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**FILED**  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

SEP 04 2024

By  Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SAN BERNARDINO**

JEREMY GARCIA, on behalf of himself and all  
others similarly situated,

Plaintiff,

v.

BIRCHSTONE MANAGEMENT, LLC., a  
Delaware Corporation; and DOES 1-50,  
inclusive.

Defendants.

CASE NO.: CIVSB2224564

*Assigned to the Hon. Jessica Morgan*

**CLASS ACTION**

**[PROPOSED] ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION AND PAGA SETTLEMENT**

**HEARING INFO**

Date: August 29, 2024

Time: 8:30 a.m.

Dept.: S26

1 On or about August 29, 2024, the Honorable Jessica Morgan considered Plaintiff Jeremy  
2 Garcia's ("Plaintiff") Motion for Preliminary Approval of Class Action Settlement ("Plaintiff's  
3 Motion"), the Declarations of Mehrdad Bokhour, Joshua Falakassa and Jeremy Garcia in Support of  
4 Plaintiff's Motion, the Class Action and PAGA Settlement Agreement ("Settlement Agreement"  
5 and/or "Settlement"), and Notice of Class Action Settlement ("Class Notice") and any other  
6 documents submitted in support of Plaintiff's Motion.

7 Having considered Plaintiff's Motion, the accompanying declarations in support thereof, and  
8 all supporting legal authorities and documents, the Court hereby grants the motion and rules as  
9 follows:

10 **IT IS HEREBY ORDERED THAT:**

11 1. This Order incorporates by reference the Settlement Agreement, attached as Exhibit  
12 "A" to the Declaration of Mehrdad Bokhour, along with Exhibits "B" and "C" to the Bokhour  
13 Declaration (i.e., the Class Notice and Publication Notice). All terms defined in the Settlement  
14 Agreement shall have the same meaning in this Order as those set forth in the Settlement Agreement.

15 2. For settlement purposes only, the Court certifies the following Settlement Class: all  
16 non-exempt employees of Birchstone Management, LLC in the State of California, along with all  
17 non-exempt temporary workers assigned by any Temporary Staffing Agency to work at Birchstone  
18 Management, LLC's California warehouses from November 1, 2018, through August 1, 2024.

19 3. For Settlement purposes only, the Court further approves the resolution of the  
20 following PAGA Group: all non-exempt employees of Birchstone Management, LLC in the State of  
21 California and all non-exempt temporary workers assigned by any Temporary Staffing Agency to  
22 work at Birchstone Management, LLC's California warehouses from November 1, 2021, through  
23 August 1, 2024.

24 4. The Court preliminarily appoints the named Plaintiff, Jeremy Garcia as the Class  
25 Representative, and Mehrdad Bokhour, Esq. of The Bokhour Law Group, P.C. and Joshua Falakassa,  
26 Esq. of Falakassa Law P.C., as Class Counsel.

27 5. The Court hereby preliminarily approves the proposed class action settlement and  
28 settlement of PAGA claims upon the terms and conditions set forth in the Settlement Agreement.

1 The Court finds that on a preliminary basis that the Settlement appears to be within the range of  
2 reasonableness of settlement that could ultimately be given final approval by the Court. It appears to  
3 the Court on a preliminary basis that the Settlement amount is fair, adequate, and reasonable as to all  
4 potential Settlement Class Members and PAGA Group Members when balanced against the probable  
5 outcome of further litigation relating to liability and damages issues. It further appears that extensive  
6 and costly investigation and research has been conducted such that counsel for the Parties at this time  
7 are reasonably able to evaluate their respective positions. It further appears to the Court that the  
8 Settlement at this time will avoid substantial additional costs by all Parties, as well as the delay and  
9 risks that would be presented by the further prosecution of the Action. It further appears that the  
10 Settlement has been reached as the result of intensive, non-collusive, arms-length negotiations  
11 utilizing an experienced mediator.

12 6. The Court approves, as to form and content, the proposed Class Notice attached hereto  
13 as Exhibit "A" and the Publication Notice attached hereto as Exhibit "B."

14 7. The Court directs Defendant to provide the Class Data in its possession to the  
15 Administrator no later than thirty (30) days after the date of this Order. The Court further directs the  
16 mailing of the Notice Packet by first-class mail to the Settlement Class Members by no later than  
17 thirty (30) days after the Administrator receives the Class Data from Defendant. The Court also  
18 directs the Settlement Administrator to publish the Publication Notice attached as Exhibit B hereto  
19 one time in The Press-Enterprise newspaper within (30) days of the Class Data being provided to it,  
20 but only if there are Settlement Class Members for whom Defendant could not locate last known  
21 addresses or social security numbers. The Court finds that the dissemination of the Notice Packet set  
22 forth in the Settlement Agreement combined with the Publication Notice complies with the  
23 requirements of due process of law and appears to be the best notice practicable under the  
24 circumstances.

25 8. The Court hereby preliminarily approves the definition and disposition of the gross  
26 Settlement Amount of \$890,000, which is inclusive of payment of Attorneys' Fees not to exceed  
27 \$296,666.67 which is approximately 33.33% of the Settlement Amount, Costs not to exceed \$25,000,  
28 Service Award not to exceed \$10,000 to Plaintiff, alleged PAGA civil penalties of \$20,000 (of which

1 75% or \$15,000 will be paid to the Labor and Workforce Development Agency and 25% or \$5,000  
2 will be paid to Participating Class Members) and Settlement Administration Costs not to exceed  
3 \$20,000. Defendant shall pay the employer's share of payroll taxes on the portion of the Settlement  
4 Amount payable to Participating Class Members as alleged wages, in addition to the Settlement  
5 Amount.

6 9. The Court confirms ILYM Group, Inc. as the Settlement Administrator, and payment  
7 of Settlement Administration Costs, not to exceed \$20,000.00, out of the Settlement Amount for  
8 services to be rendered by ILYM Group on behalf of the Settlement Class. The Settlement  
9 Administrator shall prepare and submit to Class Counsel and Defendant's counsel a declaration  
10 attesting to the completion of the notice process as set forth in the Settlement Agreement, including  
11 an explanation of efforts to send any Publication Notice and/or resend any Notice Packet returned  
12 undeliverable and the total number of opt-outs and objections received before and after the deadline.

13 10. The Court directs Defendant to provide the Settlement Administrator with the "Class  
14 Data" for Class Members providing, to the extent it is in Defendant's possession, the following  
15 information: (1) full names; (2) last known addresses; (3) the number of Workweeks (as defined in  
16 the Settlement Agreement) as non-exempt employees of Defendant in California during the Class and  
17 PAGA Periods; and (4) Social Security numbers. Defendant shall provide the "Class Data" as  
18 referenced herein to the Settlement Administrator as set forth in the Settlement Agreement, including  
19 within 30 days of this Order.

20 11. The Settlement Administrator shall use the National Change of Address database (U.S.  
21 Postal Service) to check for updated addresses for Settlement Class Members and shall then mail, via  
22 first class U.S. mail, the Notice Packet to Class Members as approved herein and in accordance with  
23 the terms of the Settlement Agreement.

24 12. Except for notices received as a result of the Publication Notice process and notices  
25 that have been re-mailed, the deadline by which Settlement Class Members may dispute the number  
26 of Workweeks worked or opt-out of the Settlement Class shall be forty-five (45) days from the date  
27 of mailing of the Notice Packet. The deadline shall be extended by an additional fourteen (14) days  
28 beyond the forty-five (45) days for all Settlement Class Members whose Notice Packet is re-mailed.

1 Any Settlement Class Member who desires to be excluded from the Settlement must timely mail his  
2 or her written request for exclusion in accordance with the Notice Packet. All such persons who  
3 properly and timely exclude themselves from the Settlement shall not be class participants and shall  
4 have no rights with respect to the Settlement, no interest in the Settlement proceeds, and no standing  
5 to object to the proposed Settlement.

6 13. Except for notices received as a result of the Publication Notice process and notices  
7 that have been re-mailed, the deadline for filing objections to any of the terms of the Settlement shall  
8 be forty-five (45) days from the date of mailing of the Notice Packet. The deadline shall be extended  
9 by an additional fourteen (14) days beyond the forty-five (45) days for all Settlement Class Members  
10 whose Notice Packet is re-mailed. Any Settlement Class Member who wishes to object to the  
11 Settlement must mail a written objection to the Settlement Administrator, who will email a copy of  
12 the objection to Class Counsel and counsel for Defendant. Class Counsel will lodge a copy of the  
13 objection with the Court. The objection must set forth, in a clear and concise manner, the factual and  
14 legal basis for the objection. Any Settlement Class Member who fails to make his or her objection in  
15 the manner provided for in this Order shall be deemed to have waived such objection and shall forever  
16 be foreclosed from making any objection to or appeal of the fairness, reasonableness, or adequacy of  
17 the Settlement as incorporated in the Settlement Agreement, or to the award of Attorneys' Fees and  
18 Costs, or Service Award to the Class Representatives.

19 14. For those Settlement Class Members and PAGA Members who the Settlement  
20 Administrator cannot send the Notice Packet directly because Defendant does not possess their last  
21 known address or social security number, they shall have thirty (30) days after the Publication Notice  
22 is published in The Press-Enterprise newspaper to contact the Administrator and request a Notice  
23 Packet. The Settlement Administrator shall, within two (2) business days, mail a copy of the Notice  
24 Packet to any Settlement Class Member and/or PAGA Member who contacts it as a result of the  
25 Publication Notice. Such Settlement Class Member shall then have thirty (30) days from the date the  
26 Notice Packet is mailed to the Settlement Class Member to dispute the number of Workweeks worked  
27 or opt-out of the Settlement Class. Such Settlement Class Member shall further have 30 days from  
28 the date the Notice Packet is mailed to the Settlement Class Member to object to the Settlement;

1 provided, however, that any such Settlement Class Member who wishes to object to the Settlement  
2 must mail a written objection to the Settlement Administrator, who will email a copy of the objection  
3 to Class Counsel and counsel for Defendant. Class Counsel will lodge a copy of the objection with  
4 the Court. The objection must set forth, in a clear and concise manner, the factual and legal basis for  
5 the objection. Any such Settlement Class Member who fails to make their objection in the manner  
6 provided for in this paragraph shall be deemed to have waived such objection and shall forever be  
7 foreclosed from making any objection to or appeal of the fairness, reasonableness, or adequacy of the  
8 Settlement as incorporated in the Settlement Agreement, or to the award of Attorneys' Fees and Costs,  
9 or Service Award to the Class Representatives.

10 15. All papers filed in support of Final Approval, including supporting documents for  
11 Attorneys' Fees and Costs shall be filed 16 court days before the Final Approval hearing.

12 16. Class Counsel and Counsel for Defendant shall file any responses to any written  
13 objections submitted to the Court in accordance with the time frame set forth in the Settlement  
14 Agreement or no later than (5) court days before the final approval hearing, whichever is later.

15 15. A final approval hearing shall be held with the Court on 2/6, 2025 at  
16 8:30 a.m. p.m. in Department "S26" at 247 West Third Street, San Bernardino, California 92415  
17 to determine (1) whether the proposed Settlement is fair, reasonable, and adequate and should be  
18 finally approved by the Court; (2) the amount of Attorneys' Fees and Costs to award Class Counsel;  
19 (3) the amount of the Service Awards to the Class Representatives; (4) the approval of the PAGA  
20 aspects of the settlement; and (5) all other matters concerning or relating to final approval, including,  
21 but not limited to, the satisfactory nature of the notice provided, the plan for disbursement of funds  
22 to the Settlement Class Members and PAGA Group members, and the disposition of any amounts to  
23 Settlement Class Members who could not be located (if any) to an agreed upon *cy pres* beneficiary.

24 16. A schedule of certain events related to the Settlement along with the date for the final  
25 approval hearing is below:

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Event	Date
Defendant to provide class contact information to Settlement Administrator no later than:	<i>[30 calendar days after service of notice of entry of Order granting Preliminary Approval]</i>
Settlement Administrator to mail the Notice Packet to the Settlement Class no later than:	<i>[30 calendar days after receipt of Class Data]</i>
Deadline for Class Members to submit disputes, request exclusion from, or object to the Settlement:	<i>[45 calendar days after the date of mailing of the Class Notice, plus an additional 14 days for notices that are re-mailed]</i>
Deadline for Plaintiff to file Motion for Final Approval of Class Action Settlement:	<i>[16 court days before the hearing on Motion for Final Approval of Settlement]</i>
Hearing on Motion for Final Approval of Settlement	

If any of the dates in this implementation schedule falls on a weekend, legal or court holiday, the time to act shall be extended to the next business day.

17. Pending the Final Approval hearing, all proceedings in this action, other than proceedings necessary to carry out or enforce the terms and conditions of the Settlement and this Order, are stayed.

18. In the event the Settlement does not become effective in accordance with the terms of the Settlement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties shall revert to their respective positions as of the commencement of the Action as if no



1 settlement had ever been reached. The Parties will be free to assert any claim or defense that could  
2 have been asserted at the outset of the Action.

3  
4 **IT IS SO ORDERED.**

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6 DATED: 9/4, 2024

C. Bunn  
THE HONORABLE JESSICA MORGAN  
JUDGE OF THE SUPERIOR COURT Christian Towns

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