

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“Settlement Agreement”) is reached by and between Plaintiff Andres Gonzalez (“Plaintiff”), individually and on behalf of all members of the Settlement Class (defined below), on the one hand, and Defendant Catalina Channel Express, Inc., (“Catalina” or “Defendant”), on the other hand. Plaintiff and Defendant are referred to herein collectively as the “Parties.” Plaintiff and the Settlement Class are represented by Paul K. Haines and Sean M. Blakely of Haines Law Group, APC (“Class Counsel”). Defendant is represented by Brigham M. Cheney of Atkinson, Andelson, Loya, Ruud & Romo.

This settlement resolves a lawsuit that was filed by Plaintiff against Catalina in Los Angeles County Superior Court, entitled *Andres Gonzalez v. Catalina Channel Express, Inc.*, Case No. BC707664 (the “Action”). Plaintiff alleges in the Action that Catalina: (a) failed to pay all minimum wages; (b) failed to pay all overtime wages, including but not limited to as a result of the regular rate of pay; (c) failed to provide proper meal periods, or premium pay for non-compliant meal periods; (d) failed to timely pay all wages, including but not limited to wages owing at the time of termination; (e) failed to keep accurate records of hours worked or wages earned or to provide accurate wage statements; (f) failed to reimburse for necessary business expenditures; (g) claims for PAGA civil penalties based on the foregoing Labor Code Violations; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above.

As part of this Settlement, the parties will stipulate to the filing of a Second Amended Complaint to add causes of action for failure to reimburse for necessary business expenditures, and wage statement penalties and PAGA civil penalties based on the alleged labor code violations addressed above. Plaintiff shall also submit a letter to the Labor Workforce Development Agency (“LWDA”) as required for purposes of exhausting the requirements under PAGA.

Given the uncertainty of litigation, Plaintiff and Catalina wish to settle both individually and on behalf of the Settlement Class (defined below). Accordingly, Plaintiff and Catalina agree as follows:

1. **Settlement Class.** For the purposes of this Settlement Agreement only, Plaintiff and Catalina stipulate to certification of the following Settlement Class:

All current and former non-exempt land-based employees (i.e., non-exempt employees working in job positions other than as Captains, Second Operators, Deckhands, and Cabin Attendants in Vessel Operations) who worked for Defendant Catalina Channel Express, Inc. from May 29, 2014 through June 16, 2019 (the “Class Period”).

The Parties agree that certification for purposes of settlement is not an admission that class certification is proper under Section 382 of the Code of Civil Procedure. If for any reason this Settlement Agreement is not approved or is terminated, in whole or in part, this conditional agreement to class certification will be inadmissible and will have no effect in this matter or in

any claims brought on the same or similar allegations, and the Parties shall revert to the respective positions they held prior to entering into the Settlement Agreement.

2. **Release.** Plaintiff and every member of the Settlement Class (except those who opt out) will fully release and discharge Catalina, its past and present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective predecessors and successors in interest, subsidiaries, affiliates, parents, and attorneys (collectively, the “Released Parties”), as follows:

- A. Release by Settlement Class members. Settlement Class members shall release all claims, demands, rights, liabilities, and causes of action that are asserted in the Second Amended Complaint, or that could have been asserted based on the factual allegations in the Second Amended Complaint, that arose during the Class Period (“Released Claims”) with respect to the following claims: (a) failure to pay all minimum wages; (b) failure to pay all overtime wages, including but not limited to as a result of the regular rate of pay; (c) failure to provide proper meal periods, or premium pay for non-compliant meal periods; (d) failure to timely pay all wages, including but not limited to wages owing at the time of termination; (e) failure to keep accurate records of hours worked or wages earned or to provide accurate wage statements; (f) claims for unreimbursed business expenditures (g) claims for PAGA civil penalties based on the foregoing Labor Code Violations; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above. The Release shall run for the duration of the Class Period.
- B. Release by Plaintiff. In light of the service award that Plaintiff will receive, Plaintiff shall release, in addition to the Released Claims described above, all claims, demands, rights, damages, liabilities, whether known or unknown, pending or contingent, under federal law or state law, applicable orders and regulations, or with any administrative agency against the Released Parties, to the extent permitted by law (“Plaintiff’s Released Claims”). Plaintiff understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

Specifically excluded from Plaintiff’s Released Claims are any claims for workers’ compensation benefits.

3. **Maximum Settlement Amount** As consideration, Catalina agrees to pay a Maximum Settlement Amount of Six Hundred Thousand Dollars and Zero Cents (\$600,000.00) in full and complete settlement of the Action, as follows:

- A. The Parties have agreed to engage Phoenix Class Action, Inc. as the “Settlement Administrator” to administer this Settlement.
- B. The Maximum Settlement Amount shall be deposited with the Settlement Administrator into an interest-bearing settlement account for the benefit of the Settlement Class members, within thirty (30) calendar days of the Court entering an order granting final approval, or, solely in the event that there are objections to the settlement (the filing of an objection being a prerequisite to the filing of an appeal), the later of: (i) the last date on which any appeal might be filed, or (ii) the successful resolution of any appeal(s) – including expiration of any time to seek reconsideration or further review.
- C. This is a non-reversionary settlement. The Maximum Settlement Amount includes:
- (1) All payments (including interest) to the Settlement Class;
 - (2) All costs of the Settlement Administrator and settlement administration, which are anticipated to be no greater Thirteen Thousand Dollars and Zero Cents (\$13,000.00);
 - (3) Up to Five Thousand Dollars and Zero Cents (\$5,000.00) for Plaintiff’s Class Representative Service Award, in recognition of Plaintiff’s general release of claims, contributions to the Action, and his service to the Settlement Class;
 - (4) Up to one-third of the Maximum Settlement Amount in Class Counsel’s attorneys’ fees (currently estimated to be Two Hundred Thousand Dollars and Zero Cents (\$200,000.00)), plus actual costs and expenses incurred by Class Counsel in relation to the Action as supported by declaration, which are currently estimated to be no greater than Thirty Thousand Dollars and Zero Cents (\$30,000.00); and
 - (5) The Parties have set aside Thirty Thousand Dollars and Zero Cents (\$30,000.00) of the Maximum Settlement Amount as PAGA civil penalties. Per Labor Code § 2699(i), 75% of such penalties, or Twenty Two Thousand Five Hundred Dollars and Zero Cents (\$22,500.00), will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining 25%, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), will be payable to certain of the Participating Settlement Class Members as the “PAGA Amount,” as described below.
- D. Catalina agrees to pay the employer’s share of payroll taxes due on the wage portion of the payments to the Settlement Class separately from, and in addition to, the Maximum Settlement Amount. The Settlement Class members are responsible for their share of payroll taxes, which shall be deducted from their individual settlement payments.

- E. Escalator Clause. At the time of mediation, Catalina represents that there were approximately 525 Settlement Class members during the Class Period. If, at the time of preliminary approval, the number of Settlement Class members is more than 5% greater than 525 (i.e., if there are 552 or more Settlement Class members), then Plaintiff has the discretionary option to rescind the Settlement by communicating that decision to both the Settlement Administrator and Catalina in writing. Catalina may preempt Plaintiff's right to rescind by increasing the Maximum Settlement Amount on a proportional basis (i.e., if there was a 12% increase in the number of Settlement Class members, Catalina will increase the Maximum Settlement Amount by 12%).

4. **Payments to the Settlement Class.** Settlement Class members are not required to submit a claim form to receive a payment ("Individual Settlement Payment") from the Settlement. Individual Settlement Payments will be determined and paid as follows:

- A. The Settlement Administrator shall first deduct from the Maximum Settlement Amount the amounts approved by the Court for Class Counsel's attorneys' fees, Class Counsel's costs and expenses, Plaintiff's Class Representative Service Award, the Settlement Administrator's fees and expenses for administration, and the amount set aside as PAGA civil penalties. The remaining amount shall be known as the Net Settlement Amount or "NSA."

- B. The Settlement Administrator will then calculate each Settlement Class member's Individual Settlement Payment based on the following formula:

- i. Payments to all participating Settlement Class members: Seventy-Five percent (75%) of the NSA (the "Wage Claims Amount") will be distributed to all eligible participating Settlement Class members as follows:

1. The Wage Claims Amount will be divided into the following Job Category Sub-Funds, which are calculated based upon the proportion of hours worked and average approximate pay rates paid to Job Categories worked by the Settlement Class members, as shown in the table below:

A	B	C	D	E	F
Job Category	Approximate Average Rate of Pay for Job Category	Approximate Hours Worked During Class Period	Percentage of Total Hours Worked by Job Category (Column C ÷ Column C Total)	Percent Total Hours Multiplied by Approximate Average Pay Rate (Column B x Column D)	Job Category Sub-Fund Percentage (Column E ÷ Column E Total)
Administration	\$17.00	125,444.75	10.28%	\$1.75	10.94%
Central Services	\$14.00	72,776.67	5.96%	\$0.83	5.22%
Food and Beverage	\$14.00	267,979.13	21.95%	\$3.07	19.24%
Reservations	\$15.00	271,763.44	22.26%	\$3.34	20.90%
Ticketing	\$15.00	344,053.58	28.18%	\$4.23	26.46%
Vessel Engineering	\$30.00	85,356.17	6.99%	\$2.10	13.13%

Vessel Engineering Support	\$15.00	53,350.50	4.37%	\$0.66	4.10%
Total	N/A	1,220,724.24	100.00%	\$15.98	100.00%

2. The total amount allocated to each Job Category Sub-Fund will equal the total Wage Claims Amount multiplied by the Job Category Sub-Fund Percentage shown in the table above.
3. For purposes of this Settlement, Class Members are assigned to the Job Category to which they were assigned for the majority of hours worked during the Class Period. However, the hours worked credited to each individual will include all hours worked in any job position within the Settlement Class.
4. Settlement Class members will be eligible to receive a pro rata share of the Job Category Sub-Fund they are assigned to, based on their hours worked during the Class Period, using the following formula:

$$\frac{(\text{Hrs worked credited to individual assigned to sub} - \text{fund})}{(\text{All hours worked for all individuals assigned to sub} - \text{fund})} \times (\text{Total sub} - \text{fund amount})$$

- ii. Waiting Time Amount: Fifteen percent (15%) of the NSA shall be designated as the “Waiting Time Amount.” Each participating Settlement Class member whose employment with Catalina ended at any time from May 29, 2015 through the end of the Class Period (the “Waiting Time Period”) shall receive an equal share of the Waiting Time Amount. In other words, the Waiting Time Amount will be divided equally among all participating Settlement Class members whose employment with Catalina ended during the Waiting Time Period.
- iii. Other Penalty Claims Amount: Ten percent (10%) of the NSA shall be designated as the “Other Penalty Claims Amount.” Each participating Settlement Class member who was employed by Catalina at any time from May 29, 2017 through the end of the Class Period (“Wage Statement/PAGA Period”), shall receive a portion of the Other Penalty Claims Amount proportionate to the number of pay periods worked by that participating Settlement Class member during the time period from May 29, 2017 through the end of the Class Period, and which will be calculated by multiplying 10% of the NSA by a fraction, the numerator of which is the participating Settlement Class member’s number of pay periods worked during the time period from May 29, 2017 through the end of the Class Period, and the denominator of which is the total number of pay periods worked by all participating Settlement Class members during the time period from May 29, 2017 through the end of the Class Period.

- iv. PAGA Amount: In addition to the NSA, \$7,500.00 of the Maximum Settlement Amount has been designated as the “PAGA Amount,” as described above. Each participating Settlement Class member who worked for Catalina in California at any time from February 26, 2019 through June 16, 2019 (“PAGA Period”), shall receive a portion of the PAGA Amount proportionate to the number of pay periods worked by that participating Settlement Class member as a non-exempt employee for Catalina in California during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the participating Settlement Class member’s number of pay periods worked as a non-exempt employee for Catalina in California during PAGA Period, and the denominator of which is the total number of pay periods worked by all participating Settlement Class members as non-exempt employees for Catalina in California during the PAGA Period.
- C. Within seven (7) business days following Catalina’s deposit of the Maximum Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Payment amounts, as well as the amount of the employer’s share of payroll taxes due on the wage portion of the Individual Settlement Payments, and provide the same to Catalina’s counsel and Class Counsel for review and approval. Within ten (10) business days following Catalina’s deposit of the Maximum Settlement Amount with the Settlement Administrator, and following the approval of Catalina’s counsel and Class Counsel of the calculations mentioned herein, the Settlement Administrator will prepare and mail Individual Settlement Payments, less applicable taxes and withholdings, to participating Settlement Class members. The Settlement Administrator shall simultaneously pay the withholdings to the applicable authorities with the necessary reports, submitting copies to Catalina’s counsel. Catalina shall also remit the employer’s share of payroll taxes within this time frame to the Settlement Administrator, who shall promptly transmit such sum to the appropriate taxing authorities. The Settlement Administrator shall also distribute the Court-approved payments for attorneys’ fees, litigation costs, and the Class Representative Service Award within ten (10) business days of Catalina’s deposit of the Maximum Settlement Amount.
- D. For purposes of calculating applicable taxes and withholdings, each Settlement Share shall be allocated as follows: one third (1/3) as wages; and two-thirds (2/3) as penalties and interest. The Settlement Administrator will be responsible for issuing to participating Settlement Class members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Notwithstanding the treatment of the payments to each Settlement Class member above, none of the payments called for by this Settlement Agreement, including the wage portion, are to be treated as earnings, wages, pay or compensation for any purpose of any applicable benefit or retirement plan, unless required by such plans.

- E. Each member of the Settlement Class who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks are not cashed within 180 days after mailing shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code § 1500 *et seq.*, in the name of the Settlement Class member to whom the check was issued, until such time that they claim their property.
- F. Neither Plaintiff nor Class Counsel, nor Catalina or its counsel, shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.
5. **Attorneys' Fees and Costs.** Catalina will not object to Class Counsel's request for a total award of attorneys' fees of up to one-third of the Maximum Settlement Amount, which is currently estimated to be Two Hundred Thousand Dollars and Zero Cents (\$200,000.00), plus actual costs and expenses as supported by declaration, in an amount currently estimated at no more than Thirty Thousand Dollars and Zero Cents (\$30,000.00), from the Maximum Settlement Amount. These amounts will cover any and all work performed and any and all costs incurred in connection with this litigation, including without limitation: all work performed and all costs incurred to date; and all work to be performed and costs to be incurred in connection with obtaining the Court's approval of this Settlement Agreement, including any objections raised and any appeals necessitated by those objections. Class Counsel will be issued IRS Forms 1099 by the Settlement Administrator when the Settlement Administrator pays the fee award allowed by the Court.
6. **Class Representative Service Award.** Catalina will not object to a request for a Class Representative Service Award of up to Five Thousand Dollars and Zero Cents (\$5,000.00) from the Maximum Settlement Amount for Plaintiff's general release of claims, his time and risks in prosecuting this case, and his service to the Settlement Class. This award will be in addition to Plaintiff's Individual Settlement Payment as a Settlement Class member and shall be reported on an IRS Form 1099 by the Settlement Administrator.
7. **Settlement Administrator.** The Parties will request the appointment of Phoenix Class Action, Inc. as Settlement Administrator. Catalina will not object to Plaintiff's seeking permission to pay up to Thirteen Thousand Dollars and Zero Cents (\$13,000.00) from the Maximum Settlement Amount for the Settlement Administrator's services. The Settlement Administrator shall be responsible for sending notices and for calculating Individual Settlement Payments and preparing all checks and mailings, and other duties as described in this Settlement Agreement. The Settlement Administrator shall be authorized to pay itself from the Maximum Settlement Amount by Class Counsel only after Individual Settlement Payments have been mailed to all participating Settlement Class members.

8. **Preliminary Approval.** Within a reasonable time after execution of this Settlement Agreement by the Parties, Plaintiff shall apply to the Court for the entry of an Order:
- A. Conditionally certifying the Settlement Class for purposes of this Settlement Agreement;
 - B. Approving the filing of the Second Amended Complaint;
 - C. Appointing Paul K. Haines and Sean M. Blakely of Haines Law Group, APC as Class Counsel;
 - D. Appointing Andres Gonzalez as Class Representative for the Settlement Class;
 - E. Approving Phoenix Class Action, Inc. as Settlement Administrator;
 - F. Preliminarily approving this Settlement Agreement and its terms as fair, reasonable, and adequate;
 - G. Approving the form and content of the Notice Packet (which is comprised of the Class Notice and the Notice of Estimated Settlement Award, attached hereto as **Exhibits 1 and 2**, respectively), and directing the mailing of same; and
 - H. Scheduling a Final Approval hearing.
9. **Notice to Settlement Class.** Following preliminary approval, the Settlement Class shall be notified as follows:
- A. Within thirty (30) calendar days after entry of an order preliminarily approving this Settlement Agreement, Catalina will provide the Settlement Administrator with the names, last known addresses, social security numbers, dates of employment during the Class Period, and the number of workweeks worked during the Class Period for all Settlement Class members (the “Class Data”). The Class Data shall be provided to the Settlement Administrator in an electronic format satisfactory to the Settlement Administrator.
 - B. Within ten (10) business days from receipt of the Class Data, the Settlement Administrator shall (i) run the names of all Settlement Class members through the National Change of Address (“NCOA”) database to determine any updated addresses for Settlement Class members; (ii) update the addresses of any Settlement Class member for whom an updated address was found through the NCOA search; (iii) calculate the estimated Individual Settlement Payment for each Settlement Class member; (iv) provide its calculations to Counsel for approval; and (v) mail a Notice Packet to each Settlement Class member at his or her last known address or at the updated address found through the NCOA search, and retain proof of mailing.
 - C. Requests for Exclusion. Any Settlement Class member who wishes to opt-out of the Settlement must complete and mail an Exclusion Letter (defined below) to the

Settlement Administrator within sixty (60) calendar days of the date of the initial mailing of the Notice Packets (the “Response Deadline”).

- i. The Notice Packet shall state that Settlement Class members who wish to exclude themselves from the settlement must submit an “Exclusion Letter” by the Response Deadline. The Exclusion Letter is a document prepared by the Settlement Class member that must: (1) contain the Settlement Class member’s name, address, telephone number, and last four digits of his/her Social Security number; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by the Response Deadline and mailed to the Settlement Administrator at the address specified in the Class Notice. If the Exclusion Letter does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from this settlement, except an Exclusion Letter not containing a Settlement Class member’s telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Exclusion Letter shall be the exclusive means used to determine whether an Exclusion Letter has been timely submitted. Any Settlement Class member who timely and validly requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement, will not be bound by the terms of the Settlement Agreement, and will not have any right to object, appeal, or comment thereon.
 - ii. If 5% or more of the Settlement Class members elect to opt-out of the Settlement, Catalina maintains the sole right to rescind the Settlement. Catalina must exercise this right of rescission, in writing, to Class Counsel, within thirty (30) calendar days after the Settlement Administrator notifies the Parties of the total number of opt-outs and share of Settlement Proceeds of those opt-outs. If the option to rescind is exercised, then Catalina shall be solely responsible for all costs of the Settlement Administrator accrued to that point.
- D. Objections. Members of the Settlement Class who do not request exclusion may object to this Settlement Agreement by submitting a written objection to the Settlement Administrator as explained in the Class Notice. The Settlement Administrator shall, within two (2) business days of receipt, serve any objection(s) as received on Class Counsel and Catalina’s counsel, who shall then promptly file all such objections with the Court. Catalina’s counsel and Class Counsel shall file and serve any responses to objections no later than the deadline to file the Motion for Final Approval, unless the objections are filed within ten (10) days of the Motion for Final Approval filing deadline, in which case Catalina’s counsel and Class Counsel shall have ten (10) days to file a response to the objections. To be valid, any objection must: (1) contain the objecting Settlement Class member’s full name and current address, as well as contact information for any attorney representing the objecting Settlement Class member for purposes of the objection; (2) include all objections and the factual and legal

bases for same; (3) include any and all supporting papers, briefs, written evidence, declarations, and/or other evidence; and (4) be postmarked no later than the Response Deadline.

- E. Notice of Estimated Settlement Award / Disputes. Each Notice Packet mailed to a Settlement Class member shall contain a Notice of Estimated Settlement Award, in which shall be disclosed the amount of the Settlement Class member's estimated Individual Settlement Payment as well as all of the information that was used from Catalina's records in order to calculate the Individual Settlement Payment. Settlement Class members will have the opportunity, should they disagree with Catalina's records regarding the information stated in their Notice of Estimated Settlement Award, to provide documentation and/or an explanation to show contrary information. Any such dispute, including any supporting documentation, must be mailed to the Settlement Administrator and postmarked by the Response Deadline. If there is a dispute, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted, and will make a determination after consulting with the Parties. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Settlement Shares under the terms of this Settlement Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Settlement Share shall be binding upon the Settlement Class member and the Parties.
- F. Any Notice Packets returned to the Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall make reasonable efforts, including utilizing a "skip trace," to obtain an updated mailing address within three (3) business days of receiving the returned Notice Packet. If an updated mailing address is identified, the Settlement Administrator shall resend the Notice Packet to the Class Member immediately, and in any event within two (2) business days of obtaining the updated address. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Settlement Class member. Settlement Class members to whom Notice Packets are re-mailed after having been returned as undeliverable to the Settlement Administrator shall have fourteen (14) calendar days from the date of re-mailing, or until the Response Deadline has expired, whichever is later, to submit a Request for Exclusion, Objection, or dispute. Notice Packets that are re-mailed shall inform the recipient of this adjusted deadline. If a Settlement Class member's Notice Packet is returned to the Settlement Administrator more than once as non-deliverable, then an additional Notice Packet shall not be mailed. Nothing else shall be required of, or done by, the Parties, Class Counsel, or Catalina's counsel to provide notice of the proposed settlement.
10. **Final Approval.** Following preliminary approval and the close of the period for filing requests for exclusion, objections, or disputes under this Settlement Agreement, Plaintiff shall apply to the Court for entry of an Order:

- A. Granting final approval of the Settlement Agreement and adjudging its terms to be fair, reasonable, and adequate;
 - B. Approving Plaintiff's and Class Counsel's application for attorneys' fees, costs, Class Representative Service Award, LWDA payment, and settlement administration costs; and
 - C. Entering judgment pursuant to California Rule of Court 3.769.
11. **Non-Admission of Liability.** Nothing in this Settlement Agreement shall operate or be construed as an admission of any liability or that class certification is appropriate in any context other than this Settlement. Each of the Parties has entered into this Settlement Agreement to avoid the burden and expense of further litigation. Pursuant to California Evidence Code Section 1152, this Settlement Agreement is inadmissible in any proceeding, except a proceeding to approve, interpret, or enforce this Settlement Agreement. If this Agreement becomes null and void, it shall remain protected by California Evidence Code Section 1152.
12. **Non-disclosure and Non-publication.** Plaintiff and Class Counsel agree not to disclose or publicize the Settlement Agreement contemplated herein, the fact of the Settlement Agreement, its terms or contents, or the negotiations underlying the Settlement Agreement, in any manner or form, directly or indirectly, to any person or entity, except to Settlement Class members and as shall be contractually required to effectuate the terms of the Settlement Agreement as set forth herein. However, for the limited purpose of allowing Class Counsel to prove adequacy as class counsel in other actions, Class Counsel may disclose the names of the Parties in this Action, the venue/case number of this Action, and a general description of the Action, to a court in a declaration by Class Counsel. Class Counsel may also include a general description of the Settlement on their website, but may not include the name(s) of any of the Parties, or the case name or case number of the Action.
13. **Tax Liability.** Catalina, Catalina's counsel, Plaintiff and Class Counsel make no representations as to the tax treatment or legal effect of the payments called for herein, and the Plaintiff and the Settlement Class members are not relying on any statement or representation by Catalina, Catalina's counsel, Plaintiff or Class Counsel in this regard. Plaintiff and Settlement Class members understand and agree that Plaintiff and Settlement Class members will be solely responsible for the payment of any taxes and penalties assessed on the payments to them described herein.
14. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement Agreement except by a written agreement signed by all of the Parties, and subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement Agreement will not constitute a waiver of any other provision.
15. **Notices.** All notices, demands, and other communications to be provided concerning this Settlement Agreement shall be in writing and delivered by receipted delivery and by e-

mail at the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

if to Catalina: Brigham M. Cheney of Atkinson, Andelson, Loya, Ruud, & Romo,
20 Pacifica, Suite 1100, Irvine, California 92618;
bcheney@aalrr.com

if to Plaintiff: Paul K. Haines, Haines Law Group, APC, 222 N. Sepulveda
Boulevard, Suite 1550, El Segundo, California 90245;
phaines@haineslawgroup.com

16. **Entire Agreement.** This Settlement Agreement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts, and writings prior to the date hereof relating to the subject matters hereof.
17. **Counterparts.** This Settlement Agreement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument.

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[SIGNATURES ON FOLLOWING PAGE]

DATED: March 23, 2020

Catalina Channel Express, Inc.

By: [Signature]
: President

DATED: _____, 2020

Andres Gonzalez

By: _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: March 23, 2020

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

By: Brigham M. Cheney (signed electronically)
Brigham M. Cheney
Attorneys for Defendant Catalina Channel
Express, Inc.

DATED: _____, 2020

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff and the Settlement Class

DATED: _____, 2020

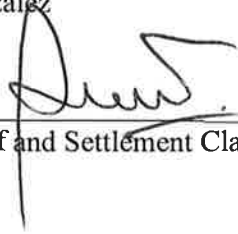
Catalina Channel Express, Inc.

By: _____

: _____

DATED: 03/19/20., 2020

Andres Gonzalez

By:  _____
Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2020

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

By: _____
Brigham M. Cheney
Attorneys for Defendant Catalina Channel
Express, Inc.

DATED: _____, 2020

HAINES LAW GROUP, APC

By: _____
Paul K. Haines
Attorneys for Plaintiff and the Settlement Class

DATED: _____, 2020

Catalina Channel Express, Inc.

By: _____

: _____

DATED: _____, 2020

Andres Gonzalez

By: _____

Plaintiff and Settlement Class Representative

APPROVED AS TO FORM:

DATED: _____, 2020

ATKINSON, ANDELSON, LOYA, RUUD &
ROMO

By: _____

Brigham M. Cheney

Attorneys for Defendant Catalina Channel
Express, Inc.

DATED: March 26, 2020

HAINES LAW GROUP, APC

By:  _____

Paul K. Haines

Attorneys for Plaintiff and the Settlement Class

EXHIBIT 1

NOTICE OF CLASS ACTION SETTLEMENT
Andres Gonzalez v. Catalina Channel Express, Inc.
Los Angeles County Superior Court Case No.: BC707664

To: All current and former non-exempt land-based employees who worked for Catalina Channel Express, Inc. (“Catalina”) from May 29, 2014 through June 16, 2019.

PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Andres Gonzalez v. Catalina Channel Express, Inc.*, Los Angeles Superior Court Case No. BC707664 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Catalina’s records show that you were employed at Catalina in California as a non-exempt land-based employee (i.e., non-exempt employee working in a job position other than Captain, Second Operator, Deckhand, and Cabin Attendant in Vessel Operations) between May 29, 2014, and June 16, 2019 (the “Class Period”). The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this Notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court finally approves the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Andres Gonzalez (“Plaintiff”) brought this Lawsuit against Catalina, seeking to assert claims on behalf of a class of current and former non-exempt land-based employees who worked for Catalina in California at any time between May 29, 2014 and June 16, 2019 (the “Settlement Class”). Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

In the Lawsuit, Plaintiff alleges that Catalina failed to pay Settlement Class members at least the minimum wage for all hours worked, failed to pay all overtime wages owed, failed to provide Settlement Class members with all legally required 30-minute meal periods, and failed to reimburse Settlement Class members for business related expenses. Plaintiff further alleges that Catalina failed to provide Settlement Class members with complete, accurate itemized wage statements and that they failed to pay former Settlement Class members all earned wages at the end of their employment. Because of these alleged violations, Plaintiff contends that Catalina engaged in unlawful business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Catalina denies all of Plaintiff’s allegations and denies that it has done anything wrong. Catalina denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Catalina, which expressly denies all liability.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Catalina, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation. To avoid additional expense, inconvenience, and interference with its business operations, Catalina has concluded that it is in its best interests and the interests of Settlement Class members to settle the Lawsuit on the terms summarized in this Notice. The Court has not ruled on the merits of Plaintiff's claims. The Court has only determined that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate and reasonable. A final determination on whether the Settlement is fair, adequate and reasonable will be made at the Final Approval hearing.

If you are still employed by Catalina, your decision about whether to participate in the Settlement will not affect your employment. California law and Catalina's policy strictly prohibit unlawful retaliation. Catalina will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for the Plaintiff/Settlement Class:	Attorneys for Catalina:
HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Daniel B. Marin-Finn dfinn@haineslawgroup.com 222 N. Sepulveda Blvd., Suite 1550 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com	ATKINSON, ANDELSON, LOYA, RUUD & ROMO Brigham M. Cheney bcheney@aalrr.com 20 Pacifica, Suite 1100 Irvine, California 92618 Tel: (949) 453-4260 Fax: (949) 453-4262 www.aalrr.com

What are the terms of the Settlement?

Catalina has agreed to pay \$600,000.00 (the "Maximum Settlement Amount") to fully resolve all claims in the Lawsuit, including payments to participating Settlement Class members, attorneys' fees and expenses, Settlement administration costs, Labor Code Private Attorneys General Act civil penalties, and the Class Representative's Service Award.

The following deductions from the Maximum Settlement Amount will be requested by the parties:

Attorneys' Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of Settlement Class members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Maximum Settlement Amount. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount, which is estimated to be \$200,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this

Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$30,000 for verified costs Class Counsel incurred in connection with the Lawsuit.

Settlement Administrator Costs. The Court has approved Phoenix Class Action, Inc. to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties will request up to \$13,000 from the Maximum Settlement Amount to pay the settlement administration costs.

Class Representative Service Award. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$5,000 to compensate him for his service and extra work provided on behalf of the Settlement Class members.

Payment to State of California. The parties have agreed to allocate \$30,000.00 of the Maximum Settlement Amount towards the Settlement of the Labor Code Private Attorneys General Act claims in the Lawsuit. \$22,500 will be paid to the State of California Labor and Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$7,500.00 will be designated as the “PAGA Amount” and allocated to Settlement Class members.

Calculation of Individual Settlement Class Members’ Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion Form (described below). The Net Settlement Amount is estimated at approximately \$329,500.00. First, 75% of the NSA will be designated the “Wage Claims Amount” and shall be distributed to all eligible participating Settlement Class members and will be divided into Job Category Sub-Funds, which are calculated based upon the proportion of hours worked and average approximate pay rates paid to Job Categories worked by the Settlement Class members. Next, 15% of the NSA shall be designated as the “Waiting Time Amount” and will be equally distributed to all Settlement Class members whose employment with Catalina ended at any time from May 29, 2015 through June 16, 2019 (the “Waiting Time Period”). The remaining 10% of the NSA is set aside as the “Other Penalty Claims Amount” and will be distributed to all Settlement Class members who worked for Catalina from May 29, 2017 through June 16, 2019, based on the proportionate number of pay periods worked during that period.

Finally, in addition to the Net Settlement Amount, \$7,500.00 has been designated as the “PAGA Amount” as described above, and will be distributed to Settlement Class members who worked for Catalina at any time between February 26, 2019 and June 16, 2019 (“PAGA Period”), based on the number of proportionate pay periods worked for Catalina during that time period.

Payment of the Settlement. If the Court grants final approval of the Settlement, individual Settlement Payments will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion Letter.

Allocation and Taxes. For tax purposes, each Settlement Payment will be treated as one-third (1/3) “wages,” for which an IRS form W-2 will be issued; and two-thirds (2/3) penalties and interest, for which an IRS form 1099 will be issued. Settlement Class members are responsible for the proper income tax treatment of the individual Settlement Payments. The Settlement Administrator, Catalina and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Settlement Class member who has not submitted a valid Request for Exclusion, will release and discharge Catalina, its past and present officers, directors, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective predecessors and successors in interest, subsidiaries, affiliates, parents, and attorneys (collectively, the “Released Parties”), from any and claims, demands, rights, liabilities, and causes of action that are asserted in the Second Amended Complaint, or that could have been asserted based on the factual allegations in the Second Amended Complaint, that arose during the Class Period (“Released Claims”) with respect to the following claims: (a) failure to pay all minimum wages; (b) failure to pay all overtime wages, including but not limited to as a result of the regular rate of pay; (c) failure to provide proper meal periods, or premium pay for non-compliant meal periods; (d) failure to timely pay all wages, including but not limited to wages owing at the time of termination; (e) failure to keep accurate records of hours worked or wages earned or to provide accurate wage statements; (f) claims for unreimbursed business expenditures (g) claims for PAGA civil penalties based on the foregoing Labor Code Violations; and (h) all claims for unfair business practices that could have been premised on the facts, claims, causes of action or legal theories described above. The Release shall run for the duration of the Class Period.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of hours you worked and which job category you fall under for Catalina as a non-exempt land-based employee during the Class Period, the proportionate number of pay periods you worked for Catalina between May 29, 2017 and June 16, 2019, whether your employment with Catalina ended at any time between May 29, 2015 through June 16, 2019, and the proportionate number of pay periods you worked between February 26, 2019 through June 19, 2019. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in this Notice of Settlement. As stated above, your estimated Settlement Payment is based on the proportionate number of hours you worked and which job category you fall under for Catalina as a non-exempt land-based employee during the Class Period, the proportionate number of pay periods you worked for Catalina between May 29, 2017 and June 16, 2019, whether your employment with Catalina ended at any time between May 29, 2015 through June 16, 2019, and the proportionate number of pay periods you worked between February 26, 2019 through June 19, 2019. The information contained in Catalina’s records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed on the accompanying Estimated Settlement Payment Form. If you disagree with the information listed on the Estimated Settlement Payment Form, you may submit a dispute, along with any supporting documentation, to <<ADMINISTRATOR CONTACT INFO>>. Any disputes, along with supporting documentation, must be postmarked no later than <<RESPONSE DEADLINE>>. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make any adjustments approved by the Parties. The Settlement Administrator’s determination as to the amount of any Settlement Payment will be final and binding.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator an executed Request for Exclusion

Letter postmarked no later than <<RESPONSE DEADLINE>>, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion Letter shall clearly state that you wish to be excluded from the Settlement.

Send the Request for Exclusion Letter directly to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Any person who submits a timely Request for Exclusion Letter shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member and shall be barred from participating in any portion of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may submit a written objection by directly sending it to the Settlement Administrator at <<INSERT ADMINISTRATOR CONTACT INFO>>. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection together with any evidence in support of your objection. Written objections must be postmarked on or before <<RESPONSE DEADLINE>>.

You may also appear at the Final Approval Hearing scheduled for <<FINAL APPROVAL HEARING DATE/TIME>> in Department 12 of the Los Angeles County Superior Court, located at 312 N Spring St, Los Angeles, CA 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. All objections or other correspondence must state the name and number of the case, which is *Andres Gonzalez v. Catalina Channel Express, Inc.*, Los Angeles Superior Court Case No. BC707664.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on <<FINAL APPROVAL HEARING DATE/TIME>>, in Department 12 of the Los Angeles County Superior Court, located at 312 N Spring St, Los Angeles, CA 90012. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the service award to the Class Representative. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 N Spring St, Los Angeles, CA 90012, during regular court hours. You may also view the case file online at www.lacourt.org by going to the "Online Services" tab, selecting "Civil, Case Access," and entering the case number information. This case is assigned to Department 12 of the Los Angeles Superior Court, located at 312 N Spring St, Los Angeles, CA 90012. You may also contact Class Counsel using the contact information listed above for more information.

**PLEASE DO NOT CALL OR WRITE THE COURT, CATALINA, OR ITS ATTORNEYS FOR
INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS**

REMINDER AS TO TIME LIMITS

The deadline for submitting an Exclusion Letter, Dispute or Objection is <<RESPONSE DEADLINE>>. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON <<PRELIM DATE>>.

EXHIBIT 2

ESTIMATED SETTLEMENT PAYMENT FORM

CATALINA EXPRESS LITIGATION

Your estimated individual settlement payment of the settlement in this case is \$«MERGED_TotalEstSettAmnt_CALC». This estimate is based on the information detailed below.

If you accept the information used to calculate your estimated individual settlement payment, as set forth below, you do not need to do anything to receive your payment. If you are a "Settlement Class Member" and if believe that any of the information below is inaccurate, you can complete this form and return it to the Settlement Administrator to dispute the information.

«Barcode»
«BarcodeString»
SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «Abbrev» «Zip»

MAIL OR FAX ANY DISPUTES OR ADDRESS UPDATES TO:

Gonzalez v. Catalina Channel Express
c/o: Administrator
P.O. Box 7208
Orange, CA 92799

Important:

1. It is strongly recommended that you keep proof of timely mailing and/or faxing for your records until receipt of your settlement payment.
2. If you change your mailing address, please send your new mailing address to the Settlement Administrator. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your settlement payment.

Your Contact Information.

The Settlement Administrator is using the following contact information above for you. If any of your contact information is inaccurate, please correct that information and return a copy of this form to the Settlement Administrator at the address above.

Name

Address

City, State, Zip

(_____)_____-_____
Home Telephone Number

(_____)_____-_____
Cellular Telephone Number

Your Estimated Individual Settlement Payment

Your estimated individual settlement payment is currently \$«MERGED_TotalEstSettAmnt_CALC», based on the information detailed below. This amount is subject to change, either more or less, depending upon the number of challenges to estimated amounts from Settlement Class Members, the outcome of those challenges, the number of Settlement Class Members who opt out, and other possible factors.

Catalina Express' records show that you worked as a non-exempt land-based employee other than a Captain, Second Operator, Deckhand, or Cabin Attendant in Vessel Operations, at some time between May 29, 2014 and June 16, 2019.

As such you are classified for this settlement as:

«MERGED_WCA» Wage Claims Amount Class Member

«MERGED_WTA» Waiting Time Amount Class Member

«MERGED_WSA» Wage Statement Amount Class Member

«MERGED_PA» PAGA Amount Class Member

Catalina Express's records show that during the period of May 29, 2014 through June 16, 2016, you worked «MERGED_HourUnits» hours and your Job Classification for purposes of this Settlement (i.e., the Job Classification in which you were assigned the majority of your hours worked during this time period) is «MERGED_JobPosition». You also <<ENDED/ DID NOT END>> your employment with Catalina between May 29, 2015 and June 16, 2019. You also worked a total of «MERGED_WAGE STATEMENT PayPeriods» Pay Periods between May 29, 2017 and June 16, 2019, and worked a total of «MERGED_PAGAPayPeriods» Pay Periods between February 26, 2019 and June 16, 2019.

Based upon the estimated share for each compensable hour, rate applicable to your Job Classification, Waiting Time Payment, Wage Statement Payment and PAGA payment (if any), your individual settlement payment is currently estimated at \$«MERGED_TotalEstSettAmnt_CALC».

Dispute Procedure

If you are a Settlement Class Member and think there is a mistake with either (1) your number of hours worked, or (2) your Job Classification, check one (or both) of the boxes below and complete the remainder of this form. You do NOT have to submit this form if the Job Classification and hours listed above are accurate.

All fields must be complete for your dispute to be accepted. **Any disputes must be post-marked by no later than <<RESPONSE DEADLINE>>.** Disputes submitted after this date will not be accepted.

- ☐ I wish to dispute the number of hours worked during the dates listed above. I have included a written statement of what I believe to be my correct hours worked with Catalina Express from May 29, 2014 to June 16, 2019.
- ☐ I wish to dispute the "Job Classification" listed above. From May 29, 2014 to June 16, 2019, I worked the majority of my shifts as an Administration / Central Services / Food and Beverage / Reservations / Ticketing / Vessel Engineering / Vessel Engineering Support (Circle One) and this position should be my Job Classification for this settlement.
- ☐ I wish to dispute the number of pay periods worked during May 29, 2017 and June 16, 2019. I have included a written statement of what I believe to be my correct pay periods worked with Catalina Express from May 29, 2017 and June 16, 2019.
- ☐ I wish to dispute the number of pay periods worked during February 26, 2019 and June 16, 2019. I have included a written statement of what I believe to be my correct pay periods worked with Catalina Express from February 26, 2019 and June 16, 2019.

I have also included information and/or documentary evidence that supports my dispute. I understand that, by submitting this dispute, I authorize the Settlement Administrator to review Catalina Express's records and determine the validity of my dispute.

Signature

Statement of reasons and documentation of dates of employment according to Settlement Class Member:

[please attach documentation and use separate page(s) as necessary]