remuneration was discretionary so there was no failure to incorporate the
11 regular rate of pay in overtime, meal premiums, and sick pay. As for off-the-clock work,
12 Defendants maintained that any time spent by Plaintiffs and the putative class members to
13 undergo COVID screening was not compensable, that its policies and practices prohibited off the
14 clock work, and that if such work was performed without it being recorded on timesheets,
15 Defendants were unaware of it. Defendants contended further that personal cell phone use was
16 reimbursed when required by the Company and that employees were not required to furnish or
17 pay for any work related items that were necessary for their jobs. Defendants maintained that
18 none of the claims alleged are appropriate for class treatment given the individualized nature and
19 testimony-intensive nature of such claims. Moreover, Defendants maintained that all wage
20 statements were accurate, and to the extent that Plaintiffs received wage statements that were
21 allegedly inaccurate, Defendants asserted that Plaintiffs suffered no actual damage or harm as a
22 result. (*See, e.g., Angeles v. U.S. Airways, Inc.* (N.D. Cal. Feb. 19, 2013) No. C 12-05860 CRB,
23 2013 WL 622032, at *10 [“A plaintiff must adequately plead an injury arising from an
24 employer’s failure to provide full and accurate wage statements, and the omission of the required
25 information alone is not sufficient.”].) With respect to Plaintiffs’ claim for waiting time penalties,
26 Defendants alleged that their good-faith belief that they paid all wages precluded the imposition
27 of waiting time penalties since Plaintiffs could not prove that Defendants’ alleged failure to pay
28 all final wages at the time of separation was “willful.” (*See, e.g., Pedroza v. PetSmart, Inc.* (C.D.

1 Cal. June 14, 2012) No. ED CV 11–298 GHK (DTBx), 2012 WL 9506073, *5.) For these
2 reasons, Defendants claimed that they did not engage in any unfair business practices and denied
3 liability under PAGA. Defendants also maintained that Plaintiffs’ claims were improper for class
4 treatment.

5 DISCOVERY AND INVESTIGATION

6 9. Following the filing of the *Mancillas* Action, Plaintiff Mancillas propounded formal
7 discovery, but before responses were due, the Parties agreed to mediate this matter and scheduled
8 mediation with Mark Rudy, Esq. on September 22, 2022. After mediation was scheduled, the
9 *Mancillas* Action was consolidated with the *Cosico* Action. The Parties agreed on a protocol for
10 exchanging documents and information before the mediation. Defendants produced a sample of
11 time and pay records for class members, as well as policy manuals in effect during the statutory
12 period, and additional documents. The sample produced by Defendants included detailed time
13 and payroll records for approximately 15% of the putative class, including detailed time entries
14 for 107,447 shifts and corresponding payroll. In their informal pre-mediation discovery
15 responses, Defendants also provided information regarding the total number of current and
16 former putative class members, the total number of pay periods worked by putative class
17 members, the average hourly pay of all putative class members, and the total amounts paid in
18 meal period premiums.

19 10. After reviewing documents regarding Defendants’ wage and hour policies and
20 practices, and analyzing Defendants’ time and pay records, we were able to evaluate the
21 probability of class certification, success on the merits, and Defendants’ maximum monetary
22 exposure for all claims. We reviewed these records and prepared a damage analysis prior to
23 mediation. We also investigated the applicable law regarding the claims and defenses asserted in
24 the litigation. Moreover, we retained an expert to analyze the records produced. Thus, the
25 familiarity Plaintiffs, the attorneys assigned to this matter, and I have with the facts of the case
26 and the legal issues raised by the pleadings allowed us to act intelligently in negotiating the
27 settlement.

28 SETTLEMENT NEGOTIATIONS

1 11. On September 22, 2022, the Parties participated in private mediation with professional
2 neutral mediator Mark Rudy, Esq. The settlement negotiations were at arm's length and, although
3 conducted in a professional manner, were adversarial. The Parties went into the mediation
4 willing to explore the potential for a settlement of the dispute, but each side was also prepared to
5 litigate their positions through trial and appeal if a settlement had not been reached. After
6 extensive negotiations and discussions regarding the strengths and weaknesses of Plaintiffs'
7 claims and Defendants' defenses, a settlement was reached by the Parties, the material terms of
8 which are encompassed within the Joint Stipulation of Class and PAGA Representative Action
9 Settlement ("Settlement"), a true and correct copy of which is attached as **Exhibit 1** to this
10 declaration.

11 12. We submitted the proposed settlement to the LWDA, a true and correct copy of the
12 email confirmation of submission is attached as **Exhibit 2** to this declaration. A true and correct
13 copy of Plaintiff Mancillas's original notice of Labor Code violations sent to Defendants and the
14 LWDA is attached hereto as **Exhibit 3**.

15 13. No claim form is required in order to receive a settlement payment. Each Class
16 Member who does not opt-out will be entitled to his or her share of the Net Settlement Amount
17 that is directly proportional to the number of workweeks during which the class member was
18 employed with Defendants during the class period.

19 14. The Settlement includes class representative service payments to the named plaintiffs.
20 Subject to Court approval, each Plaintiff shall be paid a service payment not to exceed
21 \$10,000.00. This amount is for Plaintiffs' time and effort, and exposure to substantial risk in
22 bringing and presenting the action.

23 15. The Settlement provides that Defendants will not oppose a fee application not to
24 exceed one-third (\$1,166,667.00) of the Gross Settlement Amount for attorneys' fees, plus out-
25 of-pocket litigation costs not exceeding \$25,000.00. At this time, Plaintiffs' litigation costs are
26 approximately \$19,425.75. A true and correct copy of Plaintiffs' litigation costs to the date is
27 attached to this declaration as **Exhibit 4**.

1 16. At the time of drafting the Settlement the Parties estimated that settlement
2 administration costs would not exceed \$30,000.00. Following a competitive bidding process, we
3 obtained a capped cost estimate of \$22,500.00. A true and correct copy of the settlement
4 administration quote the Parties received from ILYM Group, Inc. is attached to this declaration
5 as **Exhibit 5**.

6 THE PROPOSED SETTLEMENT IS FAIR AND REASONABLE

7 17. We conducted a thorough investigation into the facts of this case. Based on the
8 foregoing discovery and our own independent investigation and evaluation, we are of the opinion
9 that the Settlement is fair, reasonable, and adequate. Furthermore, in light of all known facts and
10 circumstances, the risk of significant delay, trial risk, appellate risk, the defenses that could be
11 asserted by Defendants both to certification and on the merits, the settlement is in the best
12 interests of the Settlement Class Members.

13 18. Based on my analysis of the time, payroll, and additional records provided by
14 Defendants, Plaintiffs' expert's analysis of the 15% sample of time and payroll records provided
15 by Defendants, and information from Plaintiffs, I evaluated Defendants' maximum exposure,
16 extrapolating to the entire class as appropriate. I took into account the risk of not having the
17 claims certified and the risk of not prevailing at trial, even if the claims are certified. According
18 to the data Defendants provided at the time of mediation, there are approximately 1,806 class
19 members, approximately 170,231 workweeks, 830,532 shifts, and the weighted average hourly
20 rate for the entire class period is \$24.38 per hour (with the following annual average rates of pay:
21 \$21.31 (2017), \$22.39 (2018), \$24.26 (2019), \$25.00 (2020), \$24.82 (2021), and \$27.35 (2022).
22 Based on Defendants' payroll data, there are 1,002 former employees who fall within the 3-year
23 statute of limitations period for Labor Code § 203 penalties, and approximately 1,130 employees
24 that fall within the 1-year statute of limitations period for penalties under Labor Code § 226.
25 Additionally, there are 89,937 pay periods within the 1-year statute of limitations period for
26 PAGA penalties.

27 Accordingly, I calculated Defendants' potential exposure as follows:

28 //

Claim	Relevant Time Period	Rate	Number of Violations	Amount Extrapolated To The Putative Class
Unpaid Overtime Wage and Sick Pay at Regular Rate	170,231 workweeks /830,532 shifts	\$21.31-27.35 average rate of pay throughout the class period	Violation rate based on analysis of records by expert	\$24,628.10*
Unpaid Wages due to Off-the-Clock Work	170,231 workweeks /830,532 shifts	\$21.31-27.35 average rate of pay throughout the class period	Assuming 10 minutes per shift	\$492,758.90*
Meal Period Violations	170,231 workweeks /830,532 shifts	\$21.31-27.35 average rate of pay throughout the class period	373,267 unique meal break violations	\$923,801.60*
Rest Break Violations	170,231 workweeks /830,532 shifts	\$21.31-27.35 average rate of pay throughout the class period	823,050 rest break violations (based on assuming 100% violation rate)	\$1,042,525.30**
Unreimbursed Business Expenses	170,231 workweeks /830,532 shifts	Assuming \$25 per month per class member	Assuming \$25 per month	\$106,477.50*
Labor Code §226	Based on approximately 2,458 class members within the 1-year statute of limitations	\$100 for each pay period/\$4,000 employee maximum	\$100 for each pay period for 2,458 employees during the 1-year statute of limitations	\$443,540.00**
Labor Code §203	Based on approximately 1,002 terminated class members within the 3-year statute of limitations	\$21.31-27.35 average rate of pay throughout the class period	Violation rate based on analysis of records by expert	\$349,548.85**
PAGA	Based on approximately 89,937 pay periods within the 1-year statute of limitations	\$100 per pay period	\$100 for each pay period during the 1-year statute of limitations	\$449,685.00**
Total for Class Claims				\$3,832,965.25
* These figures are discounted based on an 10% probability of prevailing at class certification and on the merits.				
** These figures are discounted based on a 5% probability of prevailing at class certification and on the merits.				

1 19. Plaintiffs' claim for additional unpaid overtime wages and sick pay arises from
2 Defendants' failure to factor various forms of pay period bonuses and annual bonuses into the
3 calculation of their employees' regular rate of pay. Plaintiffs' expert analyzed a sample of time
4 and payroll records produced by Defendants and found that there were unpaid overtime wages
5 and sick pay as a result of Defendants' failing to properly calculate regular rate by including all
6 remuneration. In fact, 70.1% of class members received additional per-pay-period remunerations
7 in the same pay period they worked overtime, 56.3% of class members received an annual bonus
8 and worked overtime, and 37.5% of class members received sick pay during pay periods where
9 they also received additional remunerations. After determining the appropriate regular rate and
10 applying it in respective pay periods, Plaintiffs' expert determined that the difference between
11 the total reported compensation and the amount that should have been paid for overtime wages is
12 \$186,289.00 and for sick pay is \$59,992.00. In total, Defendants underpaid class members by
13 \$246,281.00. This amount has been discounted by 90% to account for the difficulty of class
14 certification and defenses to the claim. For example, Defendants argued that additional
15 remunerations were discretionary and therefore not subject to inclusion in determining the
16 regular rate of pay. Nonetheless, I contend that unpaid wages are owed due to Defendants' failure
17 to include all remunerations into the regular rate pay. **Accordingly, I arrived at a realistic**
18 **damage estimate of \$24,628.10 for the regular rate claim.**

19 20. As discussed above, Plaintiffs' unpaid wage claim is due in part to the fact that
20 employees were required to work off-the-clock uncompensated. This includes approximately 10
21 minutes per shift for time spent in line to go through a COVID screening, take work-related calls
22 during non-working hours, and commute to and from different work locations. Defendants
23 argued that this would require a highly individualized inquiry and would not be well suited for
24 class treatment. Although I believe the off-the-clock work claim is strong, a 90% discount is
25 warranted to account for the difficulty of certifying this claim, and in order to reach a
26 compromise. **Thus, I arrived at a realistic damage estimate of \$492,758.90 for the off-the-**
27 **clock claim.**

21. As discussed above, Plaintiffs' meal period claims are based on the theories that Defendants did not provide or maintain sufficient meal period policies, and that due to the nature of the putative class members' work, they were often not able to take code-compliant meal breaks, and instead were subjected to late, short, or interrupted meal periods. Based on an analysis of the sample records provided by Defendants, our expert was able to determine the number of unique meal period and extrapolated those violations to the class, and in so doing, determined that 373,267 unique meal period violations (44.9% violation rate) occurred during the relevant period, while Defendants paid approximately \$215,688 in meal period premiums. Assuming the average rate of pay should have been paid for each of the violations, Defendant should have paid \$9,100,249.46 in premiums (373,267 * \$24.38 average rate of pay). Additionally, according to Defendants' records, Defendants failed to provide a second meal period in 97.6% of shifts over 10 to 12 hours, and 31% of shift exceeded 10 hours. Accordingly, Defendants' potential liability for the meal period claim is \$9,238,016.00 (373,267 facial violations multiplied by the then-applicable hourly rate of pay which ranged from \$21.31 to \$27.35 during the class period). However, this figure does not account for the existence of meal period waivers. This amount was discounted by 90% to account for the difficulty of certifying and the defenses to the claim. Specifically, Defendants argued that many meal breaks were taken, and where a violation appears, it was a result of putative class members voluntarily choosing to forego a meal period, choosing to take it after the end of the fifth hour, or choosing to stop their break early to return to work. Although we still believe that there were meal period violations, I understand that the foregoing issues create some risk with respect to certification due to the individualized nature of the meal period claims. **Accordingly, I arrived at a realistic damage estimate of \$923,801.60 for the meal period claim.**

22. With respect to the rest break claim, Defendants maintained a facially improper rest break policy. Specifically, none of Defendants' handbooks include any rest break policies. Our expert determined that there were 823,050 total rest-break eligible shifts, and if we assumed a 100% violation rate, our expert determined that Defendants' maximum potential liability for Plaintiffs' rest break claim is \$20,850,016.00. This figure does not account for the fact that class

1 members, including Plaintiffs, indicated that they were able to take at least some rest breaks. I
2 discounted this figure by 95% to account for the difficulty of certifying and proving rest break
3 claims, particularly because rest periods do not have to be recorded and to account for the
4 possibility of class members voluntarily choosing to forego a rest break of ending it earlier than
5 the time provided. In addition, there is some authority that the absence of a policy does not
6 present a valid reason to certify a class action. *See Cole v. CRST, Inc.*, 150 F. Supp. 3d 1163,
7 1168 (C.D. Cal. 2015) (holding that employer’s lack of a specific rest and meal break policy was
8 insufficient to establish liability); *Kouchi v. Am. Airlines, Inc.*, 2021 WL 6104391, at *4 (C.D.
9 Cal. Oct. 27, 2021) (denying certification where no MRB policy existed, noting, “it is illogical to
10 presume that a lack of a ... policy would lead to a uniform, state-wide failure to provide [MRBs]
11 across ten geographically distinct airports.”). Thus, I arrived at a realistic damage estimate of
12 \$1,042,525.30 for the rest break claim. Although we still believe that there were rest break
13 violations, we understand that the foregoing issues create significant risk with respect to
14 certification due to the individualized nature of the rest break claim. Proof of this claim would
15 require declarations from class members and obtaining such declarations would likely reveal that
16 each class member had a different experience with respect to rest breaks. **Accordingly, I arrived**
17 **at a realistic damage estimate of \$1,042,525.30 for the rest break claim.**

18 23. As discussed above, Plaintiffs’ unreimbursed business expenses claim is based on the
19 fact that Defendants required Plaintiffs and class members to use their personal cell phones for
20 work-related tasks. For warehouse employees, like Plaintiff Mancillas, they were required to
21 purchase gloves, boots, safety glasses, and other miscellaneous items. However, Defendants did
22 not reimburse Plaintiffs and other employees for the use of their personal cell phone for work
23 purposes and for the purchases of work-related items. Assuming \$25 a month per employee,
24 Defendants’ maximum potential liability for unreimbursed business expenses is \$1,064,775.00.
25 Defendants argued that employees were not required to own or carry their personal cell phone
26 during work hours, and argued that phones were provided and/or reimbursements were made for
27 field employees who used cell phones. Based on Defendants’ defenses and the highly
28 individualized nature of this claim, we understand that the foregoing issues create significant risk

1 with respect to certification. Proof of this claim would require declarations from class members
2 and obtaining such declarations could reveal that each class member had a different experience
3 with respect to use of their personal cell phones for work purposes and purchase of work-related
4 items. Applying an 90% discount, **I arrived at a realistic damage estimate of \$106,477.50 for**
5 **the unreimbursed business expenses claim.**

6 24. With respect to Plaintiffs' derivative claims for statutory and civil penalties, Plaintiffs
7 estimated that Defendants' realistic potential liability is **\$1,242,773.85**. While Defendants'
8 maximum potential liability for waiting time penalties is \$6,990,977.00 based on approximately
9 1,002 terminated class members during the 3-year statute, \$8,870,800.00 for inaccurate wage
10 statements based on approximately 2,458 class members within the 1-year statute, and
11 \$8,993,700.00 for PAGA penalties based on the Court assessing a \$100 penalty for each
12 violation, I believe it would be unrealistic to expect the Court to award the full \$24,855,477.00 in
13 penalties given Defendants' defenses and the discretionary nature of penalties. Considering that
14 the underlying claims are realistically estimated to be \$2,590,191.30, awarding such a
15 disproportional amount in penalties would also raise Due Process concerns. **Weighing these**
16 **factors and applying a discount to account for the risk and uncertainty of prevailing at**
17 **trial, I arrived at \$1,242,773.85 for statutory and civil penalties** (applying a 95% discount to
18 the wage statement and waiting time penalties and to the PAGA penalties).

19 25. **Using these estimated figures, Plaintiffs predicted that the realistic maximum**
20 **recovery for all claims, including penalties, would be \$3,832,965.25. This means that the**
21 **\$3,500,000.00 settlement figure represents approximately 91.31% of the realistic maximum**
22 **recovery.** This is an excellent result for the Class. Indeed, because of the proposed Settlement,
23 class members will receive timely, guaranteed relief and will avoid the risk of an unfavorable
24 judgment.

25 26. While Plaintiffs are confident in the merits of their claims, a legitimate controversy
26 exists as to each cause of action. Plaintiffs also recognize that proving the amount of wages due
27 to each class member would be an expensive, time-consuming, and uncertain proposition.
28

1 27. I am also of the opinion that because the issues here are fairly contested, there is a
2 possibility of the Court not awarding PAGA penalties even if Plaintiffs prevailed on the merits.

3 28. The Settlement obviates the significant risk that this Court may deny certification of
4 all or some of Plaintiffs' claims. Furthermore, even if Plaintiffs were able to pursue the claims
5 on a class-wide basis and thereafter obtained certification of all or some of the claims, continued
6 litigation would be expensive, involving a trial and possible appeals, and would substantially
7 delay and reduce any recovery by the class members.

8 29. This Settlement avoids the risks and the accompanying expense of further litigation.
9 Although the Parties had engaged in a significant amount of investigation, informal discovery
10 and class-wide data analysis, the Parties had not yet completed formal written discovery.
11 Moreover, preparation for class certification and a trial remained for the Parties as well as the
12 prospect of appeals in the wake of a disputed class certification ruling for Plaintiffs and/or
13 adverse summary judgment ruling. Had the Court certified any claims, Defendants could move
14 to decertify the claims. As a result, the Parties would incur considerably more attorneys' fees
15 and costs through trial.

16 30. The Net Settlement Amount currently available for Class Member settlement
17 payments is estimated to be \$2,148,907.25, for a class of 1,806 individuals.¹ **As a result, each**
18 **Settlement Class Member is eligible to receive an average net benefit of approximately**
19 **\$1,189.87. Considering that the Class Members' average hourly rate is \$24.38, the average**
20 **net benefit is approximately 48.8 hours of work.** This amount will vary based on the duration
21 of employment during the Class Period. Thus, Class Members who worked longer for Defendants
22 during the Class Period will receive a net benefit greater than the average amount.

23 31. The proposed settlement of \$3,500,000.00 therefore represents a substantial recovery
24 when compared to Plaintiffs' reasonably forecasted recovery. When considering the risks of
25 litigation, the uncertainties involved in achieving class certification, the burdens of proof

26
27 ¹ The Net Settlement Amount is: \$3,500,000.00 minus \$30,000.00 for class representative
28 service awards, minus \$22,500.00 in administration costs, minus \$112,500.00 for the PAGA
portion sent to the LWDA, minus \$1,166,667.00 for attorneys' fees, and minus \$19,425.75 for
our firm's current litigation expenses.

1 necessary to establish liability, the probability of appeal of a favorable judgment, it is clear that
2 the settlement amount of \$3,500,000.00 is within the “ballpark” of reasonableness, and
3 preliminary settlement approval is appropriate.

4 THE SERVICE PAYMENTS FOR PLAINTIFFS ARE REASONABLE

5 32. Throughout this litigation, Plaintiff Mancillas, who was a former employee of
6 Defendants, has cooperated immensely with my office and has taken many actions to protect the
7 interests of the class. Plaintiff Mancillas provided valuable information regarding his hours
8 worked, and what duties were performed during those hours. Plaintiff Mancillas also provided
9 information regarding meal and rest periods taken and missed by him and the class. Plaintiff
10 Mancillas participated in decisions concerning this action, assisted in preparation for the
11 mediation, and provided my office with the names and contact information of potential witnesses
12 in this action. Before I filed this case, Plaintiff Mancillas worked with my office to determine
13 the viability of his claims. Plaintiff Mancillas also provided information and documents relating
14 to his employment with Defendants. The information and documentation provided by Plaintiff
15 Mancillas was instrumental in establishing the wage and hour violations alleged in this action,
16 and the recovery provided for in the settlement agreement would have been impossible to obtain
17 without his participation.

18 33. At the same time, Plaintiffs faced many risks in adding themselves as the class
19 representatives in this matter. Plaintiffs faced actual risks with their future employment, as
20 putting themselves on public record in an employment lawsuit could also very well affect their
21 likelihood for future employment.

22 34. In turn, class members will now have the opportunity to participate in a settlement,
23 reimbursing them for wage violations they may have never known about on their own or been
24 willing to pursue on their own. If these class members would have each tried to pursue their
25 legal remedies on their own, that would have resulted in each having to expend a significant
26 amount of their own monetary resources and time, which were obviated by Plaintiffs putting
27 themselves on the line on behalf of these other class members.

1 35. In the final analysis, this class action would not have been possible without the aid of
2 Plaintiffs, who put their own time and effort into this litigation and placed themselves at risk for
3 the sake of the class members. The requested service payments for Plaintiffs for their service as
4 the class representatives are relatively small amounts of money considering the time and effort
5 put into the litigation and in comparison, to enhancements granted in other class actions. The
6 requested service payments are therefore reasonable to compensate Plaintiffs for their active
7 participation in this lawsuit.

8
9 THE REQUEST FOR ATTORNEYS' FEES AND COSTS IS REASONABLE

10 36. The Settlement provides for attorneys' fees payable to us in an amount up to one-third
11 of the Gross Settlement Amount, for a maximum fees award of \$1,166,667.00, plus actual costs
12 and expenses not to exceed \$25,000.00. The proposed award of attorneys' fees to us in this case
13 can be justified under either method – lodestar or percentage recovery. We, however, intend to
14 base the proposed award of fees, costs, and expenses on the percentage method as many of the
15 entries in the time records will have to be redacted to preserve attorney-client and attorney work
16 product privileges.

17 37. I am informed and believe that the fee and costs provision is reasonable. The fee
18 percentage requested is less than that charged by my office for most employment cases. My
19 office invested significant time and resources into the case, with payment deferred to the end of
20 the case, and then, of course, contingent on the outcome.

21 38. It is further estimated that my office will need to expend at least another 50 hours to
22 monitor the process leading up to the final approval and payments made to the class. My office
23 also bears the risk of taking whatever actions are necessary if Defendants fail to pay.

24 39. The risk to my office has been very significant, particularly if we would not be
25 successful in pursuing this class action. In that case, we would have been left with no
26 compensation for all the time taken in litigating this case. Indeed, I have taken on a number of
27 class action cases that have resulted in thousands of attorney hours being expended and
28 ultimately having the defendant company going bankrupt. The contingent risk in these types of

1 cases is very real and occurs regularly. Furthermore, we were precluded from focusing on, or
2 taking on, other cases which could have resulted in a larger, and less risky, monetary gain.

3 40. Because most individuals cannot afford to pay for representation in litigation on an
4 hourly basis, Moon & Yang, APC represents virtually all of its employment law clients on a
5 contingency fee basis. Pursuant to this arrangement, we are not compensated for our time unless
6 we prevail at trial or successfully settle our clients' cases. Because Moon & Yang, APC is taking
7 the risk that we will not be reimbursed for our time unless our client settles or wins his or her
8 case, we cannot afford to represent an individual employee on a contingency basis if, at the end
9 of our representation, all we are to receive is our regular hourly rate for services. It is essential
10 that we recover more than our regular hourly rate when we win if we are to remain in practice so
11 as to be able to continue representing other individuals in civil rights employment disputes.

12 41. As of the drafting of this motion, my office has incurred \$19,425.75 in expenses
13 litigating this action, and we anticipate accruing additional costs up to Final Approval of the
14 Settlement. These expenses were reasonably necessary to the litigation and were actually
15 incurred by my office. They should be reimbursed in full, up to the maximum amount allowed in
16 the Settlement Agreement. In the event costs do not reach or exceed the maximum amount
17 allowed in the settlement agreement, the difference will revert to the class members.

18 MY EXPERIENCE AND QUALIFICATIONS

19 42. Moon & Yang, APC has been engaged in the practice of employment and labor law
20 for almost a decade, and presently focuses exclusively on plaintiffs' employment law. The firm
21 and its lawyers have successfully settled hundreds of cases during that time, including class
22 action cases. The firm and its lawyers have also tried both bench and jury trials (representing
23 both plaintiffs and defendants) relating to employment matters. Moon & Yang, APC has been
24 appointed lead or co-lead class counsel in federal and state courts in California. In addition to
25 the present case, I am also class counsel for dozens of other putative wage-and-hour class-action
26 lawsuits pending in various state and federal jurisdictions throughout California.

27 43. I received a B.A. in History in 1998 from UCLA. I received my J.D. from Loyola
28 Marymount Law School in 2006. I became an Active Member of the State Bar of California in

1 June 2007 and have been an Active Member in good standing continuously since then. I am a
2 current member of the California Employment Lawyers Association (CELA). I have been
3 selected to Super Lawyers for 2019 and 2020.

4 44. I co-founded Moon & Yang, APC in March 2010. My practice is focused exclusively
5 on advocating for the rights of employees in wage-and-hour litigation, almost entirely in class
6 actions.

7 45. For the past decade, I have built my practice to have an emphasis on employment and
8 related civil litigation cases and have both prosecuted and defended employment-related
9 litigation cases. I have been heavily, successfully, and continuously involved in active litigation
10 and trial work, and have conducted bench and jury trials on behalf of both employees and
11 employers in wage and hour cases.

12 46. I am experienced in prosecuting and defending employment matters, particularly class
13 actions. My firm has focused a substantial percentage of its practice on wage, hour, and working
14 conditions violations. In addition to the present case, I am also class counsel for other wage-and-
15 hour class action lawsuits pending in various counties throughout California, including in federal
16 courts. The following is a list of some of our recent class action settlements that have received
17 preliminary and final approval: *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec.
18 20,2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 (class size approx. 2,650; lead
19 counsel) (In approving my \$650 hourly rate, the Court found: “Class Counsel's declarations
20 show that the attorneys are experienced and successful litigators. Other courts have approved the
21 attorneys' current rates for the Moon & Yang, APC attorneys.” (*Id.* at *10.); *Sison v. Cha*
22 *Hollywood Medical Center, L.P.*, LASC BC6441 29 (class size approx. 2,100; co-counsel); *Jones*
23 *v. Fitness Alliance, LLC*, Riverside Superior Court PSC1404079 (class size approx. 1,000; lead
24 counsel); *Gomez v. H Mart Companies, Inc.*, LASC BC671525 (class size approx. 2,500; co-
25 counsel); *Montoya v. Golden 1 Credit Union*, Sacramento Superior Court 34-2018-00228252
26 (class size approx. 1,900; lead counsel); *Campa v. Bloomingdales, Inc.*, LASC BC700366 (class
27 size approx. 1,500; lead counsel); *Black v. Mission Healthcare Services, Inc.*, LASC
28 19STCV04602 (class size approx. 1,000; lead counsel); *Onofre v. Caitac Garment Processing,*

1 *Inc.*, LASC BC702283 (class size approx. 750; lead counsel); *Martinez v. Bail Hotline Bail*
2 *Bonds, Inc.*, LASC BC700131 (class size approx. 173; lead counsel); *Jones v. Citiguard, Inc.*,
3 LASC BC664890 (class size approx. 587; lead counsel); *Slaughter v. ACA Security Stems, LP*,
4 LASC BC699137 (class size approx. 300; lead counsel); *Taylor v. Sherman's Delicatessen &*
5 *Bakery, LLC*, LASC BC722765 (class size approx. 515; lead counsel); *Vertti v. Bagcraft*
6 *Papercon III, LLC*, LASC 19STCV12729 (class size approx. 260; lead counsel); *Rodriguez v.*
7 *Rossmoyne, Inc.*, LASC BC699137 (class size approx. 220; lead counsel); *Vargas v. AMS*
8 *Paving, Inc.*, LASC BC722767 (case size approx. 260; lead counsel); *Garcia v. Comfy U.S.A.*
9 *Apparel, Inc.*, LASC BC709630 (class size approx. 210; lead counsel); *Lagos v. ThyssenKrupp*
10 *Elevator Corporation*, LASC BC682972 (\$750,000 for 79 class members; lead counsel);
11 *Aparicio v. Lineage Logistics, LLC*, LASC BC722764 (class size approx. 155; lead counsel).

12 47. This experience is helpful in assessing the reasonableness of settlements such as the
13 one at issue here, and from this experience I concluded that this lawsuit could not have been
14 settled on better terms than provided under the present settlement agreement.

15 ALLEN FEGHALI'S EXPERIENCE AND QUALIFICATION

16 48. Allen Feghali received his B.A. in Global and International Studies in 2011 from
17 UCSB, and his J.D. from University of La Verne College of Law in 2014. Mr. Feghali became an
18 Active Member of the State Bar of California in December 2014 and has been an Active Member
19 in good standing continuously since then. Mr. Feghali is a current member of the California
20 Employment Lawyers Association (CELA), and was selected by Super Lawyers as a "Southern
21 California Rising Star" in 2020-2023.

22 49. Mr. Feghali is a partner at Moon & Yang, APC where he began working in May 2015,
23 and his practice focuses on advocating for the rights of employees at the trial-court and appellate
24 level. Prior to approximately June 2018, with the exception of a handful of cases, Mr. Feghali's
25 practice focused on individual FEHA and wrongful termination claims, as well as individual
26 wage and hour claims. In June 2018, Mr. Feghali became heavily involved in the firm's class
27 action practice, and since that time has almost exclusively litigated wage and hour class and
28 PAGA actions

1 50. Mr. Feghali's current billing rate is \$600.00 per hour. During Mr. Feghali's tenure
2 with Moon & Yang, APC, Mr. Feghali has played a critical role in obtaining outstanding results
3 for employees who have been wronged by their employers. Mr. Feghali's litigation experience
4 includes, but is not limited to:

- 5 (a) In March 2021, Mr. Feghali prepared the briefing which resulted in a
6 certification order on all causes of action following contested briefing in a
7 wage and hour class action. *Rivera, et al. v. Clearpath Federal Credit*
8 *Union*, LASC case no. 19STCV33504.
- 9 (b) He prepared the briefing in a contested class certification motion in the
10 matter of *Dawson, et al. v. GoHealth, LLC, et al.* (CGC-19-577790), which
11 was argued granted as to some causes of action on April 29, 2022.
- 12 (c) In 2022, he prepared the briefing in a contested class certification motion
13 in the matter of *Brown v. NTI-CA, Inc., et al.* (21STCV04397), which is
14 not currently set for hearing.
- 15 (d) Mr. Feghali prepared the briefing which resulted in a remand order in
16 *Andrade v. Rehrig Pacific Corporation* 2020 WL 1934954 (CD Cal. April
17 22, 2020, where Defendant removed a wage and hour class alleging that
18 Plaintiff's claims were pre-empted by the Labor Management Relations
19 Act.
- 20 (e) Mr. Feghali briefed, argued, and won *Lee, et al. v. The Christian Herald,*
21 *U.S.A., Inc.* No. B266853, 2017 WL 6333905, at *1 (Cal. Ct. App. Dec. 12,
22 2017). There, the Court of Appeal reversed a dismissal of an individual
23 defendant following the trial court's granting of a demurrer without leave
24 to amend relating to alter ego allegations.
- 25 (f) Mr. Feghali prepared the briefing which resulted in a remand order in
26 *Sotelo v. Belfor USA Group, Inc.* 2018 WL 1352910 (CD Cal. March, 13,
27 2018). Defendants sought to remove the case based on the inclusion of a
28 "sham defendant", but the court agreed with Mr. Feghali's briefing which

1 argued that the individual defendant, who was alleged to have harassed the
2 plaintiff under FEHA, was a proper defendant.

3 (g) Mr. Feghali has been the lead counsel, or co-lead counsel, in individual
4 cases that settled for \$850,000.00, \$375,000.00 and \$250,000.00. In
5 addition to the foregoing, Mr. Feghali has resolved or assisted in the
6 resolution of approximately 80 cases which has resulted in millions of
7 dollars of unpaid wages being returned to low-wage employees.

8 51. Since June 2018, Mr. Feghali's practice has shifted to almost exclusively representing
9 employees in putative wage and hour cases. Mr. Feghali's fee has been approved by this Court,
10 as well as others in Los Angeles County, and counties throughout the state. Mr. Feghali
11 participated in the litigation and resolution of over 100 wage and hour class actions, including
12 obtaining certification orders, and preliminary and final approval of settlements. In this time
13 period, Mr. Feghali has recovered in excess of \$100 million for California employees. A
14 selection of cases wherein Mr. Feghali served as lead or co-lead class counsel includes: :
15 *Barahona v. Methodist Hospital of California*, 20STCV09876 (\$5,000,000) *Cuadras v. R.C.*
16 *Wendt Painting, Inc.* BC705964 (\$1,400,000 for approximately 1,300 class members); *Garcia v.*
17 *Tapia Enterprises, Inc.* (\$2,137,651 for 507 class members); *Sison v. Cha Hollywood Medical*
18 *Center, L.P.*, No. BC6441 29 (2,137 class members); *Lagos v. ThyssenKrupp Elevator*
19 *Corporation*, No. BC682972 (\$750,000 for 79 class members); *Sotelo v. Belfor USA Group, Inc.*,
20 No. BC688895 (\$325,000 for 342 class members); *Bueno v. Home Furniture International, Inc.*
21 BC722117 (\$310,000 for 180 class members); *Montoya v. Golden 1 Credit Union*, 34-2018-
22 00228252 (\$1,250,000 for 1,893 class members); *De Jesus v. Philippine National Bank*,
BC673024 (\$475,000 for 167 class members).

23 EDWIN KAMARZARIAN'S EXPERIENCE AND QUALIFICATION

24 52. Edwin Kamarzarian is an associate attorney at Moon & Yang, APC. Mr. Kamarzarian
25 represents employees in all aspects of employment litigation, including wage and hour class
26 action and representative actions involving claims related to overtime and minimum wages, meal
27 and rest break violations, improper wage statements, the California Private Attorneys General
28 Act and unfair business practices.

1 53. Mr. Kamarzarian received his B.A. in Philosophy with honors from the University of
2 California, Riverside and his Juris Doctorate from Southwestern Law School. While in law
3 school, Mr. Kamarzarian served as a certified law clerk for the Los Angeles County District
4 Attorneys office.

5 54. Mr. Kamarzarian's current billing rate is \$400.00 per hour. During Mr.
6 Kamarzarian's tenure with Moon & Yang, APC, Mr. Kamarzarian has played a meaningful role
7 in obtaining outstanding results for employees who have been wronged by their employers. Mr.
8 Kamarzarian's litigation experience includes, but is not limited to:

9 (a) In July of 2021, Mr. Kamarzarian prepared the briefing submitted to JAMS
10 to deny arbitration of a class and representative action compelled to
11 arbitration, which was successful, resulting in the case being sent back to
12 the superior court in the matter of *Pagoulatos v. Coasthills Credit Union*,
13 Santa Barbara Case Number 20CV02801.

14 (b) In September of 2021, Mr. Kamarzarian successfully opposed a motion to
15 compel arbitration by arguing that Defendant waived its right to arbitrate
16 under the arbitration agreement, which was successful, resulting in a
17 prompt settlement on a class-wide basis in the matter of *Bustamante v.*
18 *Virgil Advanced Skill Nursing, Inc.*, Los Angeles Case Number
19 19STCV00801.

20 (c) In January 2022, Mr. Kamarzarian helped prepare the briefing in a class
21 certification motion filed by a co-Plaintiff, which was granted in part.
22 *Thong v. Outlook Resources, Inc.*, Los Angeles Consolidated Case Number
23 20STCV43748.

24 55. Since April 2021, Mr. Kamarzarian's practice has shifted to almost exclusively
25 representing employees in putative wage and hour cases. Mr. Kamarzarian's fees have been
26 repeatedly approved by multiple Courts in this state. Mr. Kamarzarian participated in the
27 litigation and resolution of many wage and hour class actions and representative actions,
28 including obtaining preliminary and final approval of settlements, and approval of PAGA
settlements. A selection of cases wherein Mr. Kamarzarian served as Class Counsel or PAGA

1 Counsel: *Pagoulatos v. Coasthills Credit Union*, Santa Barbara Case Number
2 20CV02801(\$1,100,00 for a class of approximately 460 class members, approving \$400/hr.);
3 *Bustamante v. Virgil Advanced Skill Nursing, Inc.*, Los Angeles Case Number 19STCV00801
4 (\$700,000 for approximately 348 class members, approving); *Barahona v. Methodist Hospital of*
5 *Southern California*, Los Angeles Case Number 20STCV09876 (\$5,000,000 for a class of
6 approximately 3,329 class members); *Barrios v. C.B. Nichols Egg Ranch*, San Bernardino Case
7 Number CIVSB2112296 (\$875,000 for a class of approximately 389 class members, approving
8 \$400/hr.); *Bonine v. Wachter, Inc.*, Los Angeles Case Number 20STCV31653 (\$354,000 for a class
9 of approximately 185 class members); *Campos v. Adecco USA, Inc.*, Contra Costa Case Number C21-
10 00473 (\$170,000 for approximately 822 aggrieved employees, approving \$400/hr.); *Castillo v.*
11 *Freedom Painting, Inc.*, Los Angeles Case Number 20STCV22365 (\$250,000 for approximately 345
12 class members); *Dale v. Con-Lee Restaurants, Inc.*, Santa Clara Case Number 20CV364938 (\$415,000
13 for approximately 1,612 class members); *Drews v. Tuff Shed, Inc.*, Sacramento County Case
14 Number 34-2021-00300020-CU-OE-GDS (\$100,000 for approximately 565 aggrieved employees);
15 *Elliott v. Sage Hospitality Resources, LLC*, San Diego Case Number 37-2020-00043180-CU-OE-
16 CTL (\$450,000 for approximately 454 class members, approving \$400/hr.); *Ellison v. Granite Hills*
17 *Healthcare & Wellness Centre, LLC*, San Diego Case Number 37-2021-00032864-CU-OE-CTL
18 (\$130,000 for 666 aggrieved employees, approving \$400/hr.); *Galvez v. Yamato Valencia, Inc.*, Los
19 Angeles Case Number 20STCV22760 (\$300,000 for 439 class members, approving \$400/hr.);
20 *Gonzalez v. A.M. Castaneda, Inc.*, San Diego Case Number 37-2021-00017374-CU-OE-CTL
21 (\$350,000 for approximately 311 class members); *Gonzalez v. Paradigm Treatment Centers, LLC*,
22 Los Angeles Case Number 21STCV25649 (\$95,000 for 212 aggrieved employees); *Gooding v.*
23 *AAA Quality Services, Inc.*, Kern Case Number BCV-21-100405 (\$510,000 for approximately 308
24 class members, approving \$400/hr.); *Hickey v. Florence Crittenton Services of Orange County*,
25 Orange Case Number 30-2020-01168166-CU-OE-CXC (\$750,000 for approximately 823 class
26 members); *Kwist v. Castle Oaks Golf Management, LLC*, Sacramento Case Number 34-2020-
27 00275335-CU-OE-GDS (\$150,000 for approximately 99 class members, approving \$400/hr.);
28 *Majdoub v. Argent Hotel Management, LLC*, San Francisco Case Number CGC-20-582921

1 (\$1,800,000 for 2,304 class members, approving \$400/hr.); Valdez v. Heat Make Sense, Inc.,
2 Sacramento Case Number 34-2021-00296194 (\$120,000 for 13 class members).

3 56. My office is qualified to handle this litigation because we are experienced in
4 litigating Labor Code violations in both individual and class actions. The attorneys at my office
5 have been appointed as lead or co-lead counsel in numerous wage and hour class actions in state
6 and federal courts by way of motion for settlement approval. Including myself, Moon & Yang,
7 APC is comprised of sixteen attorneys, all of whom are actively and continuously practicing
8 employment litigation, representing almost entirely employee plaintiffs, in both individual and
9 class actions, in this Superior Court, and other Superior Courts throughout the state, in the Court
10 of Appeal, and in various federal courts. The attorneys at my firm have a high level of knowledge
11 and experience in areas of wage and hour class actions, and labor and employment law.

12 57. My office invested significant time and resources into the case, with payment
13 deferred to the end of the case, and then, of course, contingent on the outcome. My office's
14 efforts included, without limitation, the following:

- 15 (a) Numerous interviews with the Plaintiff and review of documents provided
16 by him;
- 17 (b) Legal research and investigation regarding the Defendant's practices at
18 numerous points in the litigation;
- 19 (c) Preparation of multiple drafts of the original class action complaint and
20 finalization and filing of the original class action complaint;
- 21 (d) Extensive "meet and confer" correspondence and discussions with
22 Defendant's counsel to obtain relevant documents and information through
23 informal discovery;
- 24 (e) Contacting witnesses;
- 25 (f) Analysis of the audit results and preparation of a damages model with the
26 aid of a statistics expert;
- 27 (g) Research and preparation of Plaintiff's mediation brief;
- 28 (h) Attendance at mediation;

- 1 (i) Drafting, negotiating, and reviewing multiple drafts of the Settlement
2 Agreement and attachments; and
3 (j) Preparation of the motion for preliminary approval.

4 58. Through the efforts of my office and Plaintiff in this case, a fair and reasonable
5 resolution has been reached that includes a settlement payment by Defendant of \$107,500.00 to
6 compensate settlement Class Members for Defendant's wage and hour practices. I am informed
7 and believe that, without the efforts of my office, the Labor Code and Wage Order violations
8 alleged in the Complaint would have gone completely unremedied.

9 59. I do not believe that I have any conflicts of interest with the Class or with the
10 Class Representative. I am not related to the Class Representative. I respectfully submit that I
11 and Moon & Yang, APC are well suited to act as Class Counsel in this action, and we have and
12 will continue to vigorously represent the interests of the Class.

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

15 Executed on January 6, 2023 at Los Angeles, California.

16
17 
18 _____
Kane Moon

Exhibit 1

Kane Moon (SBN 249857)
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Allen Feghali (SBN 301080)
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and Edward Cosico

[Additional Counsel on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

Coordination Proceeding
Special Title (Rule 3.550)
Black & Decker Wage and Hour Cases
Included Actions:

Mancillas v. Stanley Black & Decker, Inc.

*Cosico and Martell v. Stanley Black &
Decker, Inc., et al.*

Judicial Council Coordination Proceeding Case
No. **JCCP 5218**

[Hon. David S. Cohn]

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

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
NO. CIVSB2123358

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA
NO. 21CV002218

ADDITIONAL COUNSEL

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Attorneys for Defendants

STANLEY BLACK & DECKER, INC. and STANLEY CONVERGENT SECURITY
SOLUTIONS, INC.

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

3 This Joint Stipulation of Class and PAGA Representative Action Settlement (“Joint Stipulation of
4 Settlement” or “Settlement” or “Agreement”) is made and entered into by and between Plaintiffs PAUL
5 MANCILLAS, MATT MARTELL, and EDWARD COSICO, individually, and on behalf of all others
6 similarly situated (“Plaintiffs” or “Class Representatives”), and Defendants STANLEY BLACK &
7 DECKER, INC. and STANLEY CONVERGENT SECURITY SOLUTIONS, INC. (“Defendants”).
8 Plaintiffs and Defendants are sometimes referred to individually as a “Party” or collectively referred to
9 herein as “the Parties.” THE PARTIES STIPULATE AND AGREE as follows:

10 **DEFINITIONS**

- 11 1. For purposes of this Settlement, this matter, entitled *Black & Decker Wage and Hour*
12 *Cases*, JCCP Case No. 5218, is referred to herein as the “Action.” The Action is comprised of two
13 coordinated matters previously entitled *Mancillas v. Stanley & Black Decker, Inc., et al.*, San Bernardino
14 County Case No. CIVSB2123358 and *Cosico, et al. v. Stanley Black & Decker, Inc., et al.*, Alameda
15 County Case No. 21CV002218.
- 16 2. For purposes of this Settlement, “Complaints” refers to the first amended complaint filed
17 by Plaintiff Mancillas on November 29, 2021 in San Bernardino County Case No. CIVSB2123358, and
18 the complaint filed by Plaintiffs Martell and Cosico on November 9, 2021 in Alameda County Case No.
19 21CV002218.
- 20 3. For purposes of this Settlement, the “Class Period” is August 30, 2017 through the date the
21 Court grants preliminary approval.
- 22 4. For purposes of this Settlement, the “Class” or “Class Members” consist of: All current
23 and former non-exempt employees of Defendants who worked in California during the Class Period.
24 “Settlement Class Members” are those Class Members who do not submit timely exclusion requests to the
25 Settlement Administrator. The Parties estimate that the Class included approximately 1,806 individuals as
26 of the September 22, 2022 mediation.
- 27 5. For purposes of this Settlement, “Class Counsel” means MOON & YANG, APC and
28 WILSHIRE LAW FIRM.

6. For purposes of this Settlement, “Class List” shall have the meaning set forth in Paragraph 44(a) below.

7. For purposes of this Settlement, “Covered Workweeks” means the number of weeks a Class Member worked at Defendants’ locations in California during the Class Period.

8. For purposes of the Settlement, “Defendants’ Counsel” means JONES DAY.

9. For purposes of the Settlement, “Effective Date” refers to the date all of the following have occurred: (i) final approval of the settlement is granted by the Court; and (ii) Judgment approving the settlement becomes Final. “Final” shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the United States Supreme Court, or, (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no objection is made, or if an objection is withdrawn prior to the date the Court grants final approval, the date the final approval order is signed.

10. For purposes of this Settlement, “Escalator Clause” shall have the meaning set forth in Paragraph 38(c) below.

11. For purposes of this Settlement, “FLSA” means the Fair Labor Standards Act.

12. For purposes of this Settlement, “Gross Settlement Amount” shall have the meaning set forth in Paragraph 38(b) below.

13. For purposes of this Settlement, “Judgment” means the order granting final approval of the Settlement and entering judgment thereon.

14. For purposes of this Settlement, “Net Settlement Amount” shall have the meaning set forth in Paragraph 38(f) below.

15. For purposes of this Settlement, “PAGA” means the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).

16. For purposes of this Settlement, “PAGA Allocation” means the portion of the Gross Settlement Amount that the Parties have agreed to allocate to resolution of the Released PAGA Claims. The Parties have agreed that the PAGA Allocation will be \$150,000 from the Gross Settlement Amount. Pursuant to PAGA, Seventy Five Percent (75%), or \$112,500, of the PAGA Allocation will be paid to the

1 Labor and Workforce Development Agency (“LWDA”) (“PAGA Penalty Payment”), and Twenty Five
2 Percent (25%), or \$37,500, of the PAGA Allocation will be included in the Net Settlement Amount for
3 PAGA Employees (“PAGA Settlement Payment”).

4 17. For purposes of this Settlement, “PAGA Employee” means all Class Members that worked
5 during the PAGA Period. It is stipulated by the Parties that, for purposes of this Settlement only, all
6 PAGA Employees are “aggrieved employees” as defined pursuant to PAGA.

7 18. For purposes of this Settlement, “PAGA Pay Periods” means the number of pay periods
8 each PAGA Employee worked during the PAGA Period.

9 19. For purposes of this Settlement, “PAGA Period” means the period between August 30,
10 2020 through the earlier of the date preliminary approval is granted.

11 20. For purposes of this Settlement, “PAGA Representatives” means Plaintiffs.

12 21. For purposes of this Settlement, “Plaintiffs’ Released Claims” shall have the meaning set
13 forth in Paragraph 38(m) below.

14 22. For purposes of this Settlement, “Released Claims” means any and all claims stated in the
15 Action, or that could have been stated based on the facts alleged in the Action, including but not limited to
16 all wage and hour claims (including all claims under the California Labor Code or the FLSA) relating to
17 unpaid wages (including, but not limited to, unpaid minimum wages, straight time wages, overtime wages,
18 doubletime wages, vacation pay, bonus pay, commission pay, and all other types of wages), off-the-clock
19 work, untimely wages, meal periods and any premiums owed, rest periods and any premiums owed,
20 unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys’ fees,
21 waiting time penalties, withholding from wages and the related provisions of the Labor Code including but
22 limited to Labor Code §§ 201-204, 210, 216, 218.6, 221, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194,
23 1194.2, 1197, 1198, 2802, derivative claims under California Business & Professions Code §§ 17200 et
24 seq., and all claims under the governing Wage Order, and FLSA for the entire Class Period.

25 23. For purposes of this Settlement, “Released PAGA Claims” means any and all claims
26 arising under PAGA which were or could have been raised in the Action during the entire PAGA Period.

27 24. For purposes of this Settlement, “Response Deadline” means the date sixty (60) days after
28 the Settlement Administrator initially mails the “Notice” (as defined in Paragraph 38(r)) to Settlement

1 Class Members and the last date on which Settlement Class Members may submit a “Request to be
2 Excluded” (as defined in Paragraph 38(u)) or written objection to the Settlement. In the case of a re-
3 mailed Notice, the Response Deadline will be the later of 60 calendar days after initial mailing or 14
4 calendar days from re-mailing. The Response Deadline may be extended only as expressly described
5 herein.

6 25. For purposes of this Settlement, “Service Payments” shall have the meaning set forth in
7 Paragraph 38(m) below.

8 26. For purposes of this Settlement, “Settlement Payments” means all of the payments to
9 Settlement Class Members (the “Settlement Class Payments”) and all of the payments to PAGA
10 Employees.

11 **STIPULATED BACKGROUND**

12 27. On August 30, 2021, Plaintiff Mancillas filed a putative Class Action alleging the
13 following labelled causes of action: (1) Failure to Pay Minimum Wage [Cal. Lab. Code §§ 204, 1194,
14 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3)
15 Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest
16 Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code
17 § 2802]; (6) Failure to Timely Pay Final Wages at Termination [Cal. Lab. Code §§ 201-203]; (7) Failure to
18 Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; and (8) Unfair Business Practices
19 [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. (“Mancillas Action”). Plaintiff Mancillas seeks to represent all
20 persons that worked for Stanley Black & Decker, Inc. in California as an hourly-paid, non-exempt
21 employee at any time during the period beginning four years before the filing of the initial complaint and
22 ending when Notice to the Class is sent.

23 28. Plaintiff Mancillas satisfied the administrative exhaustion requirement that is a prerequisite
24 to filing a claim for Civil Penalties under the Labor Code Private Attorneys General Act of 2004 [Lab.
25 Code § 2699, *et seq.*] (“PAGA”). On November 29, 2021, Plaintiff Mancillas filed a First Amended
26 Complaint adding a cause of action for Civil Penalties Under PAGA [Cal. Lab. Code § 2699, *et seq.*].

27 29. On November 9, 2021, Plaintiffs Cosico and Martell filed a putative class action alleging
28 the following labelled causes of action: (1) Failure to Pay Minimum and Straight Time Wages [Cal. Lab.

Code §§ 204, 1194, 1194.2, and 1197]; (2) Failure to Pay Overtime Compensation [Cal. Lab. Code §§ 1194 and 1198]; (3) Failure to Provide Meal Periods [Cal. Lab. Code §§ 226.7, 512]; (4) Failure to Authorize and Permit Rest Breaks [Cal. Lab. Code §§ 226.7]; (5) Failure to Provide Accurate Itemized Wage Statements [Cal. Lab. Code § 226]; (6); Failure to Indemnify Necessary Business Expenses [Cal. Lab. Code § 2802] and (7) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, *et seq.*]. (“Cosico Action”). Plaintiffs Cosico and Martell seek to represent all persons that worked for Stanley Black & Decker, Inc. and Stanley Convergent Security Solutions, Inc. in California as an hourly-paid, non-exempt employee at any time during the period beginning four years and 178 days before the filing of the initial complaint and ending when Notice to the Class is sent.

30. On or about December 13, 2021, Defendants filed a petition to coordinate the Mancillas Action and the Cosico Action. Judge David S. Cohn heard and granted Defendants’ petition on or about March 9, 2022.

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

- (a) The Class is ascertainable and so numerous as to make it impracticable to join all Class Members.
- (b) There are common questions of law and fact including, but not limited to, the following:
 - 1) Whether or not Defendants paid proper wages to the Class;
 - 2) Whether or not Defendants provided meal periods to the Class;
 - 3) Whether or not Defendants provided rest periods to the Class;
 - 4) Whether or not Defendants paid compensation timely upon separation of employment to former Class Members;
 - 5) Whether or not Defendants paid compensation timely throughout Class Members’ employment;
 - 6) Whether or not Defendants provided accurate itemized statements to the Class;

- 1 7) Whether or not waiting-time penalties are available to the Class for
2 violation of California Labor Code § 203;
3 8) Whether or not Defendants maintained requisite records;
4 9) Whether or not Defendants reimbursed all necessary business expenses;
5 10) Whether or not Defendants paid proper meal and/or rest period pay and
6 premiums to the Class; and,
7 11) Whether or not Defendants engaged in unlawful or unfair business
8 practices affecting the Class in violation of California Business and
9 Professions Code §§ 17200-17208.
- 10 (c) Plaintiffs' claims are typical of the claims of the Class Members.
11 (d) Plaintiffs and Class Counsel will fairly and adequately protect the interests of the
12 Class.
13 (e) The prosecution of separate actions by individual members of the Class would
14 create the risk of inconsistent or varying adjudications, which would establish
15 incompatible standards of conduct.
16 (f) With respect to the Class, questions of law and fact common to the members of the
17 Class predominate over any questions affecting any individual member in such
18 Class, and that a class action is superior to other available means for the fair and
19 efficient adjudication of the controversy.

20 32. Should, for whatever reason, the Settlement not become effective, the fact that the Parties
21 were willing to stipulate to certification as part of the Settlement shall have no bearing on, and shall not be
22 admissible in connection with, the issue of whether the Class Members and/or the Class Claims should be
23 certified in a non-Settlement context in this Action or in any other lawsuit. Defendants expressly reserve
24 their right to oppose claim or class certification in this or any other action should this Settlement not
25 become effective.

26 33. Defendants deny any liability or wrongdoing of any kind whatsoever associated with the
27 claims alleged in the Action, and Defendants further deny that, for any purpose other than settling this
28 lawsuit, the Action is appropriate for class or representative treatment. With respect to Plaintiffs' claims,

Defendants contend, among other things, that Plaintiffs and the Class Members have been paid proper wages, have been provided meal periods or they have been made available as required, have been provided rest periods or they have been authorized and permitted as required, did not incur any business expenses that were not reimbursed, have been paid timely wages upon separation of employment, and have been provided with accurate itemized wage statements. Defendants contend, among other things, that they have complied at all times with the California Labor Code and any applicable Wage Orders of the Industrial Welfare Commission. Furthermore, with respect to all claims, Defendants contend that they have complied at all times with the California Business and Professions Code and the FLSA.

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

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

36. The Parties agree to cooperate and take all steps necessary and appropriate to obtain preliminary and final approval of this Settlement.

37. The Parties agree to stay all proceedings in the Action, except such proceedings necessary to implement and complete the Settlement, pending the final approval hearing to be conducted by the Court.

PRIMARY TERMS OF SETTLEMENT

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

- (a) It is agreed by and among the Class and Defendants that this Action and any claims, damages, or causes of action arising out of or related to the disputes which

are the subject of this Action, be settled and compromised as between the Class and Defendants, subject to the terms and conditions set forth in this Settlement and the approval of the Court.

- (b) Gross Settlement Amount: Defendants' maximum total payment under the Settlement, including all attorney's fees and costs, the Service Payments to the named Plaintiffs, the costs of settlement administration, the PAGA Allocation, and any other payments provided by this Settlement, is \$3,500,000.00 ("Gross Settlement Amount"), subject to the Escalator Clause and except that, to the extent that any portions of the Class Members' Settlement Payments constitute wages, Defendants will be separately responsible for any employer payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions.
- (c) Escalator Clause: In the event of an increase of more than 10% from original estimate of 170,000 workweeks in the Class Period (i.e. specifically 187,000 or more workweeks), the settlement amount shall be increased by the percentage that that actual number of class members or workweeks exceeds a 10% increase from the original estimates. For example, if the class size is 12% larger, the settlement amount shall be increased by 2% (the "Escalator Clause"). The Gross Settlement Amount will not be reduced for any reason.
- (d) Non-reversionary Settlement: No portion of the Gross Settlement Amount will revert to Defendants.
- (e) No Claims Required: Class Members will not be required to submit a claim to receive their Settlement payment.
- (f) Net Settlement Amount: The Net Settlement Amount shall be calculated by deducting from the Gross Settlement Amount (\$3,500,000.00) the following sums, subject to approval by the Court: (1) attorney's fees (not to exceed one-third of the Gross Settlement Amount, or \$1,166,667); (2) reasonable litigation costs (not to exceed \$25,000.00); (3) the Service Payments (not to exceed \$10,000.00 to each of the named Plaintiffs); (4) the PAGA Penalty Payment in the amount of

\$112,500.00 (which is 75% of the PAGA Allocation); and (5) costs of settlement administration (estimated not to exceed \$30,000). Settlement Payments to the Class Members will be calculated by the Settlement Administrator and paid out of the Net Settlement Amount as set forth below.

(g) Payroll Taxes and Required Withholdings: To the extent that any portions of the Settlement Class Members' Settlement Payments constitute wages, Defendants will be separately responsible for any **employer** payroll taxes required by law, including the employer FICA, FUTA, and SDI contributions. Except for any employer payroll taxes and as set forth in the Escalator Clause, it is understood and agreed that Defendants' maximum total liability under this Settlement shall not exceed the Gross Settlement Amount. The Settlement Administrator will calculate and submit the Defendants' employer share of payroll taxes after advising Defendants of the total amount owed, in aggregate, as employer-side payroll taxes and receiving a lump sum payment from Defendants in that amount when the Gross Settlement Amount is delivered to the Settlement Administrator.

(h) Settlement Class Payments (Excludes PAGA Settlement Payments): Settlement Class Payments will be paid out of the Net Settlement Amount. Each Settlement Class Member will be paid a pro-rata share of the Net Settlement Amount (less the PAGA Settlement Payment), as calculated by the Settlement Administrator. The pro-rata share will be determined by comparing the individual Settlement Class Member's Covered Workweeks employed during the Class Period in California to the total Covered Workweeks of all the Settlement Class Members during the Class Period as follows:
$$\frac{[\text{Workweeks worked by a Settlement Class Member}]}{[\text{Sum of all Covered Workweeks worked by all Settlement Class Members}]} \times [\text{Net Settlement Amount} - \text{PAGA Settlement Payment}] = \text{individual Settlement Payment for a Settlement Class Member.}$$
 Settlement Class Payments in the appropriate amounts will be distributed by the Settlement Administrator by mail to the Settlement Class Members. All checks not cashed within 180 days of payment

shall be forwarded to the State of California's Unclaimed Property Fund in the name of the Settlement Class Member who failed to cash their checks.

(i) PAGA Payments: PAGA Settlement Payments will be paid out of the Net Settlement Amount. Each PAGA Employee will be paid a pro-rata share of the PAGA Employees' PAGA Settlement Payment. PAGA Employees will not be permitted to exclude themselves from this portion of the Settlement. The pro-rata share will be determined by comparing the individual PAGA Employees' PAGA Pay Periods during the PAGA Period to the total PAGA Pay Periods of all the PAGA Employees during the PAGA Period as follows:
$$[\text{PAGA Pay Periods worked by a PAGA Employee}] \div [\text{Sum of all PAGA Pay Periods worked by all PAGA Employees}] \times [\text{PAGA Settlement Payment}] = \text{individual PAGA Employee's portion of the PAGA Settlement Payment.}$$
 PAGA Settlement Payments to PAGA Employees in the appropriate amounts will be distributed by the Settlement Administrator by mail to the PAGA Employees at the same time Settlement Class Payments issue to the Settlement Class. Un-cashed, unclaimed or abandoned checks, shall be transmitted to the California Controller's Office, as set forth below. The LWDA's PAGA Penalty Payment will issue to the LWDA at the same time Settlement Payments issue to the Settlement Class.

(j) Allocation of Settlement Payments: The Parties have agreed that Settlement Class Payments will be allocated as follows: 33 1/3% to wages, 33 1/3% to penalties, and 33 1/3% to interest. The PAGA Settlement Payment shares to PAGA Employees will be entirely allocated to penalties. Appropriate federal, state and local withholding taxes will be taken out of the wage allocations, and each Class Member will receive an IRS Form W-2 with respect to this portion of the Settlement Payment. The employer's share of payroll taxes and other required withholdings will be paid as set forth above, including but not limited to the Defendants' FICA and FUTA contributions, based on the payment of claims to the Class Members. IRS Forms 1099 will be issued to each Class Member reflecting

1 the payments for penalties and interest. Class Members are responsible to pay
2 appropriate taxes due on the Settlement Payments they receive. To the extent
3 required by law, IRS Forms 1099 and W-2 will be issued to each Class Member
4 with respect to such payments. At Defendants' election, the Settlement
5 Administrator may be tasked with remitting the employer's share of payroll taxes
6 to the relevant taxing authorities, once deposited with the Settlement
7 Administrator.

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

24 (l) Attorney's Fees and Costs: Subject to approval by the Court, Defendants will not
25 object to Class Counsel's application for attorney's fees not to exceed one-third of
26 the Gross Settlement Amount and reimbursement of litigation costs and expenses
27 not to exceed \$25,000.00.

28 (m) Service Payments: Subject to Court approval, and in exchange for a general

1 release, Defendants will not object to Class Counsel’s application for an additional
2 payment of up to \$10,000.00 to each Plaintiff for service as Class Representatives
3 (“Service Payments”). It is understood that the Service Payments are in addition to
4 the individual Settlement Payment to which each Class Representative is entitled to
5 along with the other Class Members. In exchange, Plaintiffs have agreed to
6 release all individual claims, whether known or unknown, under federal law or
7 state law against the Releasees, to the extent permitted by law, through the
8 Class Period (“Plaintiffs’ Released Claims”). Plaintiffs understand that this
9 release includes unknown claims and that they are, as a result, waiving all rights
10 and benefits afforded by Section 1542 of the California Civil Code, which
11 provides:

12 **A general release does not extend to claims that the creditor**
13 **or releasing party does not know or suspect to exist in his or**
14 **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.

15 Specifically excluded from Plaintiffs’ Released Claims are any claims for workers’
16 compensation benefits. The Service Payment will issue at the same time all
17 Settlement Payments are mailed to the Settlement Class.

- 18 (n) The Settlement Administrator will issue an IRS Form 1099 for the Service
19 Payments to the Plaintiffs. Plaintiffs will be individually responsible for correctly
20 characterizing this compensation on personal income tax returns for tax purposes
21 and for paying any taxes on the amounts received. Should the Court approve a
22 Service Payment in an amount less than that set forth above, the difference
23 between the lesser amount(s) approved by the Court and the Service Payment
24 amount(s) set forth above shall be added to the Net Settlement Amount. Plaintiffs
25 agree not to opt out or object to the Service Payment as the Class Representatives.
- 26 (o) Settlement Administrator: The Settlement Administrator will be ILYM Group,
27 Inc., or such Settlement Administrator as may be mutually agreeable to the Parties
28 and approved by the Court. Settlement Administration Costs are estimated not to

1 exceed \$30,000. The costs of the Settlement Administrator for work done shall be
2 paid regardless of the outcome of this Settlement.

3 (p) Funding of Settlement Account: Defendants will fund the settlement account 30
4 days after the Effective Date.

5 (q) Mailing of Settlement Payments: The Settlement Administrator shall cause the
6 Settlement Payments to be mailed to the Class Members within 14 calendar days of
7 the receipt of funding.

8 (r) Notice of Settlement: Each Class Member will be mailed a notice setting forth the
9 material terms of the proposed Settlement, along with instructions about how to
10 object or request exclusion from the proposed class action Settlement (“Notice”).
11 For each Class Member, there will be pre-printed information on the mailed
12 Notice, based on Defendants’ records, stating the Class Member’s Covered
13 Workweeks during the Class Period and the estimated total Settlement Payment
14 under the Settlement, including the Settlement Class Payment and the PAGA
15 Settlement Payment that will be distributed irrespective of any exclusion request.
16 The pre-printed information based on Defendants’ records shall be presumed to be
17 correct. A Class Member may dispute the pre-printed information on the Notice as
18 to his or her Covered Workweeks during the Class Period. Class Members must
19 submit any dispute regarding the information on the Notice as to his or her
20 Covered Workweeks within the Response Deadline. Unless a disputing Class
21 Member submits documentary evidence in support of his or her dispute, the
22 records of the Defendants will be determinative.

23 (s) Settlement Notice Language: The Notice will issue in English and Spanish.

24 (t) Class Members Cannot Exclude Themselves from the Released PAGA Claims:
25 Class Members submitting a Request to be Excluded (as defined below) will
26 nevertheless receive their pro-rata share of the PAGA Settlement Payment. If the
27 Court approves the compromise of the PAGA Claim, all Class Members are bound
28 by the Court’s resolution of that Claim. Plaintiffs shall serve a notice of settlement

on the California LWDA at or before the time Plaintiffs file the motion for preliminary approval.

- (u) Right of Class Member to Request Exclusion from the Settlement: Any Class Member may request to be excluded from the Class by mailing a “Request to be Excluded” from the Settlement within the Response Deadline, stating, as follows or in substantially similar terms:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE *STANLEY BLACK & DECKER, INC.* CLASS ACTION LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Any Request to be Excluded must include the name, address, telephone number, last four digits of the Class Member’s Social Security Number, and the signature of the Class Member requesting exclusion. Any such request must be made in accordance with the terms of the Notice, and the Notice will advise Class Members of these requirements. Any Class Member who timely requests exclusion in compliance with these requirements (i) shall not have any rights under this Settlement other than a right to receive a pro-rata share of the portion of the PAGA payment allocated to the Class Members if the Class Member is also PAGA Employee; (ii) shall not be entitled to receive any Settlement Payments under this Settlement other than as stated in Paragraph 38(j); and (iii) shall not be bound by this Settlement or the Court’s Order and Final Judgment other than as it applies to the PAGA Claim.

- (v) Right of Settlement Class Member to Object to The Settlement: Any Class Member may object to the Settlement. To object, the Class Member may (1) appear at the final approval hearing, remotely or in person, to explain any objection, (2) have an attorney object for the Class Member, or (3) submit a simple written brief or statement of objection to the Settlement Administrator. If any Class Member chooses to submit a written objection, the written objection should

1 contain sufficient information to confirm the identity of the objector and the basis
2 of the objection, including (1) the full name of the Settlement Class Member; (2)
3 the signature of the Settlement Class Member; (3) the grounds for the objection;
4 and (4) be postmarked within the Response Deadline to permit adequate time for
5 processing and review by the Parties of the written statement or objection. Class
6 Counsel shall ensure that any written objections are transmitted to the Court for the
7 Court's review (either by Class Counsel or as an attachment to declaration from the
8 Settlement Administrator). Regardless of the form, an objection alone will not
9 satisfy the requirement that a Settlement Class Member must either make a timely
10 complaint in intervention before final judgment or by file a motion to set aside and
11 vacate the class judgment under Code of Civil Procedure § 663 to have standing to
12 appeal entry of judgment approving this Settlement, as is required under the
13 California Supreme Court decision of *Hernandez v. Restoration Hardware*, 4 Cal.
14 5th 260 (2018). A Class Member who does not object prior to or at the final
15 approval hearing, will be deemed to have waived any objections and will be
16 foreclosed from making any objections (whether at the final approval hearing, by
17 appeal, or otherwise) to the Settlement. If the objecting Class Member does not
18 formally intervene in the action or move to set aside any judgment and/or the Court
19 rejects the Class Member's objection, the Class Member will still be bound by the
20 terms of this Agreement. Class Counsel and Defendants' Counsel may, at least
21 five (5) calendar days (or some other number of days as the Court shall specify)
22 before the final approval hearing, file responses to any written objections submitted
23 to the Court.

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

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

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

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

14 42. The Settlement Administrator will post the final judgment approving the Settlement within
15 7 calendar days on a website maintained by the Settlement Administrator for a period of not less than 90
16 calendar days after the final judgment is entered. The address of that website will be included in the
17 Notice.

18 **ATTORNEY'S FEES AND COSTS**

19 43. In consideration for resolving this matter and in exchange for the release of all claims by
20 the Class Members, including Plaintiffs, and subject to approval by the Court, Defendants will not object
21 to Class Counsel's application for attorney's fees not to exceed one-third of the Gross Settlement Amount
22 and litigation costs not to exceed \$25,000.00. The amounts set forth above will cover all work performed
23 and all fees and costs incurred to date, and all work to be performed and all fees and costs to be incurred in
24 connection with the approval by the Court of this Settlement and administration of the Settlement. Should
25 Class Counsel request a lesser amount and/or the Court approve a lesser amount(s) of attorney's fees
26 and/or attorneys' costs, the difference between the lesser amount(s) and the maximum amount set forth
27 above shall be added to the Net Settlement Amount. The Parties agree that there is no prevailing party,
28 and the Class and Class Counsel shall not be entitled to any fees or costs other than those awarded out of

1 and deducted from the Gross Settlement Amount. As with the Settlement Payments to the Settlement
2 Class, the attorney's fees and costs approved by the Court shall be distributed by the Settlement
3 Administrator to Class Counsel, within 14 calendar days of the receipt of settlement funds by the
4 Settlement Administrator. In the event that the Court awards less than 25% of the Gross Settlement
5 Amount for attorney's fees, Class Counsel shall retain the right to appeal that portion of any final approval
6 Order and Judgment.

7 **THE NOTICE PROCESS**

8 44. A Notice in approximately the form attached hereto as Exhibit "A," and as approved by the
9 Court, shall be sent by the Settlement Administrator to the Class Members by first class mail. The Notice
10 shall be translated into Spanish so that Spanish and English language versions of the Notice are included in
11 the mailing. Any returned envelopes from this mailing with forwarding addresses will be utilized by the
12 Settlement Administrator to forward the Notices to the Class.

- 13 (a) Within 21 calendar days from the date of preliminary approval of this Settlement
14 by the Court, Defendants shall provide to the Settlement Administrator the
15 following information for each Class Member: (1) name; (2) last known address;
16 (3) social security number; and (5) dates of employment at Defendants' locations
17 in California (the "Class List"). This database shall be based on Defendants'
18 payroll and other business records and shall be provided in a reasonable format to
19 the Settlement Administrator. Defendants agree to consult with the Settlement
20 Administrator prior to the production date to ensure that the format will be
21 acceptable to the Settlement Administrator. The Settlement Administrator will run
22 a check of the Class Members' addresses against those on file with the U.S. Postal
23 Service's National Change of Address List; this check will be performed only once
24 per Class Member by the Settlement Administrator. Absent mutual written
25 agreement of counsel for the Parties or Court order, the Settlement Administrator
26 will keep this database confidential and secure and use it only for the purposes
27 described herein, and will return this database to Defendants upon final approval of
28 the settlement or destroy electronic records containing the database after the

1 Settlement is final and all payments are distributed as required under this
2 Agreement.

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

24 **DISPOSITION OF SETTLEMENT PAYMENTS AND UNCASHED CHECKS**

25 45. As set forth above, each Class Member will have until the expiration of the applicable
26 Response Deadline to submit to the Settlement Administrator any challenge or dispute to the Class
27 Member's Covered Workweek information on the Notice. No disputes will be honored if they are
28 submitted after the Response Deadline, unless the Parties mutually agree to accept the untimely dispute.

Each Class Member is responsible to maintain a copy of any documents sent to the Settlement Administrator and a record of proof of mailing.

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

47. Funds from un-cashed or abandoned Settlement Payment checks, based on a 180-day void date, shall be transmitted to the State of California's Unclaimed Property Fund in the name of the Settlement Class Member who failed to cash their check.

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

RELEASE BY THE CLASS AND PAGA EMPLOYEES

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

- (a) **Identity of Released Parties.** The released parties are Defendants, and each of its/their former and present direct and/or indirect owners, dba's, affiliates, parents,

1 subsidiaries, brother and sister corporations, divisions, related companies,
2 successors and predecessors, and current and former employees, attorneys, officers,
3 directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries,
4 subrogees, executors, partners, privies, agents, servants, insurers, representatives,
5 administrators, employee benefit plans, and assigns of said entities, including, but
6 not limited to, 3-V Fastener Co., Inc.; AeroScout LLC; AeroFit, LLC; Black &
7 Decker (U.S.) Inc.; Bristol Industries LLC; Consolidated Aerospace Mfg. LLC;
8 Emhart Teknologies, LLC; Irwin Industrial Tool Company; Stanley Inspection
9 LLC; Moeller Mfg & Supply LLC; Nelson Stud Welding, Inc.; Stanley Access
10 Technologies LLC; Stanley Pipeline Inspection LLC; and Stanley Security
11 Solutions, Inc. (collectively "Releasees").

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

20 (c) **Claims Released by Settlement Class Members.** Each and every Class Member,
21 on behalf of himself or herself and his or her heirs and assigns, unless he or she has
22 submitted a timely and valid Request to be Excluded (which will not effectuate an
23 opt-out from the release of Released PAGA Claims), hereby releases Releasees
24 from the following claims for the entire Class Period:

- 25 1) any and all claims stated in the Action, or that could have been stated based
26 on the facts alleged in the Action, including but not limited to all state wage
27 and hour claims (including all claims under the California Labor Code or
28 the FLSA) relating to unpaid wages (including, but not limited to, unpaid

1 minimum wages, straight time wages, overtime wages, doubletime wages,
2 vacation pay, bonus pay, commission pay, and all other types of wages),
3 off-the-clock work, untimely wages, meal periods and any premiums owed,
4 rest periods and any premiums owed, unreimbursed business expenses,
5 wage statement violations, interest, penalties, and attorneys' fees, waiting
6 time penalties, withholding from wages and the related provisions of the
7 Labor Code including but limited to Labor Code §§ 201-204, 210, 216,
8 218.6, 221, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1197,
9 1198, 2802, derivative claims under California Business & Professions
10 Code §§ 17200 et seq., and all claims under the governing Wage Order,
11 and FLSA ("Released Claims");

12 2) as to any Class Member who cashes their Settlement Payment, the
13 Settlement Administrator shall include language on the Settlement
14 Payments that informs the Class Members that the signing and negotiation
15 of that check shall serve as the Class Member's consent to join the Action
16 for purposes of releasing all claims arising under the Fair Labor Standards
17 Act that are alleged in the Action or related to the claims stated or that
18 could have been stated in the Action, implicitly or explicitly;

19 (d) **Claims Released by the Class, Including PAGA Employees.** All Class
20 Members, including all PAGA Employees, release the Released PAGA Claims,
21 regardless of whether they have requested exclusion from the Settlement as to
22 Class claims.

23 **EMPLOYMENT BY DEFENDANTS**

24 50. Employment of Plaintiffs by Defendants is not consideration for, or a condition of, this
25 Settlement.

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

27 51. Plaintiffs shall submit this Joint Stipulation of Class and PAGA Representative Action
28 Settlement to the Court in support of Plaintiffs' unopposed motion for preliminary approval for

determination by the Court as to its fairness, adequacy, and reasonableness. Plaintiffs shall provide Defendants' counsel with a draft of the motion at least 5 business days before it is filed with the Court to enable Defendants an opportunity to review and comment in advance of filing. The motion shall apply to the Court for the entry of an order:

- (a) Scheduling a final approval and fairness hearing on the question of whether the proposed Settlement, including payment of attorney's fees and costs, and the Class Representatives' service payment, should be finally approved as fair, reasonable, and adequate as to the members of the Class;
- (b) Certifying a Class;
- (c) Approving as to form and content the proposed Notice;
- (d) Directing the mailing of the Notice;
- (e) Preliminarily approving the Settlement subject only to the objections of Class Members and final review by the Court;
- (f) Conditionally appointing Plaintiffs and Class Counsel as representatives of the proposed Class Members; and,
- (g) Appointing ILYM Group, Inc. as the Settlement Administrator, and ordering the Settlement Administrator to issue Notices as outlined above.

DUTIES OF THE PARTIES FOLLOWING FINAL COURT APPROVAL

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

- (a) Approving the Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and directing consummation of its terms and provisions;
- (b) Approving Class Counsel's application for an award of attorney's fees and costs;
- (c) Approving the Service Payments to the Class Representatives;
- (d) Adjudging the Settlement Administrator has fulfilled its initial notice and reporting duties under the Settlement.

- (e) Adjudging Plaintiffs and Class Counsel may adequately represent the Final Settlement Class for the purpose of entering into and implementing the Agreement;
- (f) Entering a final judgment in the action;
- jurisdiction to oversee enforcement of the Agreement;
- (g) Adjudging that notwithstanding the submission of a timely request for exclusion, Class Members are still bound by the settlement and release of the Released PAGA Claims or remedies under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), as requests to be excluded from the Settlement do not apply to the Released PAGA Claims, and further affirms that the State's claims for civil penalties pursuant to PAGA are also extinguished;
- (h) Directing the posting of the final judgment on a website maintained by the Settlement Administrator for a period of not less than 90 calendar days after entry of final judgment.

NULLIFICATION AND TERMINATION

53. This Settlement will be null and void if any of the following occur: (a) the Court should for any reason fail to certify a class for settlement purposes; (b) the Court should for any reason fail to preliminarily or finally approve of this Settlement in the form agreed to by the Parties, other than adjustments made to the attorney's fees and costs or granting of Service Payments; (c) the Court should for any reason fail to enter the final judgment; (d) the final judgment is reversed, modified, or declared or rendered void; or (e) the Settlement does not become final for any other reason.

54. If 3% or more of the Class Members opt out of this Settlement, then Defendants in their sole discretion may terminate, nullify and void this Settlement. The Settlement Administrator shall provide Defendants' Counsel with the information necessary to effectuate this provision on a regular basis, but no less frequently than on a bimonthly basis. To terminate this Settlement under this paragraph, Defendants' Counsel must give Class Counsel written notice, by facsimile, e-mail, or mail, no later than 30 calendar days after the Response Deadline. If this option is exercised by Defendants, Defendants shall be solely responsible for the costs incurred by the Settlement Administrator for the settlement administration.

55. In the event this Settlement is nullified or terminated as provided above: (i) this Settlement

1 shall be considered null and void, (ii) neither this Settlement nor any of the related negotiations or
2 proceedings shall have any force or effect and no Party shall be bound by any of its terms, and (iii) all
3 Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been
4 neither entered into nor filed with the Court.

5 **PARTIES' AUTHORITY**

6 56. The signatories hereto hereby represent that they are fully authorized to enter into this
7 Settlement and bind the Parties hereto to the terms and conditions thereof.

8 **MUTUAL FULL COOPERATION**

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

17 **NO PRIOR ASSIGNMENTS**

18 58. The Parties and their respective counsel represent, covenant, and warrant that they have not
19 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
20 any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein
21 released and discharged except as set forth herein, and that they are not on notice of any liens as to the
22 Gross Settlement Amount or any right to attorneys' fees or costs.

23 **NO ADMISSION OF LIABILITY**

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

ENFORCEMENT ACTIONS

60. In the event that one or more of the Parties to this Settlement institutes any legal action or other proceeding against any other party or parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful party or parties shall be entitled to recover from the unsuccessful party or parties reasonable attorney's fees and costs, including expert witness fees incurred in connection with any enforcement actions.

NOTICES

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

Class Counsel:

Kane Moon (SBN 249857)
kane.moon@moonyanglaw.com
Allen Feghali (SBN 301080)
allen.feghali@moonyanglaw.com
Edwin Kamarzarian (SBN 327830)
edwin.kamarzarian@moonyanglaw.com
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Paul Mancillas

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
Christina M. Le (SBN 237697)
cle@wilshirelawfirm.com
Arsiné Grigoryan (SBN 319517)
agrigoryan@wilshirelawfirm.com
Zachary Greenberg (SBN 331501)
Zgreenberg@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiffs Matt Martell
and Edward Cosico

Counsel for Defendants:

Amanda C. Sommerfeld (State Bar No. 185052)
Jennifer A. Wilson (State Bar No. 335631)
JONES DAY
555 South Flower Street, Fiftieth Floor
Los Angeles, CA 90071.2452
Telephone: +1.213.489.3939
Facsimile: +1.213.243.2539
Email:
asommerfeld@jonesday.com
jawilson@jonesday.com

Aileen H. Kim (State Bar No. 324522)
JONES DAY
3161 Michelson Drive, Suite 800
Irvine, CA 92612
Telephone: +1.949.851.3939
Facsimile: +1.949.553.7539
Email:
aileenkim@jonesday.com

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CONSTRUCTION

62. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive arms-length negotiations between the Parties, including but not limited to an all-day mediation with Mark Rudy, Esq., and this Settlement shall not be construed in favor of or against any Party by reason of the extent to which any Party or his, her or its counsel participated in the drafting of this Settlement.

CAPTIONS AND INTERPRETATIONS

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

MODIFICATION

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

INTEGRATION CLAUSE

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

WAIVER OF APPEALS

66. The Parties agree to waive appeals and to stipulate to class certification for purposes of implementing this Settlement only, with the exception that Class Counsel retains the right to appeal the amount awarded as attorney's fees in the event that the Court awards less than twenty-five percent of the Gross Settlement Amount as attorney's fees.

BINDING ON ASSIGNS

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

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COUNTERPARTS

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

CONFIDENTIALITY

FINAL JUDGMENT

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

IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this Joint Stipulation of Class and PAGA Representative Action Settlement between Plaintiffs and Defendants as set

1 forth below:

2 IT IS SO STIPULATED.

3 **Plaintiffs & Class Representatives:**

4 Dated:

By: _____

PAUL MANCILLAS

5 Dated: 11/8/2022

By: _____

MATT MARTELL

7 Dated:

By: _____

EDWARD COSICO

9 **Plaintiffs' Counsel:**

10 Dated:

MOON & YANG, APC

12 By: _____

Kane Moon
Allen Feghali
Edwin Kamarzarian
Attorneys for Plaintiffs

15 Dated:

WILSHIRE LAW GROUP

17 By: _____

Justin Marquez
Attorneys for Plaintiffs

19 **Defendants:**

20 Dated:

STANLEY BLACK & DECKER, INC.

22 By: _____

Print Name

Signature

Title

1 forth below:

2 IT IS SO STIPULATED.

3 **Plaintiffs & Class Representatives:**

4 Dated:

By: _____
PAUL MANCILLAS

5 Dated:

By: _____
MATT MARTELL

7 Dated: 11/8/2022

By:  _____
EDWARD COSICO

9 **Plaintiffs' Counsel:**

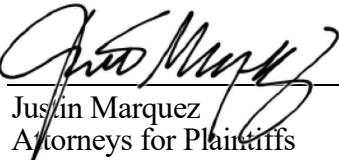
10 Dated:

MOON & YANG, APC

12 By: _____
Kane Moon
Allen Feghali
Edwin Kamarzarian
Attorneys for Plaintiffs

15 Dated: November 8, 2022

WILSHIRE LAW GROUP

17 By:  _____
Justin Marquez
Attorneys for Plaintiffs

19 **Defendants:**

20 Dated:

STANLEY BLACK & DECKER, INC.

22 By: _____
Print Name

24 _____
Signature

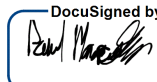
26 _____
Title

1 forth below:

2 IT IS SO STIPULATED.

3 **Plaintiffs & Class Representatives:**

4 Dated: 11/9/2022

By:  DocuSigned by:
DEDF3C5B115742C...
PAUL MANCILLAS

5 Dated:

By: _____
MATT MARTELL

7 Dated:

By: _____
EDWARD COSICO

9 **Plaintiffs' Counsel:**

10 Dated: 11/9/2022

MOON & YANG, APC

11 By: 
12 Kane Moon
13 Allen Feghali
14 Edwin Kamarzarian
15 Attorneys for Plaintiffs

15 Dated:

WILSHIRE LAW GROUP

17 By: _____
18 Justin Marquez
19 Attorneys for Plaintiffs

19 **Defendants:**

20 Dated:

STANLEY BLACK & DECKER, INC.

22 By: _____
23 Print Name

24 _____
25 Signature

26 _____
27 Title

IT IS SO STIPULATED.

Dated: _____ By: PAUL MANCILLAS

Dated: _____ By: MATT MARTELL

Dated: _____ By: _____
EDWARD COSICO

Dated: MOON & YANG, APC

By: _____
Kane Moon
Allen Feghali
Edwin Kamarzarian
Attorneys for Plaintiffs

Dated: _____ WILSHIRE LAW GROUP

By: _____
Justin Marquez
Attorneys for Plaintiffs

Dated: November 28, 2022

By: Theodore C. Morris
Print Name



Signature

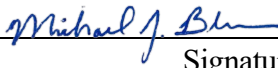
Assistant Secretary

Title

1 Dated: November 28, 2022

STANLEY CONVERGENT SECURITY SOLUTIONS,
INC.

2
3 By: Michael J. Blum
4 Print Name

5 
6 Signature

7 Secretary
8 Title

9 **Defendants' Counsel:**

10 Dated: November 28, 2022

JONES DAY

12
13 By: 
14 Amanda C. Sommerfeld
Attorneys for Defendants

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT (“Notice”)

Black & Decker Wage and Hour Cases - JCCP Case No. 5218

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

THIS NOTICE MAY AFFECT YOUR RIGHTS, IF YOU ARE OR WERE EMPLOYED BY ANY OF THE FOLLOWING IN CALIFORNIA AS AN HOURLY-PAID EMPLOYEE AT ANY TIME BETWEEN AUGUST 30, 2017 THROUGH << [the date the Court grants preliminary approval]>>:

AEROFIT, LLC	AEROSCOOT, LLC	BLACK & DECKER (U.S.) INC.
BRISTOL INDUSTRIES, LLC	CONSOLIDATED AEROSPACE MFG., LLC	EMHART TEKNOLOGIES, LLC
IRWIN INDUSTRIAL TOOL CO.	MOELLER MFG & SUPPLY, LLC	NELSON STUD WELDING, INC.
STANLEY ACCESS TECHNOLOGIES, LLC	STANLEY BLACK & DECKER, INC.	STANLEY CONVERGENT SECURITY SOLUTIONS, INC.
STANLEY INSPECTION, LLC	STANLEY PIPELINE INSPECTION, LLC	STANLEY SECURITY SOLUTIONS, INC.
3-V FASTENER CO., INC.		

(COLLECTIVELY, “DEFENDANTS”)

Why should you read this Notice?

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Black & Decker Wage and Hour Cases*, JCCP Case No. 5218 (the “Action”). The purpose of this Notice is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. David Cohn on <<**FA Date and Time**>> in Department S26 of the San Bernardino Superior Court, San Bernardino District Courthouse, 247 West 3rd St., San Bernardino, CA 92415, to determine whether the Settlement is fair, adequate and reasonable. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING – GET MONEY	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendants for the Released Claims (as defined below) asserted in the Action as explained more fully below.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: << RESPONSE DATE>>	You have the option to pursue separate legal action against Defendants about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded (as defined below) no later than << RESPONSE DATE >>. As a result, you will not receive any benefits under the Settlement.
OBJECT TO THE SETTLEMENT DEADLINE TO SUBMIT WRITTEN OBJECTIONS: << RESPONSE DATE>>	To object to the Settlement, you may mail a written explanation of why you don’t like the Settlement to the Settlement Administrator, appear at the final approval hearing, or hire an attorney at your expense to object for you. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> submit a Request to be Excluded if you wish to object. Written objections must be submitted by << RESPONSE DATE >>.
ATTEND THE FINAL APPROVAL HEARING	The Court will hold a final approval hearing on << FA Date and Time >>. At the hearing, the Court will determine whether to approve the settlement and

	whether to award Class Counsel (as defined below) any requested attorneys' fees and costs.
--	--

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following class (the "Class"):

All current and former non-exempt employees of Defendants who worked in California at any time during the Class Period (the "Class Period" is August 30, 2017 through < [the date the Court grants preliminary approval]>).

You are receiving this Notice because Defendants' records indicate that you are or were employed as a non-exempt employee during the Class Period. You are included in this lawsuit as a member of the Class ("Class Member"), unless you submit a Request for Exclusion.

What is this case about?

In the Action, Plaintiffs Paul Mancillas, Edward Cosico, and Matt Martell ("Plaintiffs" or "Class Representatives") allege on behalf of themselves and the Class that Defendants: (1) failed to pay minimum and straight time wages; (2) failed to pay overtime wages; (3) failed to provide meal periods; (4) failed to authorize and permit rest periods; (5) failed to reimburse necessary business expenses; (6) failed to timely pay all wages to terminated employees; (7) failed to furnish accurate itemized wage statements; (8) violated California's Unfair Competition Law, California Business and Professions Code section 17200 et seq.; and (9) violated provisions of the Labor Code giving rise to civil penalty liability under the California's Private Attorneys General Act of 2004 [Lab. Code § 2699, et seq.] ("PAGA"). Plaintiffs seek unpaid wages, actual damages, declaratory relief, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendants deny all liability and contend that their policies were proper, in that their employees were timely paid all minimum, straight time, and overtime wages, provided with compliant wage statements, reimbursed for all necessary business expenses, and provided with compliant meal and rest breaks (unless waived by the employee). Defendants are confident that they have strong legal and factual defenses to these claims, but they recognize the risks, distractions, and costs associated with litigation. Defendants contend that their conduct is and has been lawful at all times relevant and that Plaintiffs' claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiffs and Defendants (the "Parties"), through their attorneys, and is not an admission of liability or wrongdoing on the part of Defendants.

The Court has not ruled on the merits of Plaintiffs' claims or Defendants' defenses.

What are the Settlement terms?

Subject to final Court approval, Defendants will pay \$3,500,000 (the "Gross Settlement Amount") to resolve the Action. All Parties believe that it is in the best interests of all involved to resolve the Action by way of settlement, rather than to spend Party and judicial resources engaging in protracted litigation. Although Defendants have agreed to a settlement, they deny that they violated any laws or that they owe any unpaid wages or penalties.

Out of that Gross Settlement Amount, Class Counsel will ask the Court to award attorneys' fees, up to one-third of the Gross Settlement Amount (\$1,166,667) and to reimburse reasonable costs incurred in the Action not to exceed \$25,000. In addition, Class Counsel will ask the Court to authorize the deduction and payment of Class Representative "Service Payments" of \$10,000 for each of the three Plaintiffs for their efforts in bringing the case on behalf of the Class. The Parties' estimated cost of administering the Settlement (up to \$30,000) and a payment to the California Workforce Development Agency ("LWDA") for PAGA penalties in the amount of \$112,500, will also be deducted from the Gross Settlement Amount. The remainder will be paid out in individual Settlement Payments, as explained below.

Individual Settlement Payments. After deduction from the Gross Settlement Amount for attorneys' fees and costs, the Class Representative Service Payments to Plaintiffs, the payment to the LWDA, and settlement administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, the Settlement

Administrator will distribute an individual settlement payment (“Settlement Payment”) to each Class Member who does not submit a Request for Exclusion (“Settlement Class Members”).

The Net Settlement Amount shall be divided among all Settlement Class Members on a pro rata basis based upon the total number of workweeks worked by each respective Settlement Class Member as a non-exempt hourly employee in the State of California during the Class Period. Your estimated individual Settlement Payment is listed below.

Your estimated minimum settlement payment is <<Estimated Payment>> before taxes and other withholdings and your covered Work Weeks (i.e., number of weeks you worked at Defendants’ locations in California during the Class Period) are <<Work Weeks>>. This amount is only an estimate, and the actual amount you receive may be more or less than the estimated amount. No payments will be made if the Court does not grant final approval of the Settlement, or if you opt out from the Settlement. To the extent you dispute the number of Work Weeks, you must make your dispute (“Work Week Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than <<+60 days from date of mailing>> (the “Response Deadline”) to:

ILYM Group, Inc., <<mailing address>>

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendants’ records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable. **REMINDER:** If you believe your estimated individual Settlement Amount is incorrect because your Work Weeks (the number of total weeks you worked within the Class Period only) are wrong, the deadline to dispute the workweeks reported for you is <<RESPONSE DATE>>.

For tax reporting purposes, the payments to Settlement Class Members will be allocated 33 1/3% as wages, 33 1/3% as penalties, and 33 1/3% as interest, excluding the \$37,500 in PAGA Settlement Payments, which will be allocated as 100% penalties. The wage portion of the individual Settlement Payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable employee-side payroll taxes from the wage portion of the individual Settlement Payments. The portion of the Settlement Payments allocated to penalties and interest shall be classified as other miscellaneous income and reported on IRS Form 1099-MISC. Any taxes owed on that other miscellaneous income will be the responsibility of Settlement Class Members receiving those payments. The employer’s share of any payroll taxes will be separately paid by Defendants.

All checks for individual Settlement Payments paid to Settlement Class Members shall advise that the checks will remain valid and negotiable for one hundred eighty (180) days from the date of the checks’ issuance and shall thereafter automatically be void if not cashed within that time. Any individual Settlement Payment that is not cashed within one hundred eighty (180) days of issuance shall be transmitted to the State of California Unclaimed Property Fund in the name of each check recipient who failed to cash their check prior to the void date. The Settlement Administrator shall void any tax documents issued to Settlement Class Members who did not cash their checks within 180 days of issuance. In such event, the Settlement Class Member shall nevertheless remain bound by the Settlement.

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

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

Calculation of Individual PAGA Settlement Payments. The PAGA Allocation (a total of \$150,000) will be distributed to the LWDA and to the PAGA Employees. In accordance with California law, 75 percent of the PAGA Allocation (or \$112,500) will be paid to the LWDA and the remaining 25 percent of the PAGA Allocation (or \$37,500) will be paid to the PAGA Employees on a pro-rata basis (the “PAGA Settlement Payments”) based on

the number of pay periods each PAGA Employee worked for Defendants in California between August 30, 2020 and [the date preliminary approval is granted](the “PAGA Period”). Your estimated individual pay periods during the PAGA Period and estimated PAGA Settlement Payment are listed below:

You worked a total of <<PAGA Pay Periods>> pay periods in California during the PAGA Period. Based on your pay periods during the PAGA Period, your estimated PAGA Settlement Payment is approximately \$<<Est PAGA Settlement Payment>>.

Each PAGA Settlement Payment will be allocated as 100% miscellaneous income and reported to state and federal taxing authorities by the Settlement Administrator using Form 1099-MISC. Any taxes owed on the PAGA Settlement Payment will be the responsibility of the PAGA Employee receiving these payment.

What claims are being released by the proposed Settlement?

Upon the final approval by the Court of this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class, and each Class Member who has not submitted a valid and timely Request to be Excluded, will release claims as follows:

(a) **Identity of Released Parties.** The released parties are Defendants, and each of its/their former and present direct and/or indirect owners, dba’s, affiliates, parents, subsidiaries, brother and sister corporations, divisions, related companies, successors and predecessors, and current and former employees, attorneys, officers, directors, shareholders, owners, trustees, attorneys, fiduciaries, beneficiaries, subrogees, executors, partners, privies, agents, servants, insurers, representatives, administrators, employee benefit plans, and assigns of said entities (collectively “Releasees”).

(b) **Claims Released by Settlement Class Members.** Once the Settlement receives final approval and deposit of the Gross Settlement Amount has been made, each and every Settlement Class Member, on behalf of himself or herself and his or her heirs and assigns will have released the Released Parties from the following claims for the entire Class Period: any and all claims stated in the Action, or that could have been stated based on the facts alleged in the Action, including but not limited to all wage and hour claims (including all claims under the California Labor Code or the Fair Labor Standards Act) relating to unpaid wages (including, but not limited to, unpaid minimum wages, straight time wages, overtime wages, doubletime wages, vacation pay, bonus pay, commission pay, and all other types of wages), off-the-clock work, untimely wages, meal periods and any premiums owed, rest periods and any premiums owed, unreimbursed business expenses, wage statement violations, interest, penalties, and attorneys’ fees, waiting time penalties, withholding from wages and the related provisions of the Labor Code including but limited to Labor Code §§ 201-204, 210, 216, 218.6, 221, 226, 226.3, 226.7, 510, 512, 512.5, 558, 1194, 1194.2, 1197, 1198, 2802, derivative claims under California Business & Professions Code §§ 17200 et seq., and all claims under the governing Wage Order, and Fair Labor Standards Act (“Released Claims”);

c) **PAGA Claims Released by PAGA Employees.** All recipients of this Notice, including all PAGA Employees, release their claims under PAGA, regardless of whether they have requested exclusion from the Settlement as to Class claims. The “Released PAGA Claims” means and includes any and all claims arising under PAGA which were or could have been raised in the Action during the entire PAGA Period.

What are my options in this matter?

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

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

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

Objecting to the Settlement: If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you may object to it by submitting a written statement of objection (“written objection”) to the Settlement

Administrator at ILYM Group, Inc. <<address>>. If you submit a written objection, it should contain sufficient information to confirm your identity and the basis of the objection, including: (1) your full name; (2) the grounds for the objection; (3) your signature; and (4) be postmarked on or before <<Response Deadline>> and returned to the Settlement Administrator at the address listed above to ensure that it is received in time to be sent to and considered by the Court. You can also hire an attorney at your own expense to represent you in your objection. The Parties shall file responses to any written objections before the final approval hearing. You may also appear at the hearing to discuss your objection with the Court. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

Regardless of the form, an objection alone will not satisfy the requirement that a Settlement Class Member must formally intervene and become a party of record in the action in order to appeal a Judgment entered following an Order finally approving this Settlement.

OPTION B. Request to Be Excluded from the Settlement and Receive No Money from the Settlement. If you do not want to be part of the Settlement, you must submit a written Request to be Excluded from the Settlement to the Settlement Administrator at ILYM Group, Inc. <<address>>. In order to be valid, your written request to be excluded from the Settlement must be signed and include your name, address, telephone number, and last four digits of your Social Security Number (to confirm your identity and make certain that only persons requesting exclusion are removed from the settlement), along with a statement like the following:

“I WISH TO BE EXCLUDED FROM THE CLASS IN THE *STANLEY BLACK & DECKER, INC.* CLASS ACTION LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OTHER THAN MY SHARE OF THE PAGA PAYMENT.”

Your written request to be excluded from the Settlement must be signed and postmarked on or before <<Response Deadline>>. If you do not submit a written request to be excluded from the Settlement on time (as evidenced by the postmark), your written request to be excluded from the Settlement will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a written request to be excluded from the Settlement by the deadline, you will have no further role in the Action. **You will not be entitled to any benefit, including money,** as a result of the Action and Settlement, except to the extent that you are eligible to receive a portion of the penalties provided for under PAGA. You will not be able to complain to the Court about any aspect of the Settlement. You will keep any rights you may have to sue Defendants for the legal claims included in this Action and represent your own interests using counsel of your choosing.

Can Defendants retaliate against me for exercising these options?

No. Defendants and their officers, managers, and supervisors will not (and cannot) retaliate against you for participating in this lawsuit, for asking to be excluded, or for objecting to the settlement.

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

The Court will hold a final approval hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel’s request for attorneys’ fees and costs, the Class Representative Service Payments to Plaintiffs, the settlement administration costs, and the payment to the LWDA for PAGA penalties on <<FA Date and Time>> in Department S26 of the San Bernardino Superior Court, San Bernardino District Courthouse, 247 West 3rd St., San Bernardino, CA 92415. The final approval hearing may be continued without further notice to Class Members. You are welcome, but not required, to attend the final approval hearing.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on the Settlement Administrator’s website at: <<CASE WEBSITE>> within **seven** calendar days.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

Plaintiffs’ Counsel (“Class Counsel”):

Kane Moon
kane.moon@moonyanglaw.com

Justin F. Marquez
justin@wilshirelawfirm.com

Allen Feghali
allen.feghali@moonyanglaw.com
Edwin Kamarzarian
edwin.kamarzarian@moonyanglaw.com
MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Paul Mancillas

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Attorneys for Plaintiffs Matt Martell
and Edward Cosico

Defendants' Counsel:

Amanda C. Sommerfeld
Aileen Kim
JONES DAY
3161 Michelson Drive, Suite 800
Irvine, CA 92612
Telephone: +1.949.851.3939
Facsimile: +1.949.553.7539
Email: aileenkim@jonesday.com

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement. More details are in the Joint Stipulation of Class Action and PAGA Representative Action Settlement attached to the Declaration of Kane Moon in Support of Plaintiffs' Motion for Preliminary Approval. The Joint Stipulation of Class and PAGA Representative Action Settlement and all other records relating to the lawsuit are available for inspection and/or copying at the Civil Records Office of the San Bernardino Superior Court. You may also request a copy of the Settlement Agreement from Class Counsel, at the address listed above. You can also obtain further information regarding this action and this settlement at: <<**CASE WEBSITE**>>. The website will be maintained by the Settlement Administrator for at least 90 calendar days after Judgment is entered.

**PLEASE DO NOT CONTACT THE COURT OR COUNSEL FOR DEFENDANTS FOR
INFORMATION REGARDING THIS SETTLEMENT NOTICE.**

Exhibit 2

Linh Tran

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, December 21, 2022 1:48 PM
To: Linh Tran
Subject: Thank you for your Proposed Settlement Submission

12/21/2022 01:47:36 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

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

Exhibit 3

MOON & YANG, APC

ATTORNEYS AT LAW
WWW.MOONYANGLAW.COM

1055 W. SEVENTH ST., SUITE 1880
LOS ANGELES, CALIFORNIA 90017
TELEPHONE: (213) 232-3128
FACSIMILE: (213) 232-3125

Kane Moon, Esq.
Kane.Moon@moonyanglaw.com

August 28, 2021

VIA ONLINE SUBMISSION

Labor & Workforce Development Agency
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

VIA CERTIFIED MAIL

Stanley Black & Decker, Inc.
1000 Stanley Drive
New Britain, CT 06053

Notice of Labor Code Violations and PAGA Penalties

Re: ***Paul Mancillas v. Stanley Black & Decker, Inc.***

To Whom It May Concern:

Please be advised that my office has been retained by Paul Mancillas ("Plaintiff") to pursue a Labor Code Private Attorney General Act (PAGA) representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employer, Stanley Black & Decker, Inc. ("Defendant"). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant's aggrieved employees.

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

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

Factual Background Regarding Plaintiff's Employment with Defendant

Defendant owns and operates an industry, business, and establishment within the State of California, including San Bernardino County. As such, Defendant is subject to the California Labor Code and the Wage Orders issued by the Industrial Welfare Commission ("IWC").

Plaintiff worked for Defendant as a machine operator from approximately October 2016 to November 2020, primarily in San Bernardino County. Defendant classified Plaintiff as non-exempt from overtime. During the time period that Plaintiff was employed by Defendant, Plaintiff typically worked 5 days per week, and in excess of 8 hours each workday.

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

Failure to Pay for All Hours Worked, Including Overtime

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

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

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the Industrial Welfare Commission is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including all overtime wages. Defendants regularly use a system of time rounding in a manner that resulted, over a period of time, in failing to compensate Plaintiff and the Aggrieved Employees properly for all the time they have actually worked, even though the realities of Defendants' operations are such that it is possible, practical, and feasible to count and pay for work time to the minute. Also throughout the statutory period, Plaintiff and the Aggrieved Employees were required to work "off the clock" and uncompensated. For example, Plaintiff and the Aggrieved Employees were required to work before and/or after the scheduled shift, and off the clock. Plaintiff and the Aggrieved Employees were also required to undergo COVID screening, including temperature checks, and including waiting in line in order to undergo this screening, uncompensated. Also throughout the statutory period, Plaintiff and the Aggrieved Employees received non-discretionary bonuses. However, Defendants failed to incorporate all remuneration when determining the correct overtime rate of pay, and when determining the correct meal premium payment rate of pay, leading to underpaying to Plaintiff and the Aggrieved Employees of both overtime compensation

and meal premium payments. In maintaining a practice of not paying all wages owed, Defendants failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

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

Failure to Provide Meal Periods

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

Despite these legal requirements, Defendant wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, continuous and uninterrupted, duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a meal period by the end of the fifth hour of work, or, for shifts greater than 10 hours, by the end of the tenth hour of work. Moreover, Defendant did not have adequate written policies or practices providing meal periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of meal periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required meal periods. Accordingly, Defendant's policy and practice was to not provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

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

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

Failure to Authorize and Permit Rest Periods

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

Defendant, however, wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take timely and duty-free rest periods. Defendant regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendant authorizing and permitting them to take a 10 minute, continuous and uninterrupted, rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Defendant did not adequately inform Plaintiff and the Aggrieved Employees of their right to take a rest period. Moreover, Defendant did not have adequate policies or practices permitting or authorizing rest periods for Plaintiff and the Aggrieved Employees, nor did Defendant have adequate policies or practices regarding the timing of rest periods. Defendant also did not have adequate policies or practices to verify whether Plaintiff and the Aggrieved Employees were taking their required rest periods. Further, Defendant did not maintain accurate records of employee work periods, and therefore Defendant cannot demonstrate that Plaintiff and the Aggrieved Employees took rest periods during the middle of each work period. Accordingly, Defendant's policy and practice was for Plaintiff and the Aggrieved Employees to work through rest periods and to not authorize or permit them to take any rest periods.

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

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

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

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

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

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

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

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

Failure to Reimburse and Indemnify Expenses

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

Throughout the statutory period, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants without reimbursement. For example, Plaintiff and the Aggrieved Employees were required to purchase gloves, boots, safety glasses, zip ties, ropes, tie wires, and sandpaper, without reimbursement. Plaintiff and the Aggrieved Employees were also required to use their own personal cellular telephones for work, including to text coworkers and supervisors and to take photos of inventory and shipments, and other related items, without reimbursement. Plaintiff and the Aggrieved Employees were also occasionally required to use their own vehicles for work, without automobile reimbursement. Plaintiff and the Aggrieved Employees were also required to purchase items such as flashlights, compressors, leak detector sprays, and tools, without

reimbursement. Further, Plaintiff and the Aggrieved Employees were required to use their own personal cellular telephones for work, without reimbursement.

Failure to Timely Pay All Wages at Termination

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

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

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

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

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

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for

which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

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

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

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

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

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

Failure to Pay All Earned Wages Twice Per Month

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

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for hours worked. However, during all such times, Defendant systematically failed and refused to pay the employees all wages due, and failed to pay those wages twice a month, in that employees were not paid all wages for all meal

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

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

Action for Civil Penalties Under PAGA

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

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

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 558, 1174.5, 1197.1, 2802, and 2699(f)(2).

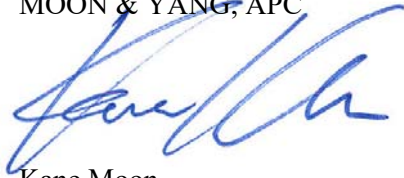
Plaintiff has placed Defendant on notice by mailing a certified copy of this correspondence to its corporate address, as indicated on the first page.

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

LWDA
Notice of Labor Code Violations and PAGA
August 28, 2021
Page 9 of 9

Sincerely,

MOON & YANG, APC

A handwritten signature in blue ink, appearing to read 'Kane Moon', is written over the text 'MOON & YANG, APC'.

Kane Moon
Attorney at Law

Exhibit 4

Activities Export

12/13/2022

10:26 AM

Date ▾	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
10/03/2022	\$	Berger Consulting ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$5,125.00	-	\$5,125.00
03/17/2022	\$	Mediation fee (p) ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$11,000.00	-	\$11,000.00
03/11/2022	\$	Courtcall ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$94.00	-	\$94.00
12/01/2021	\$	Courtcall ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$94.00	-	\$94.00
11/30/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$86.00	-	\$86.00
11/15/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$77.00	-	\$77.00
10/11/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$230.25	-	\$230.25
10/11/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$71.75	-	\$71.75
09/24/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$73.75	-	\$73.75
							\$0.00 0.00h	\$19,425.75 0.00h

Activities Export

12/13/2022

10:26 AM

Date ▼	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
08/31/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$157.00	-	\$157.00
08/31/2021	\$	Ace ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$157.00	-	\$157.00
08/30/2021	\$	Complaint fee ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$1,435.00	-	\$1,435.00
08/30/2021	\$	Admin fee ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$750.00	-	\$750.00
08/23/2021	\$	LWDA ● Unbilled	01422-Mancillas Mancillas v. Stanley Black & Decker Inc. (SR)	Seung Yang	1.00	\$75.00	-	\$75.00
							\$0.00 0.00h	\$19,425.75 0.00h

Exhibit 5

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Mancillas v. Stanley Black & Decker Inc.

Tuesday, December 13, 2022

Requesting Law Firm:	Moon & Yang, APC
Law Firm Contact:	Linh Tran
E-Mail Address:	linh.tran@moonyanglaw.com
ILYM Group Contact:	Sean Hartranft
E-Mail Address:	Sean@ilymgroup.com
Contact Number:	949.690.2564

ESTIMATE FOR ADMINISTRATION SOLUTIONS

ASSUMPTIONS	
Estimated Class Size	1,806
Estimated Percentage of Undeliverable Mail	10%
ILYM Group Static Website	Yes
Certified Spanish Translation	Yes

Activity	Rate Type	Unit Cost	Volume	Amount
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CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	5	\$750.00
Programming of Class Database	Hourly	\$175.00	5	\$875.00

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

Subtotal \$1,625.00

PROJECT MANAGEMENT				
Project Manager (Case notification and maintenance)	Hourly	\$120.00	8	\$960.00
Staff Hours for Processing Returned Mail	Hourly	\$70.00	2	\$140.00
Staff Hours for Processing Opt-Outs, Disputes & Objections	Hourly	\$70.00	4	\$280.00
Report Processing	Hourly	\$70.00	5	\$350.00
NCOA	Flat Fee	\$195.00	1	\$195.00
Toll-Free Call Center Support	Flat Fee	\$250.00	1	\$250.00
Certified Spanish Translation	Flat Fee	\$1,250.00	1	\$1,250.00
ILYM Group Static Website, Includes Hosting	Flat Fee	\$750.00	1	\$750.00
Weekly Reports	Flat Fee	\$750.00	1	Waived

Subtotal \$4,175.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Activity	Rate Type	Unit Cost	Volume	Amount
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NOTIFICATION/MAILING				
Fulfillment of Notice, English & Spanish	Per Piece	\$1.50	1,806	\$2,709.00
USPS First Class Postage	Per Piece	\$0.57	1,806	\$1,029.42
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$2.00	361	\$722.40
Storage, Photocopies, Deliveries	Flat Fee	\$269.56	1	\$269.56

Subtotal \$4,730.38

DISTRIBUTION (Includes EIN, Bank Acct * /QSF Setup)				
Distribution Setup & Management	Hourly	\$150.00	7	\$1,050.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	7	\$875.00
Check Stub & Release - (including W-2 & 1099)	Per Check	\$1.50	1,806	\$2,709.00
Check Mailing Postage	Per Piece	\$0.57	1,806	\$1,029.42
Re-Mails (Skip Trace/Undeliverable/Requests)	Per Piece	\$2.00	181	\$361.20
Preparation of Taxes	Hourly	\$125.00	15	\$1,875.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$9,399.62

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	6	\$600.00
Project Manager Final Reporting	Hourly	\$120.00	6	\$720.00
Process Unclaimed Funds to State Controller's Office	Flat Fee	\$750.00	1	\$750.00
Declarations	Hourly	\$125.00	4	\$500.00

Subtotal \$2,570.00

Total Case Estimate: \$22,500.00

Terms and Conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

3 I am employed in the county of Los Angeles, State of California. I am over the age of 18
4 and not a party to the within action; my business address is 1055 W. Seventh St., Suite 1880, Los
Angeles, California 90017. On **January 6, 2023**, I served the foregoing document described as:

5 **DECLARATION OF KANE MOON IN SUPPORT OF PLAINTIFFS' MOTION FOR**
6 **PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

7 X by placing ___ the original X a true copy thereof enclosed in sealed envelope(s)
addressed as follows:

8 Amanda C. Sommerfeld
9 asommerfeld@jonesday.com
Jennifer A. Wilson
10 jawilson@jonesday.com
JONES DAY
11 555 South Flower Street, Fiftieth Floor
Los Angeles, CA 90071.2452
12 Telephone: +1.213.489.3939
Facsimile: +1.213.243.2539

Aileen H. Kim
aileenkim@jonesday.com
JONES DAY
3161 Michelson Drive, Suite 800
Irvine, CA 92612
Telephone: +1.949.851.3939
Facsimile: +1.949.553.7539

13 ***Attorney for Defendant STANLEY BLACK & DECKER, INC. and STANLEY***
14 ***CONVERGENT SECURITY SOLUTIONS, INC.***

15 Justin F. Marquez
justin@wilshirelawfirm.com
Christina M. Le
16 CLe@wilshirelawfirm.com
Zachary D. Greenberg
17 ZGreenberg@wilshirelawfirm.com
WILSHIRE LAW FIRM
18 3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
19 Tel: (213) 381-9988
20 Fax: (213) 381-9989

21 ***Attorneys for Plaintiffs***
EDWARD COSICO and MATTHEW MARTELL

22
23 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
24 envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with
25 the firm's practice of collection and processing correspondence for mailing. Under
26 that practice it would be deposited with U.S. postal service on that same day with
27 postage thereon fully prepaid at Los Angeles, California in the ordinary course of
28 business. I am aware that on motion of the party served, service is presumed invalid
if postal_cancellation da!9 9r postage meter date is more than one day after date of
deposit for mailing in affidavit....

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed this, **January 6, 2023** at Los Angeles, California.

4 Janelle Jickain
Type or Print Name


Signature