

NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT

SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF ORANGE

***CARILLO-SALAZAR V. WATERMARK SERVICES IV, LLC ET AL
WAGE AND HOUR CASES, CASE NO. JCCP 5176***

A court authorized this notice. This is not a solicitation from a lawyer.

ATTENTION: IF YOU HAVE BEEN EMPLOYED BY WATERMARK SERVICES IV, LLC AS A NON-EXEMPT EMPLOYEE IN CALIFORNIA DURING THE PERIOD BEGINNING JANUARY 27, 2016 AND ENDING ON MAY 31, 2022, YOU ARE ENTITLED TO A SHARE OF A PROPOSED CLASS ACTION SETTLEMENT.

TO UNDERSTAND YOUR RIGHTS, PLEASE READ THIS NOTICE CAREFULLY.

A proposed class action settlement (“the Settlement”) has been reached between Plaintiffs Daniel Carillo-Salazar and Evanina Alaniz (“Plaintiffs”), on behalf of themselves and the below-defined Class Members, and Defendants Watermark Retirement Communities, LLC; Watermark Retirement Communities, Inc.; Watermark Services IV, LLC (“Defendants”).

The Settlement resolves the above class action lawsuit (the “Action”) about claims related to allegations that Defendants (1) failed to pay all minimum wages; (2) failed to pay overtime wages, (3) failed to provide required rest breaks; (4) failed to provide required meal breaks; (5) failed to furnish accurate itemized wage statements; (6) failed to pay all wages due to discharged and quitting employees; (7) failed to timely pay wages during employment; (8) engaged in unfair business practices. Plaintiffs also assert a claim for civil penalties under the Private Attorneys General Act (“PAGA”) based on the foregoing alleged violations by Defendants. Defendants deny and continue to deny all of Plaintiffs’ claims, and maintain that they have complied with all applicable laws and regulations. Defendants have entered into the Settlement solely for purposes of resolving this dispute.

The Settlement provides for Individual Settlement Payments based on the number of workweeks you performed work for Defendants in California as a non-exempt employee during the period from January 27, 2016 to May 31, 2022 as well as PAGA Payments based on the pay periods you performed work for Defendants in California as a non-exempt employee during the period from January 17, 2019 to May 31, 2022.

OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT	
DO NOTHING	You will automatically receive an Individual Settlement Payment in exchange for which, whether or not you cash or deposit the payment, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement receives final approval by the Court, and you will give up your rights to be part of any other lawsuit against Defendant and/or the Released Parties involving the same or similar legal claims as the ones in the Action for the period beginning on January 27, 2016 to May 31, 2022. If you are a PAGA Group Member, you will also receive a PAGA Payment. You will be mailed a settlement check at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).
EXCLUDE YOURSELF	The only way for you to be part of any other lawsuit against Defendants and/or the Released Parties involving the same or similar legal claims as the ones in the Action for the period beginning on January 27, 2016 to May 31, 2022 is to submit a valid Exclusion Form to the Settlement Administrator postmarked no later than August 8, 2023 . If you submit an Exclusion Form, you will <u>not</u> receive an Individual Settlement Payment, but you will receive a PAGA Payment if you are a PAGA Group Member.
OBJECT	If you wish to object to the Settlement, you must submit a written Objection, and supporting papers, to the Settlement Administrator that is postmarked or fax stamped no later than August 8, 2023 . This option is available only if you do <u>not</u> exclude yourself. Class members may also appear at the final approval hearing to object, this hearing will take place on September 8, 2023 at 9:00 a.m., in Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana., Blvd, Santa Ana, California 92701.

These rights and options, and how to exercise them, are explained in more detail in this notice.

The Court handling this case has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and the Court still has to make a final determination of those issues at the Final Approval Hearing. Settlement payments will only be issued if the Court grants final approval of the Settlement.

Additional information regarding the Settlement is available through the Settlement Administrator or Class Counsel, whose contact information is provided in this notice.

BASIC INFORMATION

1. Why did I get this notice?

On March 22, 2023, the Superior Court of California, County of Orange (“the Court”) preliminarily approved a class action settlement of the Action on behalf of all persons who were employed by Defendants in California as non-exempt employees (“Class Members”) during the period beginning on January 27, 2016 to May 31, 2022 (the “Class Period”). According to Defendants’ records, you are a Class Member. This notice explains the Action, the Settlement, and your legal rights.

The Action is pending as coordinated cases captioned *Watermark Wage and Hour Cases*, Case No. JCCP 5176 and is pending in the Superior Court of California for the County of Orange (the “Action”). Daniel Carillo-Salazar and Evanina Alaniz are Plaintiffs, and the companies they sued, Defendants Watermark Retirement Communities, LLC; Watermark Retirement Communities, Inc.; Watermark Services IV, LLC., are the Defendants.

2. What is the Action about?

The Action generally involves claims under California’s wage and hour laws. Plaintiffs are former non-exempt employees of Defendants. They allege that Defendants did not provide proper meal or rest breaks, failed to pay minimum wages and overtime wages, failed to timely pay wages, failed to pay all wages at termination, failed to provide compliant wage statements, and unlawfully received wages, and violated California’s Business and Professions Code. As a result, Plaintiffs alleges that they and the Class Members are entitled to recover unpaid straight time and overtime wages, meal and rest period premiums, interest, and statutory and civil penalties. Defendants deny that they engaged in any wrongful conduct or violated the law in any way, and believe Plaintiffs and the Class Members were properly and timely compensated and provided proper meal and rest breaks. However, both Plaintiffs and Defendants believe the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the Class Members.

3. Why is this lawsuit a class action?

In a class action, one or more people called “Plaintiff(s)” (in this case, Daniel Carillo-Salazar and Evanina Alaniz) sue on behalf of people who have similar alleged claims. All of these people are a “class” or “class members.” The Court resolves the issues for all class members, except for those who exclude themselves from the class. On **March 22, 2023**, the Honorable William Claster issued an order conditionally certifying the Settlement Class for purposes of settlement only.

4. Who is in the Settlement Class?

“Class Members” or “Class” means all persons employed by Defendant in the State of California at any time during the period from January 27, 2016 to May 31, 2022 as a non-exempt employee. “PAGA Group Members” means all persons employed by Defendant in the State of California at any time during the period from January 17, 2019 to May 31, 2022 as a non-exempt employee.

5. Why is there a settlement?

After conducting substantial investigation, including review of Defendants’ policies, timekeeping records, and payroll records, both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that any laws were broken. Defendants deny all of the claims asserted in the Action and deny that they have violated any laws. Plaintiffs and their lawyers think the Settlement is in the best interests of all Class Members.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the settlement provide?

Under the terms of the Settlement, Defendant agrees to pay a Maximum Settlement Amount of Two Million, Four Hundred Thousand Dollars (\$2,400,000.00). Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys' fees (not to exceed \$800,000.00), or 33.33% of the Maximum Settlement Amount, attorneys' litigation costs (not to exceed \$30,000.00), a Class Representative Service Award to Plaintiff Daniel Carillo-Salazar in the amount of (\$10,000) and to Plaintiff Evanina Alaniz in the amount of (\$5,000) for their services, the PAGA Settlement Amount (i.e., a payment of Eighteen Thousand Dollars (\$18,000.00) to the State of California Labor and Workforce Development Agency for alleged penalties and a Six Thousand Dollars (\$6,000.00) *pro rata* distribution to PAGA Group Members as their PAGA Payment), and the fees and expenses of the Settlement Administrator, ILYM Group, Inc. (estimated not to exceed \$25,000.00), which will result in a maximum amount payable by Defendants for distribution to Class Members who do not opt out (the "Net Settlement Amount"). Defendants' share of payroll taxes will be paid separately from and in addition to the Maximum Settlement Amount. No portion of the Maximum Settlement Amount shall revert to Defendants.

The Net Settlement Amount will be distributed to Class Members who do not opt out of the Settlement ("Participating Class Members") on a *pro rata* basis, based on the number of workweeks that each Participating Class Member performed work for Defendants as a non-exempt employee in California during the Class Period ("Qualified Workweeks"). To determine a Participating Class Member's estimated settlement payment ("Individual Settlement Payment"), the Net Settlement Amount will be divided by the total number of Qualified Workweeks worked by all Participating Class Members during the Class Period, multiplied by the number of Qualified Workweeks worked by that Participating Class Member, according to the following formula:

$$\text{[Net Settlement Amount} \div \text{Total Qualified Pay Periods for all Participating Class Members]} \times \text{Participating Class Member's Individual Qualified Pay Periods} = \text{estimated Individual Settlement Payment}$$

Class Members' Individual Settlement Payments will be reduced by any required legal deductions. No benefit, including but not limited to pension benefits and/or 401(k), shall increase or accrue as a result of any payment made as a result of this Settlement.

The Parties recognize that the Class Members' Individual Settlement Payments are for wages, interest, and penalties. The Parties agree that 50% of the Individual Settlement Payments shall be reported as wages subject to all applicable tax withholdings on IRS Form W-2 and its state and local equivalents and 50% shall be reported as non-wage interest and penalties not subject to payroll tax withholdings on IRS Form 1099 and its state and local equivalents.

The Parties are neither providing tax nor legal advice, nor making representations regarding tax obligations or consequences, if any, related to any settlement amounts to be paid to the Participating Class Members. Each Participating Class Member will assume any tax obligations or consequences that may arise from any settlement amount paid to him or her and should consult with a tax expert if he or she has any questions. Each Participating Class Member's *pro rata* distribution amount prior to legal deductions will be reduced by the amount of any required payroll-related deductions.

Class Members who were employed by Defendants in the State of California at any time during the PAGA Period as a non-exempt employee ("PAGA Group Members") will also receive a PAGA Payment. "PAGA Payment" means the amount payable from the PAGA Settlement Amount to each PAGA Group Member. "PAGA Settlement Amount" means the portion of the Maximum Settlement Amount allocated to the resolution of PAGA claims in the Action. The PAGA Settlement Amount is Twenty-Four Thousand Dollars (\$24,000.00). Eighteen Thousand Dollars (\$18,000.00) shall be paid by the Settlement Administrator directly to the LWDA. The remaining Six Thousand Dollars (\$6,000.00) shall be distributed to PAGA Group Members as their PAGA Payment. The "PAGA Period" is the period of time from January 17, 2019 through May 31, 2022. PAGA Payments shall be paid by the Settlement Administrator from the Maximum Settlement Amount. PAGA Payments shall be allocated as non-wage penalties not subject to payroll tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each PAGA Group Member for their PAGA Payment. Each PAGA Group Member's PAGA Payment shall be calculated solely by the Settlement Administrator according to the following formula: Defendants shall provide the

Settlement Administrator with the Total Qualified PAGA Pay Periods; the Settlement Administrator shall then (1) divide Six Thousand Dollars (\$6,000.00) by the Total Qualified PAGA Pay Periods and then (2) multiply each PAGA Group Member's number of Qualified PAGA Pay Periods by the result in (1) to obtain the amount of each PAGA Group Member's PAGA Payment. "Qualified PAGA Pay Periods" means the total number of pay periods during the PAGA Period that PAGA Group Members performed work for Defendants as a non-exempt employee.

7. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendants, the total number of weeks you worked in California for Defendants as a non-exempt employee during the Class Period is <<weeks>>. The total number of pay periods you worked in California for Defendants as a non-exempt employee during the PAGA Period is <<Pay Periods>>.

Based on information provided above, anticipated court-approved deductions, and preliminary calculations Qualified Workweeks, it is estimated your share of the settlement will be \$<<Est.SettAmount>>, less applicable taxes and withholdings. This amount includes your share of the PAGA Group Payment, which is estimated to be \$<<PAGAAmount>>.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 11, below, of any changes to your mailing address for timely payment.

Disputing Your Payment Amount

To the extent any Participating Class Member or PAGA Group Member disputes any aspect of his or her payment, number of Qualified Workweeks, or number of Qualified PAGA Pay Periods, that Participating Class Member or PAGA Group Member may complete the enclosed Dispute Form and mail it to the Settlement Administrator along with any documents or other information that supports your belief that the information set forth is incorrect. Defendants' records will be presumed determinative.

8. What am I giving up in exchange for the settlement benefits?

In exchange for the consideration provided, and upon the Settlement Administrator's receipt of the total Maximum Settlement Amount from Defendants, Plaintiffs and each Participating Class Member who does not submit a valid Exclusion Form (defined in response to Question 11 below) will release all claims for civil penalties that could have been sought by the Labor Commissioner and all claims alleged in the Complaint, including but not limited to (1) failure to pay minimum wages; (2) failure to pay overtime wages; (3) failure to provide meal periods (4) failure to permit rest breaks (5) failure to provide accurate itemized wage statements (6) failure to pay all wages due upon separation of employment (7) violation of California Business and Professions Code §§17200, *et seq.*, based on the preceding claims against Defendants, including their parent corporation(s), direct or indirect owners, affiliates (including, without limitation, Watermark Retirement Communities Carmel, LLC), subsidiaries, divisions, predecessors, insurers, reinsurers, successors, and assigns, and their current and former employees, attorneys, officers, directors, and agents thereof, both individually and in their business capacities, and their employee benefit plans and programs and the trustees, administrators, fiduciaries, and insurers of such plans and programs, both individually and in their business capacities at any time during the Class Period (the "Released Parties"). The PAGA Group Member will release PAGA claims regardless of whether they opt-out.

HOW TO GET A SETTLEMENT PAYMENT

9. How do I get a settlement payment?

You will automatically receive an Individual Settlement Payment in exchange for which, whether or not you cash or deposit the payment, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement receives final approval by the Court, and you will give up your rights to be part of any other lawsuit against Defendants and/or the Released Parties involving the same or similar legal claims as the ones in the Action arising during the Class Period. You will be mailed a settlement check at the address where this notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator).

Additionally, if you are a PAGA Group Member, you will also receive a PAGA Payment, regardless of whether you submit an Exclusion Form. Your Individual Settlement Payment and PAGA Payment will be issued in one check.

10. When will I get my check?

Checks will be mailed to Participating Class Members and PAGA Group Members eligible to receive benefits under the Settlement after the Court grants “final approval” of the Settlement. If the judge approves the settlement after a hearing on **September 8, 2023** (see “The Court’s Final Approval Hearing” below), there may be appeals. If there are any appeals, resolving them could take some time, so please be patient.

If the Court approves the settlement and if you do not opt out, your individual payment is expected to be distributed after Defendants make payment to the Settlement Administrator. Defendants shall fund the settlement no earlier than the later of (a) January 2, 2023 or (b) thirty (30) days after the Court signs the Final Order to make the full payment to the Settlement Administrator.

Please also be advised that you will only have 180 days from the date that the check is issued to cash it. If you do not cash your check within 180 days of the date of its mailing, your check shall be voided, and your share of the settlement proceeds will be distributed by the Settlement Administrator to the California State Controller’s Office Unclaimed Property Fund in your name.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I ask the Court to exclude me from the Settlement Class?

If you do not wish to participate in the Settlement, you must complete and send a timely Exclusion Form. The Exclusion Form must be completed, signed, dated and mailed by First Class U.S. Mail, or the equivalent, postmarked no later than **August 8, 2023** to:

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

Exclusion Forms that do not include all required information and/or that are not timely submitted will be deemed null, void, and ineffective, unless otherwise ordered by the Court. If you do not submit a valid and timely Exclusion Form on or before August 8, 2023, you will be bound by all terms of the Settlement and any Final Judgment entered in the Action if the Settlement is approved by the Court.

12. If I exclude myself, can I get anything from the settlement?

Not unless you are also a PAGA Group Member. If you exclude yourself now you will not get anything from the Settlement unless you are a PAGA Group Member. If you ask to be excluded, you will not get an Individual Settlement Payment and you will not be bound by the Settlement, but you will still receive a PAGA Payment if you are a PAGA Group Member.

13. If I don’t exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Defendants for the Released Claims arising during the Class Period. You must exclude yourself from the Settlement Class to start or continue your own lawsuit.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

The Court has appointed the following lawyers to serve as Class Counsel for the Class Members:

JACKSON LAW, APC
Armond M. Jackson
2 Venture Plaza, Suite 240
Irvine, CA 92618
Phone: (949) 281-6857
Fax: (949) 777-6218

AEGIS LAW FIRM, PC
Samuel A. Wong
Kashif Haque
Jessica L. Campbell
Kristy R. Connolly
9811 Irvine Center Drive, Suite 100
Irvine, CA 92618
Tel: 949-379-6250

UNITED EMPLOYEES LAW GROUP
Walter Haines
5500 Bolsa Avenue, Suite 201
Huntington Beach, California 92649
Telephone: (562) 256-1047
Facsimile: (562) 256-1006

15. How will the costs of the lawsuit and the settlement be paid?

Subject to court approval, Class Counsel has requested one-third (33 1/3%) of the sum of the Maximum Settlement Amount in attorneys' fees (currently equal to \$800,000) plus actual litigation costs and expenses (not to exceed \$30,000.00). The Court may award less than these amounts. If lesser amounts are awarded, the difference will be returned to the Net Settlement Amount.

In addition, and subject to Court approval, Defendants also agree to pay, as part of the Maximum Settlement Amount, up to Ten Thousand Dollars (\$10,000.00) to Plaintiff Daniel Carillo-Salazar and Five Thousand Dollars (\$5,000.00) to Plaintiff Evanina Alaniz as Enhancement Awards for their participation in the Action and for taking on the risk of litigation. Subject to Court approval, Defendant also agrees to pay Eighteen Thousand Dollars (\$18,000.00) to the State of California Labor and Workforce Development Agency for alleged civil penalties. Defendant also agrees to pay, as part of the Maximum Settlement Amount, the Settlement Administrator's costs and fees associated with administering the Settlement, estimated not to exceed Twenty-Five Thousand Dollars (\$25,000.00). The Court may award less than these amounts. If lesser amounts are awarded, the difference will be included in the Net Settlement Amount and will be available for distribution to Participating Class Members.

OBJECTING TO THE SETTLEMENT

16. How do I object to the Settlement?

If you do not submit an Exclusion Form, you may object to the proposed Settlement, or any portion thereof, by completing a written objection ("Objection Form"). The Objection Form must be signed and mailed by regular U.S. Mail, postmarked no later than **August 8, 2023**, to the Settlement Administrator at the following address:

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781

The Objection Form must (1) state your full name; (2) be signed by you; (3) state the grounds for the objection; and (4) must be postmarked by August 8, 2023 and returned to the Settlement Administrator at the specified address above. If you wish to appear at the Court's Final Approval Hearing (see response to Question 17 below) and orally present your objection to the Court, you may do so whether or not you submitted an Objection Form to the Settlement Administrator. Any Class Member who submits an Objection Form or appears at the Final Approval Hearing to submit a verbal objection remains eligible to receive monetary compensation from the Settlement. A Class Member who submits an Exclusion Form may not object to the proposed Settlement.

17. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend the hearing and you may ask to speak, but you don't have to.

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing on **September 8, 2023 at 9:00 a.m.**, in Department CX104 of the **Orange County Superior Court, located at 751 W. Santa Ana, Blvd, Santa Ana, California 92701**. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But you are welcome to come. If you submit an Objection Form to the Settlement Administrator, you do not have to come to Court to talk about it. You may also pay another lawyer to attend, but it is not required. Class Counsel will not represent you in connection with any objection. You may appear by audio or video at the final approval hearing. Please visit the Court's website for further instructions: <https://www.occourts.org/directory/civil/complex-civil/calendar-schedule/civil-panel-schedule.html>

20. May I speak at the hearing?

If you wish to appear at the Final Approval Hearing and orally present your objection to the Court, you may do so regardless of whether or not you submitted an Objection Form. Please adhere to the latest COVID-19 courthouse protocol.

IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you do nothing, you will automatically receive an Individual Settlement Payment and PAGA Payment, if applicable, as described above and you will be bound by the release of Released Claims against the Released Parties.

GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the Settlement. More details are in the Stipulation of Class Action and PAGA Settlement, which is attached as Exhibit A to the Declaration of Armond M. Jackson in Support of Plaintiffs Danial Carillo-Salazar and Evanina Alaniz's Motion for Preliminary Approval of Class Action and PAGA Settlement, filed on December 2, 2022. The case is assigned to Department CX104 of the Orange County Superior Court, located at 751 W. Santa Ana., Blvd, Santa Ana, California 92701. The case file may be viewed online at <https://www.occourts.org/online-services/case-access/> and select "Civil Case & Document Access."

You may also contact Class Counsel or the Settlement Administrator for more information.

ILYM Group, Inc.
P.O. Box 2031
Tustin, CA 92781
Telephone: (888) 250-6810

The Settlement Administrator has set up a settlement website where you may also obtain up-to-date information on the matter including any change of the date or location of any hearings in connection with this Settlement. The settlement website URL is www.ilymgroup.com/WatermarkServices.

Please do not contact the Court for more information about the Settlement.