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25 FORMA ALMADEN VALLEY, LLC and  
26 WALNUT CREEK SPORTS CLUB LLC

27 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

28 **FOR THE COUNTY OF CONTRA COSTA**

1 ANNA RUIZ, individually and on behalf of  
2 other members of the general public similarly  
3 situated;

4 Plaintiff,

5 vs.

6 FORMA ALMADEN VALLEY, LLC, a  
7 California limited liability company;  
8 WALNUT CREEK SPORTS CLUB LLC, a  
9 California limited liability company; and  
10 DOES 1 through 100, inclusive,

11 Defendants.

Case No.: C23-01864

Assigned to Hon. Charles S. Treat

**STIPULATION OF CLASS ACTION  
SETTLEMENT**

**Complaint Filed: July 28, 2023**

1     **I.       INTRODUCTION AND SUMMARY OF SETTLEMENT TERMS**

2             This stipulation sets forth the terms of the settlement of a class and representative  
3 action filed on behalf of current and former non-exempt employees who worked for  
4 Defendants FORMA ALMADEN VALLEY, LLC and WALNUT CREEK SPORTS CLUB  
5 LLC (collectively, “Defendants”), in California during the Class Period, as defined below.  
6 The Complaint alleges causes of action against Defendants for (1) Violation of California  
7 Labor Code sections 510 and 1198 (unpaid overtime); (2) Violation of California Labor  
8 Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) Violation of California  
9 Labor Code section 226.7 (unpaid rest period premiums); (4) Violation of California Labor  
10 Code sections 1194, 1197 and 1197.1 (unpaid minimum wages); (5) Violation of California  
11 Labor Code sections 201 and 202 (final wages not timely paid); (6) Violation of California  
12 Labor Code section 204 (wages not timely paid during employment); (7) Violation of  
13 California Labor Code section 226(a) (non-compliant wage statements); (8) Violation of  
14 California Labor Code section 1174(d) (failure to keep requisite employment records); (9)  
15 Violation of California Labor Code sections 2800 and 2802 (unreimbursed business  
16 expenses); and (10) Violation of California Business & Professions Code sections 17200, et  
17 seq.

18             Under the terms of the parties’ Settlement and after final approval and entry of  
19 judgment pursuant to California Rule of Court 3.769, Defendants will pay a gross settlement  
20 amount of four hundred and five thousand dollars (\$405,000) (the “Gross Settlement  
21 Amount”), plus the employer’s share of payroll taxes. The Settlement will be administered by  
22 a third-party settlement administrator with experience administering class action settlements  
23 of this type. Until distribution, the Gross Settlement Amount will be held in a Qualified  
24 Settlement Fund established by the Settlement Administrator. This is an opt-out settlement,  
25 and Class Members (as defined in Section II) will receive a settlement payment unless they  
26 timely submit a Request for Exclusion. Settlement Class Members shall not be required to  
27 submit a claim form.

1 The Parties agree and propose that the following disbursements will be made from the  
2 Gross Settlement Amount, subject to Court approval at the Final Fairness and Approval  
3 Hearing:

4 A. Settlement Administration Costs, estimated to be \$7,950.

5 B. Class Counsel's Attorneys' Fees, to be approved by the Court, in an amount  
6 not to exceed one hundred and forty-one thousand seven hundred and fifty dollars (\$141,750),  
7 which is 35% of the Gross Settlement Amount;

8 C. Class Counsel's Costs, as approved by the Court, not to exceed \$25,000.

9 D. Service and Release Award to Plaintiff Ana Ruiz in the amount of \$7,500 as  
10 payment for her time and efforts in pursuing this Action, and for the broader release and other  
11 covenants that she will be providing to Defendants; and

12 E. The remainder of the Gross Settlement Amount (the "Net Settlement Amount")  
13 will be distributed to Settlement Class Members based on the methodology discussed in  
14 section IV.L.1, below. It is estimated that the Net Settlement Amount will be approximately  
15 \$222,800, after deductions for Class Counsel's Attorneys' Fees, Class Counsel's Costs,  
16 Settlement Administration Costs and the Service and Release Award.

17 Defendants represent that the Class consisted of approximately 280 members.

## 18 **II. DEFINITIONS**

19 As used in this Stipulation, the following terms shall have the meanings set forth  
20 below:

21 A. "Action" means this putative class action currently pending in Contra Costa  
22 County Superior Court titled *Ruiz v. Forma Almaden Valley, LLC, et al.*, Case No. C23-01864.

23 B. "Agreement" or "Stipulation" means this Stipulation of Class Action  
24 Settlement.

25 C. "Class" means all individuals who were employed by Defendants in California  
26 as non-exempt employees during the Class Period (as defined below). Defendants represents  
27 that the Class consists of approximately 280 members.

28 D. "Class Counsel" means:

Edwin Aiwarzian, Arby Aiwarzian and Joanna Ghosh of LAWYERS for JUSTICE, PC, 410 West Arden Avenue, Suite 203, Glendale, California 91203, (818) 265-1020; and Aaron C. Gundzik and Rebecca G. Gundzik of Gundzik Gundzik Heeger LLP, 14011 Ventura Blvd., Suite 206E, Sherman Oaks, CA 91423, (818) 290-7461.

E. “Class Counsel’s Attorneys’ Fees” means the amount to be awarded to Class Counsel from the Gross Settlement Amount for their attorneys’ fees for their work in this Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel’s Attorneys’ Fees will not exceed 35% of the Gross Settlement Amount.

F. “Class Counsel’s Costs” means the amount to be awarded to Class Counsel from the Gross Settlement Amount to reimburse Class Counsel for their actual reasonable costs and expenses incurred in the Action, subject to Court approval at the Final Fairness and Approval Hearing. Class Counsel’s Costs will not exceed \$25,000.

G. “Class Data” means each Class Member’s full name, social security number, last known address, email address and telephone number(s) to the extent known by Defendants, along with the Class Member’s number of Qualifying Workweeks during the Class Period.

H. “Class Member” is a person who is a member of the Class.

I. “Class Period” means the period from July 28, 2019, through February 12, 2024.

J. “Complaint” means the Complaint on file in the Action.

K. “Court” means the Superior Court of the State of California, in and for the County of Contra Costa, where the Action is currently pending.

L. “Defendants” means Forma Almaden Valley, LLC and Walnut Creek Sports Club, LLC.

M. “Defendants’ Counsel” means Sandra Rappaport, Warren Hodges and Jennifer Puza of Hanson Bridgett LLP, 425 Market Street, 26<sup>th</sup> Floor, San Francisco, CA 94105; Tel.: (415) 777-3200.

1 N. "Effective Date" means the date of entry of the "Final Approval Order" if no  
2 objection is filed. If a timely objection to the settlement is filed, the "Effective Date" will be  
3 the later of (1) 65 days after entry of judgment, provided that no appeal has been filed, or (2)  
4 7 days after any appeal opposing the Final Approval Order has finally and conclusively been  
5 dismissed with no right to pursue further remedies or relief.

6 O. "Employer's Withholding Share" means Defendants' share of all federal, state,  
7 and local taxes and required withholdings, including without limitation, FICA, Medicare tax,  
8 FUTA, and state unemployment taxes. Defendants will pay the Employer's Withholding  
9 Share in addition to the Gross Settlement Amount.

10 P. "Final Approval Order" means the Order Granting Final Approval of Class  
11 Action Settlement and Judgment entered by the Court.

12 Q. "Final Fairness and Approval Hearing" means the hearing on Plaintiff's  
13 Motion for Final Approval of Class Action Settlement at which the Court will be asked to give  
14 final approval to the settlement terms set forth herein and to enter judgment.

15 R. "Gross Settlement Amount" means the four hundred and five thousand dollars  
16 (\$405,000) which Defendants will pay under this Settlement, plus any additional amount owed  
17 pursuant to the escalator clause in section IV.I of this Settlement Agreement.

18 S. "Net Settlement Amount" means the amount remaining from the Gross  
19 Settlement Amount after payments of Court-approved Class Counsel's Attorney's Fees and  
20 Class Counsel's Costs, the Service and Release Award to the Representative Plaintiff and  
21 Settlement Administration Costs. It is estimated that the Net Settlement Amount will be at  
22 least \$222,800.

23 T. "Notice of Settlement" means the "Notice of Proposed Class Action Settlement  
24 and Hearing Date for Approval," substantially in the form attached hereto as Exhibit A, or  
25 any subsequent version of Exhibit A, as approved by the Court.

26 U. "Notice of Objection" means a written objection to this Settlement sent by a  
27 Settlement Class Member to the Settlement Administrator that complies with the criteria  
28 specified herein and in the Notice of Settlement.

1 V. "Parties" means the Representative Plaintiff, on behalf of herself and all  
2 Settlement Class Members, and Defendants.

3 W. "Preliminary Approval Date" is the date that the Court grants preliminary  
4 approval of this Settlement pursuant to California Rule of Court 3.769(c).

5 X. "Qualified Settlement Fund" or "QSF" means a federally insured bank account  
6 to be established by the Settlement Administrator into which all payments from Defendants  
7 related to this Settlement will be deposited and from which all payments authorized by the  
8 Court will be made. The QSF will be established prior to Defendants' deposit of the Gross  
9 Settlement Amount.

10 Y. "Qualifying Workweek" means a workweek in the Class Period during which  
11 a Class Member actually worked for Defendants in a Class position for at least one day. A  
12 week during which a Class Member was entirely absent from work, such as a week during  
13 which a Class Member was on leave or vacation, is not a Qualifying Workweek.

14 Z. "Released Claims," means all claims arising during the Class Period made in  
15 the Complaint and all claims arising during the Class Period that reasonably could have been  
16 alleged based on the factual allegations contained in the operative complaint, including but  
17 not limited to all of the following claims for relief: (1) failure to pay overtime pursuant to  
18 Labor Code sections 510 and 1198; (2) failure to provide meal period premiums in violation  
19 of sections 226.7 and 512(a); (3) failure to provide rest period premiums in violation of  
20 section 226.7; (4) failure to pay minimum wages pursuant to sections 1194, 1197, and  
21 1197.1; (5) failure to timely pay wages upon termination in violation of sections 201 and  
22 202; (6) failure to timely pay wages during employment in violation of section 204; (7)  
23 failure to provide accurate and itemized wage statements in violation of section 226(a); (8)  
24 failure to keep requisite payroll records in violation of section 1174(d); (9) failure to  
25 reimburse business expenses in violation of sections 2800 and 2802; (10) violations of  
26 California Business and Professions Code §§ 17200, et seq. Class Members shall not waive  
27 section 1542 of the California Civil Code.  
28

1 AA. "Released Parties" means Defendants and their past, present and/or future  
2 direct and/or indirect owners, officers, directors, members, managers, management and  
3 executive-level employees, agents, representatives, attorneys, insurers, parent companies,  
4 subsidiaries, affiliates, successors and assigns, but only as to the Released Claims.

5 BB. "Representative Plaintiff" means Plaintiff Anna Ruiz.

6 CC. "Request for Exclusion" means a signed request by a Class Member to be  
7 excluded from the Settlement Class that is submitted in accordance with the procedure set  
8 forth herein, also known as an "opt-out request."

9 DD. "Response Deadline" means the date that is forty-five (45) calendar days after  
10 the mailing of the Notices of Settlement. Provided, for Notices of Settlement that are re-mailed  
11 to a different address, the Response Deadline will be the earlier of: (1) forty-five (45) calendar  
12 days after re-mailing, and (2) ten (10) days before the initial date set by the Court for the Final  
13 Fairness and Approval Hearing.

14 EE. "Service and Release Award" means the payment to be made to the  
15 Representative Plaintiff for her service to the Class and for the broader general release that  
16 she is providing to Defendants, which is in addition to whatever payment she otherwise will  
17 be entitled to receive as a Settlement Class Member. The Service and Release Award will not  
18 exceed \$7,500.

19 FF. "Settlement" means the disposition of the Action and all related claims  
20 effectuated by this Agreement.

21 GG. "Settlement Administration Costs" means the fees and costs incurred or  
22 charged by the Settlement Administrator in connection with the execution of its duties under  
23 this Agreement including, but not limited to fees and costs associated with: (1) establishing  
24 and maintaining the QSF; (2) preparing, translating (as necessary) issuing and/or monitoring  
25 reports, filings, and notices (including the cost of printing and mailing all notices and other  
26 documents to the Class Members) required to be prepared in the course of administering the  
27 Settlement; (3) computing the amount of the settlement payments, taxes, and any other  
28 payments to be made under this Agreement; (4) calculating and handling inquiries about the

1 calculation of individual settlement payments; (5) establishing and operating a settlement  
2 payment center website, address, and phone number to receive Class Members' inquiries  
3 about the Settlement; (6) providing a due diligence declaration for submission to the Court  
4 prior to the final approval hearing; (7) printing and providing Settlement Class Members and  
5 Plaintiff with W-2 and 1099 forms as required under this Agreement and applicable law; (8)  
6 preparing, issuing, and filing any tax returns and information returns and any other filings  
7 required by any governmental taxing authority or other governmental agency; and (9) for such  
8 other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to  
9 perform. The Settlement Administration Costs will not exceed \$7,950. Settlement  
10 Administration Costs will be paid out of the Gross Settlement Amount.

11 HH. "Settlement Administrator" refers to ILYM Group, Inc. .

12 II. "Settlement Class" means all Class Members who have not submitted a timely  
13 and complete Request for Exclusion.

14 JJ. "Settlement Class Member" is a person who is a member of the Settlement  
15 Class.

### 16 **III. BACKGROUND**

17 During the Class Period, Defendants operated a business in California. Plaintiff  
18 contends that during the Class Period, Defendants did not always comply with California law  
19 in its payment of employees. Plaintiff contends that, among other things, employees of  
20 Defendants were not paid for all of their work, were not provided with compliant meal and  
21 rest breaks, were not paid for all of their overtime work at overtime rates of pay, were not  
22 provided compliant wage statements, were not paid all amounts due at separation and were  
23 not reimbursed for all of their necessary expenses.

24 Defendants have at all times denied, and continue to deny, each of the claims and  
25 contentions alleged by Plaintiffs in the Action. Defendants have repeatedly asserted, and  
26 continue to assert, that it complied with all applicable laws and maintains defenses to the  
27 claims asserted in the Action. Defendants continue to deny any wrongdoing or legal liability  
28 arising out of any of the facts, conduct, or omissions alleged in the Action. The Parties



1 understand and agree that this Settlement Agreement is the result of a good-faith compromise  
2 of disputed claims, and Defendants enter into this Agreement solely to resolve disputed  
3 matters.

4 The Parties have undertaken significant investigation and informal discovery during  
5 the prosecution of this Action. Such discovery and investigation includes Defendants'  
6 production and Class Counsel's review of personnel records, policies, and time and pay  
7 records and other detailed information relevant to the Class Members' claims. Counsel for  
8 the Parties have investigated the law as applied to the facts discovered regarding the alleged  
9 claims of the Class and potential defenses thereto, and the potential damages claimed by the  
10 Class.

11 On March 25, 2024, the Parties attended a mediation before an experienced and well-  
12 regarded mediator, Monique Ngo-Bonnici. Through the mediation, the Parties reached an  
13 agreement regarding the resolution of this Action which is embodied in the terms of this  
14 Agreement.

15 Plaintiff and Class Counsel have concluded, after considering the sharply disputed  
16 factual and legal issues involved in this Action, the risks attending further prosecution, and  
17 the substantial benefits to be received pursuant to the compromise and settlement of the Action  
18 as set forth in this Agreement, that this Settlement is in the best interests of the Representative  
19 Plaintiff and the Settlement Class and is fair and reasonable.

20 This Settlement contemplates: (i) entry of an order preliminarily approving the  
21 Settlement and approving certification of a Class for settlement purposes only; (ii)  
22 dissemination of a notice to Class Members about the settlement; (iii) entry of a Final  
23 Approval Order granting final approval of the Settlement; (iv) Defendants' payment of the  
24 Gross Settlement Amount and Employer's Withholding Share; and (iv) entry of a final  
25 judgment.

#### 26 **IV. SETTLEMENT APPROVAL AND IMPLEMENTATION PROCEDURE**

##### 27 **A. Preliminary Approval of Settlement**

28 Following the execution of this Stipulation by all Parties or at such other time specified

1 by the Court, Class Counsel will submit this Stipulation to the Court as part of Plaintiff's  
2 motion for preliminary approval of the settlement. Plaintiff's motion will include such briefing  
3 and evidence as may be required for the Court to determine that this Agreement is fair and  
4 reasonable, as required by California Code of Civil Procedure section 382 and California Rule  
5 of Court 3.769. Class Counsel will provide Defendants' counsel with the opportunity to  
6 review and comment on all drafts of all papers to be filed in connection with the motion for  
7 preliminary approval (notice of motion, memorandum of points and authorities and  
8 declarations) at least three court days before filing such motion with the Court. Plaintiff's  
9 motion for preliminary approval will also include a proposed order that is mutually agreed-  
10 upon by the Parties. Defendants shall not oppose Plaintiff's motion for preliminary approval  
11 of the settlement to the extent it is consistent with the terms and conditions of this Agreement.  
12 Defendants may, however, provide a written response to any characterization of the law or  
13 facts contained in the motion for preliminary approval.

14       The Parties have agreed to the certification of the Class for the sole purposes of  
15 effectuating this Settlement. Should the Settlement be terminated for any reason, or should  
16 the Settlement not be approved by the Court, the fact that the Parties were willing to stipulate  
17 to class certification as part of the Settlement will have no bearing on, and will not be  
18 admissible in connection with, the issue of whether a class should be certified in a non-  
19 settlement context in this Action, and in any of those events, Defendants expressly reserve the  
20 right to oppose class certification. Additionally, if the Settlement does not become final, this  
21 Agreement and all negotiations, court orders, and proceedings related thereto shall be without  
22 prejudice to the rights of all Parties hereto, and evidence relating to the Agreement and all  
23 negotiations shall not be admissible in the Action or otherwise. The Parties further agree that  
24 if, for any reason, the Settlement is not approved, the certification for purposes of this  
25 Settlement will have no force or effect and will be immediately revoked.

26       **B. Cooperation**

27       The Parties agree to fully cooperate with each other to accomplish the terms of this  
28 Agreement, including but not limited to, execution of such documents and to take such other

1 reasonably necessary actions to implement the terms of this Agreement. No party, nor any of  
2 its attorneys or agents, shall solicit or encourage any Class Member to opt out of or object to  
3 the Settlement.

4 **C. Notice of Settlement**

5 Within ten (10) calendar days following the Court's order granting preliminary  
6 approval of the Settlement, Defendants will provide the Settlement Administrator with the  
7 Class Data in an electronic format acceptable to the Settlement Administrator. Thereafter, the  
8 Settlement Administrator will provide the Class Data in an anonymized format, without Class  
9 Member names, contact information or social security numbers, to Class Counsel. This  
10 information will remain confidential and will not be disclosed to anyone, except as required  
11 to applicable taxing authorities, pursuant to Defendants' express written authorization, by  
12 order of the Court, or as otherwise provided for in this Agreement.

13 Using the Class Data, the Settlement Administrator will: (1) confirm the number of  
14 Class Members and Qualifying Workweeks, (2) finalize and print the Notice of Settlement;  
15 (3) check all addresses against the National Change of Address database; and (4) within ten  
16 (10) calendar days of receiving the Class Data, send to each Class Member via First-Class  
17 United States mail an English and Spanish version of the Notice of Settlement to the most  
18 recent address known for each Class Member.

19 **D. Re-Sending Class Notices**

20 If Defendants, Defendants' Counsel, or Class Counsel become aware of new addresses  
21 for any Class Member, prior to the filing of the motion for final approval, such information  
22 must immediately be communicated to the Settlement Administrator. The Settlement  
23 Administrator will then re-send a Notice of Settlement to the Class Member(s) at the new  
24 address.

25 For any Notice of Settlement that is returned as undeliverable, the Settlement  
26 Administrator will perform a utility database search or other skip trace. The returned Notices  
27 of Settlement will be re-mailed to the new addresses obtained for such Class Members. Such  
28

1 searching and re-mailing will be completed within ten (10) calendar days of the date that  
2 Notices of Settlement were originally returned as undeliverable.

3 **E. Requests for Exclusion (Opt-Outs)**

4 Any Class Member who wishes to be excluded from the Settlement must notify the  
5 Settlement Administrator in writing of his or her desire to be excluded by mailing his or her  
6 own Request for Exclusion to the Settlement Administrator that clearly expresses such desire  
7 and is signed by such Class Member. Any such Request for Exclusion shall include the Class  
8 Member's name, current address, telephone number, and last four numbers of the Class  
9 Member's social security number. To be valid, the Request for Exclusion must be postmarked  
10 (if mailed) or received (if faxed or sent electronically) no later than the Response Deadline.

11 Any Class Member who submits a valid and timely Request for Exclusion shall be  
12 barred from participating in this Settlement, shall be barred from objecting to this Settlement,  
13 and shall receive no benefit from the Class Settlement.

14 Any Class Member who fails to submit a timely, complete, and valid Request for  
15 Exclusion shall be barred from opting out of the Settlement. It shall be conclusively presumed  
16 that if a Request for Exclusion is not postmarked or received on or before the Response  
17 Deadline, the Class Member did not make the request in a timely manner. Under no  
18 circumstances shall the Settlement Administrator have the authority to extend the deadline for  
19 Class Members to submit a Request for Exclusion.

20 Unless a Class Member submits a timely, complete, and valid Request for Exclusion,  
21 he or she shall be deemed a Settlement Class Member and shall be bound by the terms and  
22 conditions of this Agreement. The releases provided for in this Agreement shall conclusively  
23 preclude any Settlement Class Member from asserting any of the Released Claims against any  
24 of the Released Parties in any judicial, administrative, or arbitral forum.

25 The Settlement Administrator shall promptly provide Class Counsel and Defendants'  
26 Counsel with copies of all Requests for Exclusion that it receives.

27 **F. Declaration of Compliance**

28 At the time determined by Class Counsel, the Settlement Administrator shall provide

1 Class Counsel and Defendants' Counsel with a declaration attesting to completion of the  
2 notice process set forth in this Section IV, including the number of notices sent and returned,  
3 an explanation of efforts to resend undeliverable notices, and copies of all Requests for  
4 Exclusion, which declaration shall be filed with the Court by Class Counsel along with their  
5 papers requesting final approval of the Settlement.

6 **G. Sufficient Notice**

7 Compliance with the procedures described in this Section IV shall constitute due and  
8 sufficient notice to Class Members of this Settlement and of the Final Fairness and Approval  
9 Hearing, shall satisfy the requirements of due process, and nothing else shall be required of  
10 the Representative Plaintiff, Class Counsel, Defendants, Defendants' Counsel, or the  
11 Settlement Administrator to provide notice of the Settlement and the Final Fairness and  
12 Approval Hearing.

13 **H. Objections to Settlement**

14 **1. Procedure and Deadline for Objections**

15 A Class Member may object to the Settlement by submitting a written Notice of  
16 Objection to the Settlement Administrator, postmarked (if mailed) or received (if faxed or  
17 emailed) no later than the Response Deadline, signed by the objecting Class Member or his  
18 or her attorney, along with all supporting papers (if any). The date the signed Notice of  
19 Objection was postmarked or received shall be conclusively determined according to the  
20 records of the Settlement Administrator. The Settlement Administrator shall send any Notices  
21 of Objection it receives to Defendants' counsel and Class Counsel within three (3) business  
22 days of receipt. A Class Member may also object to the settlement by appearing at the Final  
23 Approval Hearing. The Court retains final authority with respect to the consideration and  
24 admissibility of any Notice of Objection.

25 If a Class Member submits both an objection and an opt-out request, the Settlement  
26 Administrator shall make reasonable attempts to clarify the intentions of the Class Member.  
27 If the Class Member fails to clarify their position, the opt-out request shall be disregarded, the  
28 Settlement Administrator shall send the objection to Defendants' Counsel and Class Counsel

1 the claim will be paid, and the Class Member will become a Settlement Class Member and be  
2 bound by the judgment.

## 3 **2. Responses to Objections**

4 Class Counsel and Defendants' counsel shall file any written objections from Class  
5 Members submitted to the Settlement Administrator, and Class Counsel's and Defendants'  
6 Counsel's responses to such objections, at least five (5) court days before the Final Fairness  
7 and Approval Hearing.

### 8 **I. Pro-Rata Increase in Settlement Fund**

9 In connection with the Parties' mediation, Defendants represented that the total  
10 number of Class Member Qualifying Workweeks during the Class Period is 10,032. If, as  
11 reflected in the Class Data delivered to the Settlement Administrator, the total number of Class  
12 Member Qualifying Workweeks exceeds 11,035 (which is 110% of 10,032), the Gross  
13 Settlement Amount shall increase by \$40.37, for each additional Qualifying Workweek. For  
14 example, if the total number of Qualifying Workweeks is 11,135, which is one hundred more  
15 than 11,035, the Gross Settlement Amount shall increase by \$4,037 (100 additional  
16 workweeks x \$40.37 = \$4,037).

### 17 **J. Defendants' Production of Financial Information**

18 Defendants contend that they do not have the financial resources to pay the Gross  
19 Settlement Amount in a single payment. After being apprised of certain information, Class  
20 Counsel has accepted Defendants' contention concerning its financial condition. However,  
21 Defendants will provide Class Counsel with a declaration, to be filed in Court, from a person  
22 with knowledge attesting to Defendants' financial condition and need for a payment plan.

### 23 **K. Final Fairness and Approval Hearing**

24 On or before the date set by the Court, Class Counsel will file a motion for final  
25 approval of this Settlement pursuant to California Rule of Court 3.769. Class Counsel will  
26 provide Defendants' counsel with the opportunity to review and comment on drafts of all  
27 papers to be filed in connection with the motion for final approval (notice of motion,  
28 memorandum of points and authorities and declarations) at least three court days before filing

1 such motion with the Court. Plaintiff's motion for final approval will also include a proposed  
2 order that is mutually agreed-upon by the Parties. Defendants shall not oppose Class Counsel's  
3 motion for final approval of the settlement to the extent it is consistent with the terms and  
4 conditions of this Agreement. Defendants may, however, provide a written response to any  
5 characterization of the law or facts contained in the motion for final approval.

6 On the date set by the Court, the Final Fairness and Approval Hearing shall be held  
7 before the Court in order to: (1) determine whether the Court should give this Settlement final  
8 approval; (2) determine whether Class Counsel's application for attorneys' fees and costs, and  
9 request for the Service and Release Award to the Representative Plaintiff, should be granted;  
10 and (3) consider any timely Objections to Settlement, including Class Counsel's and  
11 Defendants' counsel's responses thereto. Upon final approval, the Court shall enter a Final  
12 Approval Order (in a form submitted by Class Counsel and approved by Defendants' counsel)  
13 which has the effect of adjudicating all claims set forth in the Complaint and implementing  
14 the release of Released Claims, as set forth in this Agreement. The Final Approval Order will  
15 be posted on the Settlement Administrator's website. The posting of the Final Approval Order  
16 on the Settlement Administrator's website will constitute notice of entry of the judgment, as  
17 required by California Rule of Court 3.771(b).

18 **L. Settlement Payments to Settlement Class Members**

19 **1. Calculation of Class Settlement Payments**

20 The Net Settlement Amount shall be divided among and distributed to individual  
21 Settlement Class Members using the following formula:

22 **(Individual Settlement Class Member's Qualifying Workweeks ÷ All**  
23 **Settlement Class Members' Qualifying Workweeks) x (Net Settlement**  
24 **Amount)**

25 The Settlement Administrator shall have the authority and obligation to make  
26 payments, credits, and disbursements, including payments and credits in the manner set forth  
27 herein, to Settlement Class Members calculated in accordance with the methodology set out  
28 in this Agreement and orders of the Court.

1 The Parties acknowledge and agree that the formula used to calculate individual  
2 settlement payments does not imply that all the elements of damages alleged in the Action are  
3 not being considered. The above formula was devised as a practical and logistical tool to  
4 simplify the settlement process.

5 **2. Inclusion of Qualifying Workweeks and Estimated Settlement**  
6 **Payment Information in Notice of Settlement**

7 The Notice of Settlement sent to each Class Member shall state the amount of the Class  
8 Member's Qualifying Workweeks, as reflected in the Class Data. The Notice of Settlement  
9 shall provide an estimate of each Class Member's share of the Class settlement, as calculated  
10 by the Settlement Administrator. The estimated settlement payment included in the Notice of  
11 Settlement will be calculated by assuming that no Class Members will be excluded from the  
12 Settlement.

13 **4. Eligibility**

14 Settlement Class Members (but not Class Members who exclude themselves from the  
15 Settlement), will receive a settlement payment from the Net Settlement Fund, distributed  
16 through the Settlement Administrator.

17 If the Parties become aware after settlement checks are mailed that a Class Member  
18 was not sent a Notice of Settlement because of an error in the Class Data as provided by  
19 Defendants, Defendants may arrange to separately pay the Class Member the amount that the  
20 Class Member would have received had they participated in the settlement, as long as the  
21 Class Member agrees in writing to be bound by the Judgment and Class releases.

22 **5. Disputes about Qualifying Workweeks**

23 If a Class Member disagrees with the number of Qualifying Workweeks, as stated in  
24 their Notice of Settlement, they may dispute that figure by informing the Settlement  
25 Administrator of the number of Qualifying Workweeks that they claim to have worked during  
26 the Class Period and provide any supporting documentation (such as, without limitation,  
27 payroll or time keeping records, and paycheck stubs) on or before the Response Deadline. If  
28 there is a dispute, the Settlement Administrator will consult with Class Counsel and



1 Defendants' counsel to determine whether an adjustment is warranted. The Settlement  
2 Administrator shall determine any such disputes, subject to Court approval. The Settlement  
3 Administrator shall be obligated to resolve any such disputes within ten (10) calendar days,  
4 but by no later than the date of the Final Approval Hearing.

#### 5 **6. Allocation of Settlement Payments**

6 Payment to each Settlement Class Member shall be allocated as follows: twenty  
7 percent (20%) shall be attributed to wages, to be reported on a W-2 form; eighty percent (80%)  
8 shall be reported as penalties and interest. The amount of penalties and interest will be reported  
9 on an IRS Form 1099.

#### 10 **7. Payment of Payroll Taxes**

11 The amount paid to each Settlement Class Member attributable to wages shall be  
12 subject to all applicable taxes and other withholdings and shall be net of the Settlement Class  
13 Member's share of all federal, state, and local taxes and required withholdings, including  
14 without limitation, FICA, Medicare tax, FUTA, and state unemployment taxes. The  
15 Employer's Withholding Share shall be paid by Defendants separately and in addition to  
16 Defendants' payment of the Gross Settlement Amount.

17 For each Settlement Class Member, the Settlement Administrator shall determine the  
18 Employer's Withholding Share. Information related to the Employer's Withholding Share for  
19 each Settlement Class Member shall be provided to Defendants by the Settlement  
20 Administrator. If Defendants disagree with the Settlement Administrator's determination of  
21 the Employer's Withholding Share, they will communicate with and share information  
22 reasonably necessary to reach a good faith determination of the correct Employer's  
23 Withholding Share.

#### 24 **8. Payments to Settlement Class Members**

25 Within ten (10) calendar days of Defendants' deposit of the full Gross Settlement  
26 Amount with the Settlement Administrator, the Settlement Administrator will make the  
27 settlement payments to Settlement Class Members based on the payment formulae set forth  
28 herein.

1           **M.     The Settlement Administrator**

2           The Settlement Administrator will perform the duties specified in this Agreement and  
3 any other duties incidental to such obligations. The Settlement Administrator's duties shall  
4 include, without limitation: establishing the QSF, preparing, translating and distributing the  
5 Notice of Settlement; calculating and directing the disbursement of payments to Settlement  
6 Class Members, Class Counsel, and the Class Representative; calculating and timely paying  
7 any and all payroll taxes from the wages portion of the Net Settlement Amount to the  
8 appropriate tax authorities, as required under this Agreement and applicable law; handling  
9 inquiries about the calculation of individual settlement payments; preparing and filing any tax  
10 returns and information returns and any other filings required by any governmental taxing  
11 authority or other governmental agency; providing weekly status reports to the Parties'  
12 counsel; advising Defendants' counsel and Class Counsel of any Class Members who submit  
13 Notices of Objections and/or Requests for Exclusion; providing a due diligence declaration  
14 for submission to the Court prior to the final approval hearing; printing and providing  
15 Settlement Class Members and Representative Plaintiff with W-2 and 1099 forms as required  
16 under this Agreement and applicable law; arranging for and remitting funds from any  
17 uncashed settlement payment to the designated recipient, as determined by the Court; and for  
18 such other tasks as the Parties mutually agree or the Court orders the Settlement Administrator  
19 to perform.

20           The Settlement Administrator shall establish a settlement payment center address,  
21 telephone number and email address to receive Class Members' inquiries about the Notice of  
22 Settlement, requests to be excluded from the Settlement and settlement payments.

23           In addition, the Settlement Administrator shall establish a static website and, on the  
24 website, post this stipulation, any preliminary approval order and the Final Approval Order  
25 and Judgment. Posting of the Final Approval Order and Judgment on such website shall  
26 constitute notice of judgment to the Settlement Class, as required by California Rule of Court  
27 3.771(b).

1 The Parties confirm, and Class Counsel and Defendants' Counsel confirm that they do  
2 not have any financial interest in the Settlement Administrator or otherwise have a relationship  
3 with the Settlement Administrator that could create a conflict of interest.

4 **N. Time for Payment by Defendants**

5 Within thirty calendar days of the Effective Date, Defendants shall deliver two  
6 hundred and five thousand dollars (\$205,000) of the Gross Settlement Amount to the QSF.  
7 The remainder of the Gross Settlement and the Employer's Withholding Share shall be paid  
8 to the QSF within six months plus thirty calendar days of the Effective Date.

9 If, after the Court enters a Final Approval Order, Defendants fails to timely pay the  
10 amount required to satisfy its payment obligation under this Stipulation, the Representative  
11 Plaintiff, at her option, may either (1) declare the Settlement terminated, in which case, the  
12 Parties agree that the Court will nullify the Final Approval Order and Judgment and Plaintiff  
13 may continue to prosecute her claims against Defendants, or (2) seek to collect all amounts  
14 owed under the Final Approval Order and Judgment against Defendants.

15 **O. Payments to Class Counsel, the Representative Plaintiff and the**  
16 **Settlement Administrator**

17 Subject to Court approval, within ten (10) calendar days of Defendants' deposit of the  
18 full Gross Settlement Amount with the Settlement Administrator, the Settlement  
19 Administrator shall make payment from the QSF to: (1) Class Counsel, for Class Counsel's  
20 Attorneys' Fees and Class Counsel's Costs, as approved by the Court; (2) the Representative  
21 Plaintiff for the Service and Release Award, as approved by the Court; and (3) to the  
22 Settlement Administrator for the Settlement Administration Costs, as approved by the Court.  
23 These payments will be reported on an IRS Form 1099.

24 **P. Un-cashed/Un-deposited Settlement Payment Checks**

25 If any Settlement Class Member's settlement payment check has not been cashed or  
26 deposited within sixty (60) calendar days after disbursement, the Settlement Administrator  
27 shall attempt to contact each individual to advise them to cash their checks, and to offer to  
28 replace any checks reported as either lost or stolen. In attempting to contact such persons, the

1 Settlement Administrator will send notices (1) by mail to the individuals' last known  
2 addresses (as provided by Defendants) after first checking those addresses against the NCOA  
3 database and skip tracing and (2) by telephoning or emailing such persons, in the event that  
4 Defendants have provided telephone numbers and/or email addresses for such persons.

5 If a Class Member's check is not cashed within 180 calendar days, the check will be  
6 void and a stop payment order may be placed on the check. In such event, the Settlement  
7 nevertheless will be binding upon the Settlement Class Member. The funds represented by all  
8 uncashed settlement checks will be transmitted by the Settlement Administrator to the  
9 California State Controller as unclaimed property in the name of the individual Settlement  
10 Class Member. The Parties agree that such disposition results in no "unpaid residue" under  
11 California Code of Civil Procedure section 384, as all payments to the Settlement Class will  
12 be paid out, whether or not these individuals cash their Settlement checks. Therefore,  
13 Defendants will not be required to pay any interest on such amounts.

14 **Q. Class Counsel Attorneys' Fees and Costs**

15 Defendants will not oppose Class Counsel's application for an award of attorneys' fees  
16 of up to 35% of the Gross Settlement Amount. Assuming the escalator clause is not triggered,  
17 the maximum amount sought will be one hundred and forty-one thousand and seven hundred  
18 and fifty dollars (\$141,750).

19 Defendants will not oppose Class Counsel's application for an award of their  
20 reasonable litigation expenses and costs in an amount not to exceed \$25,000.

21 Class Counsel's Attorney's Fees and Class Counsel's Costs, as awarded by the Court,  
22 shall be paid from the Gross Settlement Amount.

23 To the extent the Court does not approve any or the entire amount of Class Counsel's  
24 Attorney's Fees or Class Counsel's Costs, it shall not affect the terms of the Parties' settlement  
25 and any such unapproved amounts shall remain part of the Net Settlement Amount and shall  
26 be distributed in accordance with the provisions of this Stipulation. Approval of the Settlement  
27 by the Court shall not be contingent on approval of the amounts of Class Counsel's Attorney's  
28 Fees or Class Counsel's Costs requested by Class Counsel.

1           Upon the payment of the Court-approved amount of Class Counsel's Attorneys' Fees  
2 and Class Counsel's Costs, and except as otherwise provided by this Stipulation, Class  
3 Counsel waives any claim to costs and attorneys' fees and expenses against Defendants arising  
4 from or related to the Action, including but not limited to claims based on the California Labor  
5 Code, the California Code of Civil Procedure, or any other statute or law. Provided, however,  
6 nothing in this Agreement shall prevent Class Counsel from seeking additional fees for  
7 enforcing the terms of this Stipulation.

8           **R.       Service and Release Award to Representative Plaintiff**

9           The Representative Plaintiff's Service and Release Award as approved by the Court,  
10 shall be paid from the Gross Settlement Amount.

11          The Representative Plaintiff shall be responsible for all portions of federal, state, and  
12 local tax liabilities that may result from the payment of the Service and Release Award and  
13 agrees that Defendants shall bear no responsibility for any such tax liabilities.

14          To the extent the Court does not approve any or all of the amount of the Service and  
15 Release Award sought by the Representative Plaintiff, any amounts not awarded by the Court  
16 will remain part of the Net Settlement Amount and will be distributed in accordance with the  
17 terms of this Stipulation and the Parties agree that the Settlement shall remain binding with  
18 such modification(s) and its terms will otherwise be unchanged.

19           **S.       Taxes**

20                   **1.       Withholding and Reporting Requirements**

21          The Settlement Administrator shall be responsible for ensuring that all taxes required  
22 to be withheld from the wage portions of each Settlement Class Member's individual  
23 settlement payment, along with the Employer's Withholding Share, are timely paid to the  
24 appropriate tax authorities. The Settlement Administrator's responsibilities in this regard will  
25 also include the following: (a) filing all Federal, state, and local employment tax returns, tax  
26 withholding returns, and any other tax returns associated with the taxes, (b) timely and proper  
27 filing of all required Federal, state, and local information returns (e.g., 1099s, W-2s, etc.) with  
28 the appropriate taxing authorities, and (c) completion of any other steps necessary for

1 compliance with any tax obligations of the settlement fund under Federal, state and/or local  
2 law. To verify the Settlement Administrator's compliance with the foregoing withholding and  
3 reporting requirements, as soon as administratively practicable, the Settlement Administrator  
4 shall, upon request, furnish Class Counsel and Defendants' Counsel with copies of all filed  
5 tax returns and information returns (including all 1099 and W-2 information returns), and a  
6 final accounting adequate to demonstrate full compliance with all tax withholding, payment  
7 and reporting obligations.

## 8 **2. Circular 230 Disclaimer**

9 Each party to this Agreement (for purposes of this section, the "Acknowledging  
10 Party"; and each party to this Agreement other than the Acknowledging Party, and "Other  
11 Party") acknowledges and agrees that: (1) no provision of this Agreement, and no written  
12 communication or disclosure between or among the Parties or their attorneys and other  
13 advisers, is or was intended to be, nor shall any such communication or disclosure constitute  
14 or be construed or be relied upon as, tax advice within the meaning of United States Treasury  
15 Department Circular 230 (31 CFR Part 10, as amended); (2) the Acknowledging Party (a) has  
16 relied exclusively upon his, her, or its own, independent legal and tax advisers for advice  
17 (including tax advice) in connection with this Agreement, (b) has not entered into this  
18 Agreement based upon the recommendation of any other party or any attorney or advisor to  
19 any other party, and (c) is not entitled to rely upon any communication or disclosure by any  
20 attorney or adviser to any other party to avoid any tax penalty that may be imposed on the  
21 Acknowledging Party; and (3) no attorney or adviser to any other party has imposed any  
22 limitation that protects the confidentiality of any such attorney's or adviser's tax strategies  
23 (regardless of whether such limitation is legally binding) upon disclosure by the  
24 Acknowledging Party of the tax treatment or tax structure of any transaction, including any  
25 transaction contemplated by this Agreement.

## 26 **T. Defendants' Right to Terminate.**

27 At its sole discretion, Defendants may terminate this settlement if more than 10% of  
28 class members opt out, and all parties shall be returned to their respective positions as of the

1 date of execution. Defendants must exercise this right within seven calendar days after they  
2 receive notice from the Settlement Administrator that the 10% threshold has been met. If  
3 Defendants terminate the agreement, they will pay the reasonable expenses incurred by the  
4 Settlement Administrator.

5 **V. LIMITATIONS ON USE OF THIS SETTLEMENT**

6 **A. No Admission of Liability**

7 No part of this Agreement, or any conduct or written or oral statements made in  
8 connection with the mediation, Settlement, or this Agreement, whether or not the Settlement  
9 is finally approved and/or consummated, may be offered as, or construed to be, an admission  
10 or concession of any kind by Defendants or any of the Released Parties, or anyone else. In  
11 particular, but without limiting the generality of the foregoing, nothing about this Agreement  
12 shall be offered or construed as an admission that Defendants have failed to pay any Class  
13 Member in accordance with its obligations set forth in the California Labor Code, or of  
14 liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever on  
15 the part of Defendants and/or the Released Parties. Similarly, nothing about this Agreement  
16 shall be construed as or deemed to be evidence of, or an admission or concession by  
17 Defendants, that the Class Representative or any Class Member have suffered any damage.  
18 In addition, this Agreement shall not be offered or be admissible in evidence against  
19 Defendants or any Released Party, except in any action or proceeding brought by or against  
20 Plaintiff, the Class, Class Members, or Defendants, to enforce its terms, or by Defendants in  
21 defense of any claims brought by Plaintiff, the Class, Class Members, or any member of the  
22 general public, including any and all individuals who opted out of the Class.

23 **B. Nullification**

24 In the event that the Court does not approve the Settlement in accordance with this  
25 Stipulation, the Parties agree to negotiate in good faith to resolve any issues raised by the  
26 Court and amend this Stipulation to obtain Court approval of the Settlement. However, if,  
27 after a good faith effort to resolve any issues, the Court for any reason does not approve this  
28 Settlement, or the Effective Date does not occur, or the Settlement does not become final for

1 any other reason, this Stipulation shall be null and void and all Parties to this Settlement shall  
2 stand in the same position, without prejudice, as if the Settlement had been neither entered  
3 into nor filed with the Court.

4 **VI. SETTLEMENT CLASS MEMBER RELEASE**

5 It is the desire of the Representative Plaintiff, Class Members (except those who  
6 exclude themselves from the Settlement), and Defendants to fully, finally, and forever settle,  
7 compromise, and discharge the Released Claims. Upon entry of the Final Approval Order and  
8 Judgment and Defendants' payment of the Gross Settlement Amount and Employer's  
9 Withholding Share, and except as to such rights or claims as may be created by this Settlement  
10 Agreement, the Settlement Class Members, on behalf of themselves, and each of their heirs,  
11 representatives, successors, assigns, and attorneys, shall be deemed to have, and by operation  
12 of the final judgment shall have, fully, irrevocably, and unconditionally released and  
13 discharged the Released Parties from any and all Released Claims that accrued during the  
14 Class Period. This Agreement shall be in full settlement, compromise, release, and discharge  
15 of the Released Claims and each of them, and the Released Parties shall have no further  
16 liability or obligation whatsoever to the Representative Plaintiff or Settlement Class with  
17 respect to the Released Claims.

18 **VII. PUBLICITY**

19 Pending the filing of Plaintiff's motion for preliminary approval of this Settlement, the  
20 parties agree to keep the terms of this settlement confidential. Any communication about the  
21 Settlement to Class Members prior to filing Plaintiff's motion for preliminary approval will  
22 be limited to a statement that a settlement has been reached and the details will be  
23 communicated in a forthcoming Court approved notice. Additionally, pending preliminary  
24 approval and after, Plaintiff and Class Counsel will not publicize the terms of this Agreement  
25 or the Settlement; Among other things, they will not issue a press release, hold a press  
26 conference or publish any information about the Settlement on any website. with the media,  
27 including but not limited to, newspapers, magazines, or websites. Provided, however, that  
28 Class counsel may in future declarations submitted in Court, refer to the fact that this matter



1 settled on a class and representative basis solely for the purpose of detailing the experiences  
2 of Class Counsel. Plaintiff and Class Counsel will not respond to any media inquiries except  
3 to refer reporters to the papers filed with the Court.

#### 4 **VIII. MISCELLANEOUS PROVISIONS**

##### 5 **A. Amendments**

6 This Settlement Agreement may only be modified or changed by a writing signed by  
7 the Parties hereto or by their counsel and approved by the Court.

##### 8 **B. No Additional Benefits**

9 All Individual Settlement Payments paid to the Settlement Class shall be deemed to  
10 be paid to such Settlement Class Members solely in the year in which such payments actually  
11 are received by Participating Settlement Class Members. It is expressly understood and agreed  
12 that the receipt of such payments will not entitle any Settlement Class Member to any  
13 additional compensation or benefits under any bonus or other compensation or benefit plan or  
14 agreement currently in place and/or that was in place during the applicable Class Period or  
15 thereafter, nor will receipt of such payments entitle any Settlement Class Member to any  
16 increased retirement, 401k benefits or matching benefits, deferred compensation benefits, or  
17 any other type of benefit. It is the intent of this Agreement that the individual Settlement  
18 Payments provided for in this Agreement are the sole payments to be made by Defendants to  
19 the Settlement Class Members, and that the Settlement Class Members are not entitled to any  
20 new or additional compensation or benefits as a result of having received the payments,  
21 notwithstanding any contrary language or agreement in any benefit or compensation plan  
22 document currently in place and/or that was in place during the applicable Class Period or  
23 thereafter.

##### 24 **B. Integrated Agreement**

25 After this Stipulation is signed and delivered by all Parties to the Action and their  
26 counsel, this Stipulation and its exhibits will constitute the entire agreement between the  
27 Parties to the Action relating to the Settlement, and it will then be deemed that no oral  
28 representations, warranties, covenants, or inducements have been made to any Party

1 concerning this Stipulation or its exhibits other than the representations, warranties,  
2 covenants, and inducements expressly stated in this Stipulation and its exhibits.

3 **C. No Inducements**

4 The Parties acknowledge that they are entering into this Agreement as a free and  
5 voluntary act without duress or undue pressure or influence of any kind or nature whatsoever  
6 and that neither Plaintiff nor Defendants have relied on any promises, representations, or  
7 warranties regarding the subject matter hereof other than as set forth in this Stipulation.

8 **D. No Prior Assignment**

9 The Parties hereto represent, covenant, and warrant that they have not directly or  
10 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to  
11 any person or entity any portion of any liability, claim, demand, action, cause of action, or  
12 rights herein released and discharged except as set forth herein.

13 **E. No Retaliation or Advice**

14 Defendants agrees not to retaliate against any Class Member for participating in the  
15 Settlement or cooperating with Class Counsel, and Defendants will not induce or offer any  
16 advice to any current or former employee to opt out of, or object to, the Settlement.

17 **F. Attorney's Fees**

18 To the extent that any Party institutes any legal action, arbitration, or other proceeding  
19 to enforce the terms of the Settlement, the prevailing Party will be entitled to recover their  
20 reasonable attorneys' fees and costs from the other Party or Parties.

21 **G. Applicable Law**

22 All terms and conditions of this Stipulation and its exhibits will be governed by and  
23 interpreted according to the laws of the State of California, without giving effect to any  
24 conflict of law principles or choice of law principles.

25 **H. Entry of Judgment Pursuant to Terms of Settlement**

26 The Parties agree that upon the Settlement of this case, the Court may enter judgment  
27 pursuant to the terms of this Settlement and specifying the Gross Settlement Amount. The  
28

1 Court will retain jurisdiction over the Parties to enforce the Settlement until performance in  
2 full of the terms of the Settlement.

3 **I. Notices**

4 All notices, requests, demands and other communications required or permitted to be  
5 given pursuant to this Agreement shall be in writing, and shall be delivered personally or by  
6 first class mail to Class Counsel or Defendants' Counsel at their respective addresses as set  
7 forth at the beginning of this Agreement or at any new address as to which counsel have  
8 advised the Court and the other Parties.

9 **J. Binding on Successors**

10 This Agreement shall be binding and shall inure to the benefit of the Parties to the  
11 Action and their respective successors, assigns, executors, administrators, heirs, and legal  
12 representatives.

13 **K. Counterparts**

14 This Stipulation, and any amendments hereto, may be executed in any number of  
15 counterparts, each of which when executed and delivered shall be deemed to be an original  
16 and all of which taken together shall constitute the same instrument.

17 **L. Warranties and Representations**

18 With respect to themselves, each of the Parties to this Action and or their agent or  
19 counsel represents, covenants, and warrants that they have full power and authority to enter  
20 into and consummate all transactions contemplated by this Stipulation and have duly  
21 authorized the execution, delivery, and performance of this Stipulation.

22 **M. Representation by Counsel**

23 The Parties to this Action acknowledge that they have been represented by counsel  
24 throughout all negotiations that preceded the execution of this Stipulation, and that this  
25 Stipulation has been executed with the consent and advice of counsel.

26 **N. Signatories**

27 It is agreed that because the Class Members are so numerous, it is impossible or  
28 impractical to have each Class Member execute this Stipulation. The Notice of Settlement

1 will advise all Class Members of the binding nature of the release, and the release shall have  
2 the same force and effect as if this Stipulation was executed by each member of the Settlement  
3 Class.

4 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS  
5 TERMS:

6 Dated: 9/19/2024

Electronically Signed 2024-09-20 03:31:13 UTC - 76.137.155.57  
Nintex AssureSign® 6ded70ad-1eb8-4caf-a98f-b10012b051a1

Plaintiff Anna Ruiz

8 Dated: 9/1/24

Forma Almaden Valley, LLC

By: Mandana Samshidinejad

Its: manager

12 Dated: 9/1/24

Walnut Creek Sports Club, LLC

By: Mandana Samshidinejad

Its: manager

17 Approved as to form:

HANSON BRIDGETT LLP

18 Dated: \_\_\_\_\_

20 By: \_\_\_\_\_

Sandra L. Rappaport  
Warren Hodges  
Jennifer A. Puza  
Attorneys for Defendants

24 Dated: \_\_\_\_\_

GUNDZIK GUNDZIK HEEGER LLP

26 By: \_\_\_\_\_

Aaron Gundzik  
Attorney for Plaintiff

1 will advise all Class Members of the binding nature of the release, and the release shall have  
2 the same force and effect as if this Stipulation was executed by each member of the Settlement  
3 Class.

4 BY SIGNING BELOW, THE PARTIES AGREE TO THIS STIPULATION AND ITS  
5 TERMS.

6  
7 Dated: \_\_\_\_\_

Plaintiff Anna Ruiz

8  
9 Dated: 9/1/24

Forma Almaden Valley, LLC

By: Mandana Samshidmagdol

Its: manager

12  
13 Dated: 9/1/24

Walnut Creek Sports Club, LLC

By: Mandana Samshidmagdol

Its: manager

16  
17 Approved as to form:

HANSON BRIDGETT LLP

18 Dated: \_\_\_\_\_

19  
20 By: W-H

Sandra L. Rappaport  
Warren Hodges  
Jennifer A. Fuza  
Attorneys for Defendants

23  
24 Dated: 9/23/24

GUNDZIK GUNDZIK HEEGER LLP

26  
27 By: AG

Aaron Gundzik  
Attorney for Plaintiff

**EXHIBIT A**

(Notice of Settlement)

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

*Ruiz v. Forma Almaden Valley, LLC., Contra Costa Superior Court Case No. C23-08164*

**If you have been employed in California by FORMA ALMADEN VALLEY, LLC and/or WALNUT CREEK SPORTS CLUB, LLC as a non-exempt employee, you may be entitled to receive money from a class action settlement.**

*The Contra Costa County Superior Court authorized this notice.*

*This is not a solicitation from a lawyer.*

**THIS NOTICE MAY AFFECT YOUR RIGHTS. PLEASE READ IT CAREFULLY.**

You are receiving this Notice because the Contra Costa County Superior Court has preliminarily approved a proposed settlement in a class action filed on behalf of all non-exempt employees who worked for Forma Almaden Valley, LLC or Walnut Creek Sports Club, LLC (“Defendants”) in California during the Class Period (July 28, 2019, through February 12, 2024). A hearing to determine whether the settlement should receive the Court’s final approval will be held on \_\_\_\_\_ at \_\_\_\_\_.m. in Department 12 of the Contra Costa County Superior Court, which is located at 725 Court Street, Room 301, Martinez, CA 94553.

**This Notice explains the proposed settlement and provides an estimate of how much money you will receive as a settlement payment if you do not exclude yourself from the settlement. If you do not want to be part of the settlement class, then you must submit a Request for Exclusion (described in Section 9, below) no later than [45 days from mailing] otherwise you will be bound by the terms of the settlement, including the release of certain claims that you may have against Defendants, as described in Section 8 of this Notice.**

**1. PURPOSE OF THIS NOTICE**

The Court has ordered that this Notice be sent to you because you have been identified as a member of the class by Defendants’ records. The purpose of this notice is to provide you with information about the lawsuit and the proposed settlement and to advise you of your options.

**2. PERSON ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT**

The people eligible to receive a settlement payment are all non-exempt employees who worked for Defendants in California at any time from July 28, 2019, to February 12, 2024. You are receiving this notice because, according to Defendants’ records, you may be eligible to participate in the settlement.

**3. DESCRIPTION OF THE ACTION**

A former employee of Defendants filed a class action against Defendants in the Contra Costa County Superior Court. The case is called *Ruiz v. Forma Almaden Valley, LLC., et al., Contra Costa Superior Court Case No. C23-08164* (the “Action”). The Action alleges that Plaintiff and other the non-exempt employees of Defendants were not paid for all of their work, were not paid all overtime wages owed, were not provided with compliant meal and rest breaks, were not provided compliant wage statements, were not reimbursed for their necessary expenditures, and were not paid all amounts due at separation. Based on these facts and others, Plaintiffs’ Complaint alleges causes of action for: (1) Violation of California Labor Code sections 510 and 1198 (unpaid overtime); (2) Violation of California Labor Code sections 226.7 and 512(a) (unpaid meal period premiums); (3) Violation of California Labor Code section 226.7 (unpaid rest period premiums); (4) Violation of California Labor Code sections 1194, 1197 and 1197.1 (unpaid minimum wages); (5) Violation of California Labor Code sections 201 and 202 (final wages not timely paid); (6) Violation of California Labor Code section 204 (wages not timely paid during employment); (7) Violation of California Labor Code section 226(a) (non-compliant wage statements); (8) Violation of California Labor Code section 1174(d) (failure to keep requisite

**FOR MORE INFORMATION CALL 1-800-\_\_\_\_\_.**

employment records); (9) Violation of California Labor Code sections 2800 and 2802 (unreimbursed business expenses); and (10) Violation of California Business & Professions Code sections 17200, et seq.

Defendants denies all of Plaintiff's allegations and deny any wrongdoing. Among other things, Defendants contend that all employees have been properly compensated and that Defendants complied with all applicable laws.

The Court has made no ruling on the merits of the alleged claims, or the defenses asserted by Defendants. The Court has preliminarily approved the proposed settlement. The Court will decide whether to give final approval to the settlement at a hearing scheduled for \_\_\_\_\_, 2024 at \_\_\_\_\_.m. (the "Final Approval Hearing").

#### **4. WHO ARE THE ATTORNEYS REPRESENTING THE PARTIES?**

Attorneys representing Plaintiff and the class ("Class Counsel") are:

Arby Aiwarzian LAWYERS for JUSTICE, PC 410 West Arden Avenue, Suite 203 Glendale, CA 91203 Tel: (818) 265-1020 / Fax: (818) 265-1021	Aaron C. Gundzik Rebecca Gundzik Gundzik Gundzik Heeger LLP 14011 Ventura Blvd., Suite 206E Sherman Oaks, CA 91423 Telephone: (818) 290-7461
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Attorneys representing Defendants are:

Sandra L. Rappaport Warren Hodges Jennifer A. Puza Hanson Bridgett LLP 425 Market Street 26th Floor San Francisco, CA 94105 Tel.: (415) 777-3200.
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#### **5. THE TERMS OF THE PROPOSED SETTLEMENT**

The following is a summary of the settlement. The specific and complete terms of the proposed Settlement are stated in the Stipulation of Class Action Settlement ("Settlement Agreement"), a copy of which is filed with the Court. You can obtain a copy of the Settlement Agreement from the Settlement Administrator or review it on the following website: [www.\\_\\_\\_\\_\\_](http://www._____).

Defendants has agreed to pay \$405,000 to settle any and all obligations for the claims alleged in the Action. This amount is called the Gross Settlement Amount. As discussed below, the Gross Settlement Amount will be used to cover all payments to the settlement class, settlement administration costs, attorneys' fees and costs and service and release award to the Plaintiff. The remaining amount (called the Net Settlement Amount), approximately \$222,800, will be distributed to class members who do not timely submit Requests for Exclusion, as discussed below.

(a) Attorneys' Fees and Costs: Class Counsel has worked on this matter without compensation and has advanced funds to pay for expenses necessary to prosecute the Action. Accordingly, under the settlement, Class Counsel may request an amount not to exceed \$141,750 to compensate them for their work on the case, plus their reasonable and actual costs and expenses incurred in the litigation, not to exceed \$25,000. Subject to court approval, the attorneys' fees and costs will be deducted from the Gross Settlement Amount.

(b) Service and Release Award: The Plaintiff is requesting a service and release award of \$7,500, in addition to the amount she will receive as a member of the class, to compensate her for undergoing the burden and expense of prosecuting

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the action and for the broader release of claims she is required to provide to Defendants. Subject to court approval, the service and release awards will be deducted from the Gross Settlement Amount.

(c) **Settlement Administration Costs:** The Settlement Administrator, ILYM Group, Inc., has advised the parties that the settlement administration costs will not exceed \$7,950. Subject to court approval, the settlement administration costs will be deducted from the Gross Settlement Amount.

(d) **Payments to Settlement Class Members:** The remainder of the Gross Settlement Amount (called the Net Settlement Amount) will be distributed to class members who do not exclude themselves from the settlement (called Settlement Class Members). The amount of each Settlement Class Member's share of the Net Settlement Amount will be calculated by dividing the total number of qualifying workweeks worked by the Class Member during the Class Period by the total number of qualifying workweeks worked by all of the Class Members during the Class Period and multiplying that fraction by the Net Settlement Amount. A qualifying workweek is a full or partial week that a class member worked for Defendant during the Class Period.

## **6. WHAT YOU WILL RECEIVE UNDER THE SETTLEMENT**

**According to Defendants' records, you worked a total of \_\_\_ qualifying workweeks during the Class Period as a Class Member. Based upon this information, under the settlement, you will receive approximately \$\_\_\_\_\_. This amount may increase or decrease based on various factors, including the number of class members who submit Requests for Exclusion, the amounts approved by the Court for attorneys' fees and costs, settlement administration costs, the service and release awards to Plaintiffs, and disputes by other class members regarding their qualifying pay periods during the Class Period.**

**To receive your settlement payment, you do not need to do anything. You will receive a settlement payment unless you exclude yourself from the settlement.**

## **7. PAYMENT SCHEDULE**

The Settlement Administrator will send out settlement checks to class members within approximately seven months after the settlement is finally approved by the Court. You will have 180 days after the Settlement Administrator mails your settlement check to cash it; otherwise, it will be voided, and the amount of your settlement payment will be sent to the California State Controller as unclaimed property in your name, and you will need to contact that agency to obtain your funds.

For tax purposes, your Class settlement payment will be considered twenty percent as wages and reported on a W-2 form. Eighty percent of your settlement payment will be considered as interest and penalties and will be reported on an IRS Form 1099. Nothing in this Notice should be construed as providing you with tax advice. You should consult with your tax advisor concerning the tax consequences of the payment you receive.

## **8. RELEASE OF CLAIMS**

Unless you submit a valid Request for Exclusion (described below in Section 9), you will release Defendants and its past, present and/or future officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers from all claims arising during the Class Period made in the Complaint and all claims arising during the Class Period that reasonably could have been alleged based on the factual allegations contained in the operative complaint, including but not limited to all of the following claims for relief: (1) failure to pay overtime pursuant to Labor Code sections 510 and 1198; (2) failure to provide meal period premiums in violation of sections 226.7 and 512(a); (3) failure to provide rest period premiums in violation of section 226.7; (4) failure to pay minimum wages pursuant to sections 1194, 1197, and 1197.1; (5) failure to timely pay wages upon termination in violation of sections 201 and 202; (6) failure to timely pay wages during employment in violation of section 204; (7) failure to provide accurate and itemized wage statements in violation of section 226(a); (8) failure to keep requisite payroll records in violation of section 1174(d); (9) failure to reimburse business expenses in violation of sections 2800 and 2802; (10) violations of California Business and

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Professions Code §§ 17200, et seq. Class Members shall not waive section 1542 of the California Civil Code. The Release Period for the Released Claims shall be the Class Period. Settlement Class Members shall not waive section 1542 of the California Civil Code.

## **9. YOUR OPTIONS**

As a member of the class, you have several options. Each option will affect your rights, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, are explained below:

### **(a) You Can Do Nothing.**

If you do nothing, you will remain a member of the settlement class and will receive a settlement payment. You will also be bound by the release of claims set forth in Section 8 above. The payment will remain valid and negotiable for one hundred eighty (180) days from the date of the issuance. This deadline to cash the payment check shall not be extended for you absent Court Order.

### **(b) You Can Contest the Calculation of Your Settlement Payment as Stated in this Notice.**

You can contest the number of qualifying workweeks attributed to you in Section 6 above. To do so, you must provide the Settlement Administrator with a written explanation of your position. The statement must also include your full name, current address and telephone number, and must identify this case (*Ruiz v. Forma Almaden Valley, LLC., et al., Contra Costa Superior Court Case No. C23-08164*). You should provide written documentation supporting the number of workweeks you believe that you worked. You must postmark your written statement no later than **[45 days from mailing]**. The Settlement Administrator will consider your dispute and any documentation you submit and will communicate with you and the parties as necessary regarding the dispute to determine whether an adjustment is warranted before making a final determination regarding your settlement payment. The Settlement Administrator will notify you of its final determination.

### **(c) You Can Exclude Yourself from the Settlement Class.**

If you do not want to remain a member of the settlement class, you can request exclusion (i.e., opt out) by sending the Settlement Administrator a written Request for Exclusion at the address specified in Section 11 below. The deadline to postmark a Request for Exclusion is **[45 days from mailing]**. A Request for Exclusion is a written statement that unambiguously requests exclusion from the settlement class. The Request for Exclusion must include the case name (*Ruiz v. Forma Almaden Valley, LLC., Contra Costa Superior Court Case No. C23-08164*), your name, current address and telephone number, and the last four digits of your social security number (for verification purposes). You must also sign the Request for Exclusion. You should keep a copy of your Request for Exclusion. Moreover, to demonstrate receipt by the Settlement Administrator, you may elect to send your Request for Exclusion via certified mail. Requests for Exclusion that do not include all required information, or that are not postmarked on or before **[45 days from mailing]**, will not be valid.

If you submit a valid and timely Request for Exclusion, you will not be bound by the settlement or the release of claims in Section 8(A) above; however, you will not receive all of the money referenced in section 6 of this Notice. You will also be barred from objecting to this settlement. By opting out of the settlement class, you will retain whatever rights or claims you may have against Defendants.

If you do not submit a timely and valid Request for Exclusion from the settlement class by the deadline specified above, then you will be bound by all terms and conditions of the settlement, including the Release of Claims, if it is approved by the Court and by the judgment, and you will receive a settlement payment.

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**(d) You Can Object to the Settlement.**

If you do not submit a Request for Exclusion from the settlement, you may object to the settlement by sending your written objection to the Settlement Administrator at the address specified in Section 11 below. The deadline to postmark your objection is **[45 days from mailing]**. Only class members who have not requested exclusion may object to the settlement.

Your objection must state the basis of your objection and include any papers and briefs in support of your position. Your objection must be signed and must contain your current address and telephone number (or that of your attorney) and refer to this case (*Ruiz v. Forma Almaden Valley, LLC., et al., Contra Costa Superior Court Case No. C23-08164*).

If you object to the settlement and if the Court approves the settlement notwithstanding your objections, you will be bound by the terms of the settlement and be deemed to have released all of the Released Claims as set forth in Section 8 above, and you will not be permitted to file a Request for Exclusion.

**(e) You Can Attend the Final Approval Hearing**

Regardless of which option you choose, you may attend the Final Approval Hearing. Information about the Final Approval Hearing is contained in section 10 of this Notice.

**10. FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT**

The Final Approval Hearing on the fairness and adequacy of the proposed settlement, the plan of distribution, the service and release awards to the Plaintiffs, and Class Counsel's request for attorneys' fees and costs, and other issues will be held on \_\_\_\_\_, 2024 at \_\_\_\_\_.m., in Department 12 of the Contra Costa County Superior Court, 725 Court Street, Room 301, Martinez, CA 94553. The Final Approval Hearing may be continued to another date without further notice. If you plan to attend the Final Approval Hearing, it is recommended that you contact the Settlement Administrator to confirm the date and time. You have the option to attend the Final Approval Hearing by telephone.

**11. ADDITIONAL INFORMATION AND COURTHOUSE SOCIAL DISTANCING INFORMATION.**

This Notice only summarizes the lawsuit and settlement. For more information, you may inspect the Court file at the Contra Costa County Superior Court, 725 Court Street, Room 301, Martinez, CA 94553, subject to the procedures in place at the Courthouse. You may also review the settlement agreement and other documents on-line at [www.\\_\\_\\_\\_\\_](http://www._____.) or you may contact the Settlement Administrator as follows:

**[insert TPA contact information]**

You may also contact Class Counsel at the addresses and telephone numbers provided in Section 4 above. If your address changes or is different from the address on the envelope enclosing this Notice, please promptly notify the settlement administrator.

**IT IS IMPORTANT THAT YOU NOTIFY THE SETTLEMENT ADMINISTRATOR IMMEDIATELY  
IF YOU HAVE A CHANGE OF ADDRESS**

**PLEASE DO NOT CALL OR WRITE THE COURT ABOUT THIS NOTICE**

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