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on behalf of himself and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE

EDUARDO RIVERA behalf of himself and all
others similarly situated,

Plaintiff,

vs.

ALLCOM ELECTRIC INC., a California
Corporation, and DOES 1 through 50, inclusive,

Defendants.

Case No.: 30-2020-01123366-CU-OE-CXC

ASSIGNED FOR ALL PURPOSES TO:
Judge: Hon. Peter Wilson
Dept.: CX102

**AMENDMENT TO JOINT STIPULATION
OF CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

**AMENDMENT TO STIPULATION AND SETTLEMENT OF CLASS AND
REPRESENTATIVE ACTION**

In accordance with the Court's April 7, 2022 Ruling on Plaintiffs Motion for Preliminary Approval of Class Action Settlement, Plaintiff EDUARDO RIVERA ("Plaintiff" or "Class Representative"), individually and on behalf of all others similarly situated, and Defendant ALLCOM ("Defendant") (collectively, the "Parties") hereby agree, by and through their attorneys of record, to be bound by this Amendment to the Joint Stipulation of Class Action and PAGA Settlement Agreement and Release of Claims ("Amendment") which is intended to replace and

1 supersede the sections of the Joint Stipulation of Class Action and PAGA Settlement Agreement and
2 Release of Claims ("Settlement Agreement") as specifically set forth below:

3 Terms used herein shall have the same meaning as in the Settlement Agreement unless
4 defined differently in this Amendment. This Amendment is being made in accordance with the
5 Settlement Agreement which states: "With Court approval, this Settlement Agreement may be
6 amended or modified only by a written instrument that is signed by counsel for all Parties or their
7 successors-in-interest, and signed by the Parties or their successors-in-interest." (See Settlement
8 Agreement, ¶ III.62).

9 Except as specifically provided herein, the Settlement Agreement shall remain in full force
10 and effect. The Settlement Agreement shall be modified as follows:

11 **1. Section Heading: "I. DEFINITIONS"**

12 Paragraph I.2, of the Settlement Agreement is amended to read as follows:

13 **Delete:** "“Class” is defined as: All persons who are or were employed by Defendant as non-
14 exempt, hourly-paid employees in California from January 13, 2016, through preliminary
15 approval.”

16 **Replace With:** “2. Class and Aggrieved Employee’s

17 a. “Class” is defined as: All persons who are or were employed by
18 Defendant as non-exempt, hourly-paid employees in California
19 from January 13, 2016, through preliminary approval.

20 b. “Aggrieved Employees” are defined as: All persons who are or
21 were employed by Defendant as non-exempt, hourly-paid
22 employees in California from January 13, 2019, through
23 preliminary approval.

24 **2. Section Heading: “I. DEFINITIONS”**

25 Paragraph I.7, of the Settlement Agreement is amended to read as follows:

26 **Delete:** "“Class Period” means the time period from January 13, 2016 until the Preliminary
27 Approval Date.”

28 **Replace With:** “7. Time Periods”

a. “Class Period” is defined as: the time period from January 13, 2016 until the Preliminary Approval Date.

b. “PAGA Period” is defined as: the time period from January 13, 2019 until the Preliminary Approval Date.

3. Section Heading: “I. DEFINITIONS”

Paragraph I.29, of the Settlement Agreement is amended to read as follows:

Delete: ““Released Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and claims alleged in the Action, including any claims for: (1) failure to pay lawful wages; (2) failure to provide meals periods; (3) failure to provide rest periods; (4) failure to timely pay all wages due at termination; (5) failure to provide accurate wage statements; (6) failure to reimburse business expenses (8) unfair competition; and (9) civil penalties, Labor Code § 2699, predicated on any of the violations of the California Labor Code and applicable IWC Wage Order alleged in the Complaint and/or the PAGA Letter, including compensatory damages; economic and/or special damages; premium wages; premium pay; penalties; attorneys’ fees; interest; and litigation costs) premised on the facts, claims, or legal theories described herein or in the Action; any other claims or penalties under the wage and hour laws pleaded in the Action and the PAGA Letter under California and federal law, including the California Labor Code and the applicable Wage Orders as to the facts and theories alleged in the Action and the PAGA Letter (collectively, the “Released Claims.”) The period of the Release shall extend to the limits of the Class Period. The res judicata effect of the Judgment will be the same as that of the Release.”

Replace With: “16. Release of Claims”

a. “Class Released Claims” means any and all claims, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages, or causes of action contingent or accrued for, that are pleaded, or that could have been pleaded, based on the facts and claims alleged in the Action, including any claims for: (1) failure to

1 pay lawful wages; (2) failure to provide meals periods; (3) failure to provide rest periods; (4)
2 failure to timely pay all wages due at termination; (5) failure to provide accurate wage
3 statements; (6) failure to reimburse business expenses (8) unfair competition; and (9) civil
4 penalties, Labor Code § 2699, predicated on any of the violations of the California Labor
5 Code and applicable IWC Wage Order alleged in the Complaint and/or the PAGA Letter,
6 including compensatory damages; economic and/or special damages; premium wages;
7 premium pay; penalties; attorneys' fees; interest; and litigation costs) premised on the facts,
8 claims, or legal theories described herein or in the Action; any other claims or penalties under
9 the wage and hour laws pleaded in the Action and the PAGA Letter under California and
10 federal law, including the California Labor Code and the applicable Wage Orders as to the
11 facts and theories alleged in the Action and the PAGA Letter (collectively, the "Released
12 Claims.") The period of the Release shall extend to the limits of the Class Period.

13 b. "PAGA Released Claims" means all claims or causes of action
14 for PAGA penalties that were, or could have been asserted in Plaintiffs April 14, 2020 letter
15 to the LWDA and in the First Amended Complaint in the Action, pursuant to the California
16 Labor Code Private Attorneys General act of 2004, Labor Code §§2698, *et. seq.*, based on the
17 alleged violations of Labor Code §§200-204, 226, 226.7, 510, 512, 1174, 1194, 1197, 1199,
18 2699, 2699.3, 2802, and IWC California Wage Order 5-2001, whether for civil penalties or
19 attorneys' fees and costs arising out of the PAGA claims at issue, including: unpaid wages,
20 overtime; missed meal periods; missed rest breaks; inaccurate wage statements; failure to
21 timely pay wages during employment and/or at the time of termination; and failure to
22 reimburse employee expenses."

23 **4. Section Heading: "III. TERMS OF SETTLEMENT AGREEMENT"**

24 Paragraph III.52.g. of the Settlement Agreement is amended to read as follows:

25 **Add:** III.52.g.vi. "Notwithstanding the submission of a timely request for exclusion, Class
26 Members will still be bound by the settlement and release of the PAGA Claims or remedies
27 under the Judgment pursuant to *Arias v. Superior Court*, 46 Cal. 4th 969 (2009). Requests for
28 exclusion do not apply to the PAGA Claims and will not be effective to preclude the release

of the PAGA Claims. Each Class Member shall receive an Individual PAGA Settlement Payment.”

5. Section Heading: "III. TERMS OF SETTLEMENT AGREEMENT"

Paragraph III.52.h.iv of the Settlement Agreement is amended to read as follows:

Add right after first sentence: “If a Class Member timely submits both a valid Request for Exclusion and a valid Objection, the Request for Exclusion shall apply.”

6. Section Heading: "III. TERMS OF SETTLEMENT AGREEMENT"

Paragraph III.52.e. of the Settlement Agreement is amended to read as follows:

Delete: “Disputes Regarding Individual Settlement Payments. Settlement Class Members will have the opportunity, should they disagree with the estimated number of Workweeks stated on their Notice, to provide documentation and/or an explanation to show contrary employment dates. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement, and that determination shall be binding upon the Settlement Class Member and the Parties.”

Replace With: “e. Disputes Regarding Individual Settlement Payments.”

i. Settlement Class Members will have the opportunity, should they disagree with the estimated number of Workweeks stated on their Notice, to provide documentation and/or an explanation to show contrary employment dates. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payment under the terms of this Settlement Agreement, and that determination shall be binding upon the Settlement Class Member and the Parties, subject to review of the Court.”

ii. The Settlement Administrator shall send all notices of disputes and the accompanying documentation to Class Counsel and Defense Counsel. Class Counsel will be

1 responsible for filing the Notices of Dispute, including the accompanying documentation,
2 with the Court in advance of the Final Approval Hearing.

3 **7. Section Heading: "III. TERMS OF SETTLEMENT AGREEMENT"**

4 Paragraph III.52.h. of the Settlement Agreement is amended to read as follows:

5 **Add:** III.52.h.ii. right after first sentence, "Settlement Class Members may appear in person
6 or through counsel, whether or not they submitted an Objection, and whether or not a
7 submitted Objection stated they intended to appear at the Final Approval Hearing."
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9 Dated: May 17, 2022

JAMES HAWKINS, APLC

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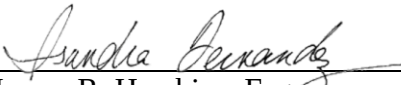
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Eduardo Rivera

Dated: May 17, 2022

FINCH, THORNTON & BAIRD, LLP

/s/Chad T. Wishchuk (with permission)
Chad T. Wishchuk, Esq.
Attorneys for Defendant