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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF LOS ANGELES**

10 OSCAR ALMANZA, individually and on
11 behalf of all persons similarly situated,

12 Plaintiffs,

13 vs.

14 XTREME XPRESS, INC., a California
15 corporation and DOES 1 through 50, Inclusive,

16 Defendants.

Case No. 20STCV15387

Complaint Filed: August 21, 2020

**[PROPOSED] AMENDED ORDER
GRANTING PLAINTIFF'S MOTION AND
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: January 27, 2022

Time: 9:00 a.m.

Judge: Elihu M. Berle

Dept.: 6

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19 This matter having come before the Superior Court of the State of California, in and for the
20 County of Los Angeles, at 9:00 a.m. on January 27, 2022, with Jean-Claude Lapuyade, Esq., of the
21 JCL Law Firm, APC, and Shani O. Zakay, Esq. of the Zakay Law Group, APLC, as counsel for Plaintiff
22 OSCAR ALMANZA ("Plaintiff") and the attorneys from Rupal Law, appearing for defendant
23 XTREME XPRESS, INC. ("Defendant"). The Court, having carefully considered the briefs, argument
24 of counsel and all the matters presented to the Court, and good cause appearing, hereby GRANTS
25 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement.
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IT IS HEREBY ORDERED:

1. The Court preliminarily approves the First Amended Stipulation of Settlement of Class Action Claims and Release of Claims (“Settlement Agreement” or “Agreement”) a true and correct copy of which is attached hereto as **Exhibit “1”**. This is based on the Court’s determination that the Settlement Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of the California Code of Civil Procedure and California Rules of Court, rule 3.769.

2. This Order incorporates by reference the definitions in the Agreement, and all terms defined therein shall have the same meaning in this Order as set forth in the Agreement.

3. Subject to the terms of the Settlement Agreement, the Total Settlement Amount that Defendant shall pay is Four Hundred Sixty-Seven Thousand Three Hundred and Nine Dollars and Sixty Cents (\$467,309.60). It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and reasonable as to the entire Settlement Class when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues. It further appears that investigation and research have been conducted such that counsel for the Parties are able to reasonably evaluate their respective positions. It further appears to the Court that settlement at this time will avoid substantial additional costs by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of the litigation. It further appears that the Settlement has been reached as the result of intensive, serious, and non-collusive arms-length negotiations.

4. The Court preliminarily finds that the Settlement appears to be within the range of reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that the monetary settlement awards made available to the Settlement Class are fair, adequate, and reasonable when balanced against the probable outcome of further litigation relating to certification, liability, and damages issues.

5. The Court recognizes that Plaintiff and Defendant stipulate and agree to certification of a class for settlement purposes only. This stipulation will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court

1 conditionally certifies the following Settlement Class:

2 “All of defendant XTREME XPRESS, INC.’s current and former non-
3 exempt employees employed in California between April 21, 2016, and
4 March 18, 2021 (“Class Period”). The Settlement Class excludes any person
5 who submits a timely and valid request for exclusion.”

6 6. The Court concludes that, for settlement purposes only, the Settlement Class meets the
7 requirements for certification under section 382 of the California Code of Civil Procedure in that: (a)
8 the Settlement Class is ascertainable and so numerous that joinder of all members of the Settlement
9 Class is impracticable; (b) common questions of law and fact predominate, and there is a well-defined
10 community of interest amongst the Settlement Class with respect to the subject matter of the litigation;
11 (c) the claims of the Class Representative are typical of the claims of the Settlement Class; (d) the Class
12 Representative will fairly and adequately protect the interests of the Settlement Class; (e) a class action
13 is superior to other available methods for the efficient adjudication of this controversy; and (f) Class
14 Counsel are qualified to act as counsel for the Class Representative in their individual capacity and as
15 the representative of the Settlement Class Members.

16 7. The Court provisionally appoints plaintiff OSCAR ALMANZA as the representative of
17 the Settlement Class.

18 8. The Court provisionally appoints Jean-Claude Lapuyade, Esq., of the JCL Law Firm,
19 A.P.C. and Shani Zakay of the Zakay Law Group, APLC, as Class Counsel for the Settlement Class.

20 9. The Court hereby approves, as to form and content, the Proposed Notice of Pendency of
21 Class and Representative Action Settlement (“Class Notice”) attached to the Agreement as **Exhibit**
22 **“A”**. The Court finds that both notices appear to fully and accurately inform the Settlement Class and
23 Aggrieved Employees of all material elements of the proposed Settlement, including right of any
24 Settlement Class member to be excluded from the Settlement Class by submitting a written request for
25 exclusion, and of each Settlement Class member’s right and opportunity to object to the Settlement.
26 The Court further finds that the distribution of the notices substantially in the manner and form set forth
27 in the Agreement and this Order meets the requirements of due process, is the most reasonable notice

under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by first class mail, pursuant to the terms set forth in the Agreement.

10. The Court hereby appoints ILYM Group, Inc., as Settlement Administrator. Within fourteen (14) calendar days of this order, Defendant shall provide, to the Settlement Administrator the Class List, including information regarding Settlement Class Members that Defendant will in good faith compile from their records, including each Settlement Class Member's full name; last known address; Social Security Number; dates of employment, and number of Workweeks accrued by each Settlement Class member during the Class Period and the PAGA Period. Within fourteen (14) calendar days after receiving the Class List from Defendant, the Settlement Administrator shall mail the Class Notice to all identified, potential members of the Settlement Class via first class U.S. Mail using the most current mailing address information available.

11. The Court hereby preliminarily approves the proposed procedure for exclusion from the Settlement. Any Class Member may individually choose to opt out of and be excluded from the Settlement as provided in the Notice by following the instructions for requesting exclusion from the Settlement of the Released Claims that are set forth in the Notice. All requests for exclusion must be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the date the Class Notice is mailed to the Settlement Class Members or, in the case of a re-mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline. Any such person who chooses to opt out of and be excluded from the Settlement will not be entitled to an Individual Settlement Payment under the Settlement and will not be bound by the Settlement, or have any right to object, appeal or comment thereon. Settlement Class members who have not requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment. A request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of individuals is not permitted and will be deemed invalid.

12. Any Settlement Class member who has not opted out may appear at the final approval hearing and may object or express the Member's views regarding the Settlement and may present

evidence and file briefs or other papers that may be proper and relevant to the issues to be heard and determined by the Court as provided in the Notice. Settlement Class Members will have forty-five (45) days from the date the Settlement Administrator mails the Class Notice to postmark their written objections to the Settlement Administrator.

13. The Agreement specifies for an award of Class Counsel Award for fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Class in this action, consisting of attorneys' fees not to exceed one-third of the Total Settlement Amount currently estimated to be \$155,769.86 and costs and expenses not to exceed \$115,000.00.

14. The Agreement also specifies a proposed Class Representative Service Award to the Class Representative, Oscar Almanza, in an amount not to exceed Ten Thousand Dollars (\$10,000.00).

15. While the Class Counsel Award and the Class Representative Service Award appear to be within the range of reasonableness, the Court will not approve the Class Counsel Award or Class Representative Service Award until the Final Approval Hearing

16. A final approval hearing shall be held before this Court on _____ at ____ AM in Department 6 of the Los Angeles County Superior Court to determine all necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be finally approved by the Court; whether an Order Granting Final Approval should be entered herein; whether the plan of allocation contained in the Agreement should be approved as fair, adequate and reasonable to the Settlement Class; and to finally approve the Class Counsel Award, Class Representative Service Award, and the Settlement Administration Costs. All papers in support of the motion for final approval and the motion for Attorneys' Fee and Costs and Class Representative Enhancement Award shall be filed with the Court and served on all counsel no later than sixteen (16) court days before the hearing.

17. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall be construed as a concession or admission by Defendant in any way, and shall not be used as evidence of, or used against Defendant as, an admission or indication in any way, including with respect to any claim of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth

of any allegation asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage.

18. In the event the Settlement does not become effective in accordance with the terms of the Agreement, 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 before entering into the Agreement. In such an event, the Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

19. Pending final determination of whether the Settlement should be approved, Class Representative and all members of the Settlement Class are barred and enjoined from filing, commencing, prosecuting, intervening in, instigating or in any way participating in the commencement or prosecution of any lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting any claims that are, or relate in any way to, the Class Representative's Released Claims or the Settlement Class' Released Claims, unless and until they submit a timely request for exclusion pursuant to the Agreement.

20. The Court reserves the right to adjourn or continue the date of the final approval hearing and all dates provided for in the Agreement without further notice to Settlement Class and retains jurisdiction to consider all further applications arising out of or connected with the proposed Settlement.

Dated: _____

JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

JEAN-CLAUDE LAPUYADE, ESQ. (SBN 248676)
JCL LAW FIRM, APC
5440 MOREHOUSE DRIVE, SUITE 3600
SAN DIEGO, CA 92121
TEL: 619-599-8292
FAX: 619-599-8291

ZAKAY LAW GROUP, APLC
SHANI O. ZAKAY (STATE BAR #277924)
5440 MOREHOUSE DRIVE, SUITE 3600
SAN DIEGO, CA 92121
TEL: (619) 255-9047
FAX: (858) 404-9203

LAW OFFICE OF MANDEEP S. RUPAL
MANDEEP S. RUPAL, ESQ.
4740 GREEN RIVER ROAD, SUITE 207
CORONA, CA 92880
TEL: (951) 460-0830

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

OSCAR ALMANZA, individually and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

XTREME XPRESS, INC., a California
corporation and DOES 1 through 50,
Inclusive,

Defendants.

Case No. 20STCV15387

[Action Filed 04/21/2020]

**FIRST AMENDED STIPULATION OF
SETTLEMENT OF CLASS ACTION
CLAIMS AND RELEASE OF CLAIMS**

Judge: Hon. Elihu M. Berle
Dept.: 6

This Stipulation of Class Action Settlement and Release of Claims is entered into by and between Plaintiff OSCAR ALMANZA (hereinafter “Plaintiff”), individually and on behalf of the Settlement Class, and Defendant XTREME XPRESS, INC (hereinafter “Defendants”):

I. DEFINITIONS

- A. “Action” shall mean *Almanza v. Xtreme Xpress, Inc.*, currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV15387 filed April 21, 2020, as a class action and representative action pursuant to the Private Attorney General Act of 2004, Labor Code § 2698 *et seq.* (hereinafter, “PAGA”).
- B. “Aggrieved Employees” shall mean all of Defendant’s current and former non-exempt employees employed in California between February 13, 2019 and March 18, 2021.
- C. “Agreement” or “Settlement Agreement” means this Stipulation of Settlement of Class Action and Release of Claims.
- D. “Class Counsel” shall mean Jean-Claude Lapuyade, Esq. of JCL Law Firm, APC and Shani Zakay of Zakay Law Group, APLC.
- E. “Class Counsel Award” means the award of fees and expenses that the Court authorizes to be paid to Class Counsel for the services they have rendered to Plaintiff and the Class in the Action, consisting of attorneys’ fees currently not to exceed one-third of the Total Settlement Amount currently estimated to be \$155,769.86 out of \$467,309.60 plus costs and expenses not to exceed \$15,000.00. Class Counsel’s award for attorneys’ fees will be divided equally between Class Counsel (50% to JCL Law Firm, APC and 50% to Zakay Law Group, APLC.
- F. “Class Data” means information regarding Settlement Class Members that Defendant will in good faith compile from its records and provide to the Settlement Administrator. It shall be formatted as a Microsoft Excel spreadsheet and shall include: each Settlement Class Member’s full name; last known address; Social Security Number; start dates and end dates of employment, and number of

1 Workweeks as a Settlement Class Member during the Class Period and PAGA Period
2 and email address, if known.

3 G. "Class Period" means the period from April 21 2016 and March 18, 2021.

4 H. "Class Representative Service Award" means the amount that the Court authorizes to
5 be paid to the Class Representative, in addition to her Individual Settlement Payment
6 and his pro-rata share of the PAGA Settlement, in recognition of her efforts and risks
7 in assisting with the prosecution of the Action and in exchange for executing a
8 General Release of Defendant.

9 I. "Class Representative" means Plaintiff OSCAR ALMANZA.

10 J. "Court" means the Superior Court for the State of California, County of San Diego

11 K. "Defendant" shall mean XTREME XPRESS, INC., a California corporation.

12 L. "Effective Date" means the earliest date, following entry by the Court of an order
13 and judgment finally approving this Settlement, upon which one of the following have
14 occurred: (i) if no objection is filed to the settlement and no objector appears at the
15 hearing on final approval, the date of the Court's entry of the order granting final
16 approval, (ii) if an objection is filed to the settlement and/or an objector appears at the
17 hearing on final approval, then the earlier of the following: (a) the expiration of all
18 potential appeal periods without a filing of a notice of appeal of the final approval
19 order or judgment; (b) final affirmance of the final approval order and judgment by
20 an appellate court as a result of any appeal(s), or (c) final dismissal or denial of all
21 such appeals (including any petition for review, rehearing, certiorari, etc.) such that
22 the final approval order and judgment is no longer subject to further judicial review.

23 M. "Funding Date" shall mean the date the date the Total Settlement Amount is fully
24 funded by Defendant into the QSF in accord with the terms of this Agreement.

25 N. "Individual Settlement Payment" means the amount payable from the Net Settlement
26 Amount to each Settlement Class Member and excludes any amounts distributed to
27 Settlement Class Members pursuant to PAGA
28

- 1 O. "Net Settlement Amount" or "NSA" means the Total Settlement Amount, less Class
2 Counsel Award, Class Representative Service Award, PAGA Settlement, and
3 Settlement Administration Costs.
- 4 P. "Notice Packet" means the Class Notice to be provided to the Settlement Class
5 Members by the Settlement Administrator in the form set forth as Exhibit A to this
6 Agreement (other than formatting changes to facilitate printing by the Settlement
7 Administrator).
- 8 Q. "PAGA" means the California Labor Code Private Attorneys General Act of 2004,
9 Labor Code § 2698 *et seq.*
- 10 R. "PAGA Payment Ratio" means the respective Workweeks during the PAGA Period
11 for each Aggrieved Employee divided by the sum total of the Workweeks for all
12 Aggrieved Employees during the PAGA Period.
- 13 S. "PAGA Period" means the period between February 13, 2019 and March 18, 2021.
- 14 T. "PAGA Settlement" shall mean Fifteen Thousand Dollars (\$15,000.00) to be
15 allocated from the Total Settlement Amount.
- 16 U. "Parties" means Plaintiff and Defendant, collectively, and "Party" shall mean either
17 Plaintiff or Defendant, individually.
- 18 V. "Payment Ratio" means the respective Workweeks for each Settlement Class Member
19 divided by the sum total Workweeks for all Settlement Class Members.
- 20 W. "Plaintiff" shall mean OSCAR ALMANZA.
- 21 X. "QSF" means the Qualified Settlement Fund established, designated and maintained
22 by the Settlement Administrator to fund the Total Settlement Amount.
- 23 Y. "Released Claims" means all class claims alleged in the operative complaint which
24 occurred during the Class Period, and expressly excluding all other claims, including
25 claims for vested benefits, wrongful termination, unemployment insurance, disability,
26 social security, workers' compensation, and class claims outside of the Class Period.
- 27 Z. "Released PAGA Claims" mean any and all PAGA Claims alleged in the operative
28 complaint and Plaintiff's notice to the LWDA which occurred during the PAGA

Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and PAGA claims outside the PAGA Period.

AA. "Released Parties" means Defendant.

BB. "Response Deadline" means the date forty-five (45) days after the Settlement Administrator mails Notice Packets to Settlement Class Members and the last date on which Settlement Class Members may submit requests for exclusion or objections to the Settlement.

CC. "Settlement" means the disposition of the Action pursuant to this Agreement.

DD. "Settlement Administrator" means ILYM Group Inc., 14771 Plaza Drive, Ste. L, Tustin, CA 92780; Tel: 1-888-250-6810; Fax: 1-888-845-6185. The Settlement Administrator establishes, designates and maintains, as a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1, into which the amount of the Total Settlement Amount is deposited for the purpose of resolving the claims of Settlement Class Members. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendant and any person related to Defendant. ***All accrued interest shall be paid and distributed to the Settlement Class Members as part of their respective Individual Settlement Payment.***

EE. "Settlement Class Members" or "Settlement Class" means all of Defendant's current and former non-exempt employees employed in California April 21, 2016 and March 18, 2021. The "Settlement Class Members" shall not include any person who submits a timely and valid request for exclusion as provided in this Agreement.

FF. "Total Settlement Amount" means Four Hundred Sixty-Seven Thousand Three Hundred Nine Dollars and Sixty Cents (\$467,309.60) that Defendant must pay into the QSF in connection with this Settlement, inclusive of the sum of the Individual Settlement Payments, the Class Representative Service Payment Awards, the Class Counsel Award, PAGA Settlement and the Settlement Administration Costs and

1 *exclusive* of the employer's share of payroll tax, if any, triggered by any payment
2 under this Settlement.

3 GG. "Workweeks", for purposes of calculating the distribution of the Net Settlement
4 Amount, means the number of weeks of employment during the Class Period that
5 each Settlement Class Member worked while paid on a draw. The Settlement
6 Administrator will calculate the number of Workweeks by calculating the number of
7 days each Settlement Class Member was employed during the Class Period, dividing
8 by seven (7), and rounding up to the nearest whole number. For purpose of
9 determining the Individual Settlement Payments and Payment Ratio, each Settlement
10 Class Member who is a former employee no longer working for Defendant will be
11 assigned four (4) additional Workweeks. For purposes of distributing the PAGA
12 Settlement to the Settlement Class, Workweeks means the number of weeks of
13 employment for each Settlement Class Member during the PAGA Period.

14 **II. RECITALS**

15 A. On February 13, 2020, Plaintiff filed a Notice of Violations with the Labor and
16 Workforce Development Agency (LWDA) and served the same on Defendant.

17 B. On April 21, 2020, Plaintiff filed a class action complaint in the Los Angeles Superior
18 Court for:

- 19 1. Unfair Competition in Violation of Bus. and Prof. Code §§ 17200;
- 20 2. failure to pay minimum wages in violation of California Labor Code sections
21 1194, 1197 and 1197.1;
- 22 3. failure to pay overtime wages in violation of California Labor Code sections
23 510 *et seq.*;
- 24 4. failure to provide required meal periods in violation of California Labor Code
25 sections 226.7 and 512;
- 26 5. failure to provide required rest periods in violation of California Labor Code
27 sections 226.7 and 512;
- 28

1 6. failure to reimburse employees for required business expenses in violation of
2 California Labor Code section 2802;

3 7. failure to provide accurate itemized wage statements in violation of California
4 Labor Code section 226; and

5 8. failure to provide wages when due in violation of California Labor Code
6 sections 201, 202 and 203.

7 9. Violations of the Private Attorney General Act ("PAGA") Labor Code §§
8 2698 et seq.

9 C. On March 18, 2021, the Parties participated in mediation presided over by the
10 Honorable Judge William Pate (Ret.), a respected jurist and mediator. Following the
11 mediation, each side, represented by its respective counsel, were able to agree to settle
12 the Action based on a mediator's proposal which was memorialized in the form of a
13 Memorandum of Understanding.

14 D. This Agreement replaces and supersedes the Memorandum of Understanding and any
15 other agreements, understandings, or representations between the Parties. This
16 Agreement represents a compromise and settlement of highly disputed claims.
17 Nothing in this Agreement is intended or will be construed as an admission by
18 Defendant that the claims in the Action of Plaintiff or the Settlement Class Members
19 have merit or that Defendant bears any liability to Plaintiff or the Class on those
20 claims or any other claims, or as an admission by Plaintiff that Defendant's defenses
21 in the Action have merit. The Parties agree to certification of the Class for purposes
22 of this Settlement only. If for any reason the settlement does not become effective,
23 Defendant reserves the right to contest certification of any class for any reason and
24 reserves all available defenses to the claims in the Action.

25 Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

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1 **III. TERMS OF AGREEMENT**

2 A. Settlement Consideration and Settlement Payments by Defendant.

- 3 1. Settlement Consideration. In full and complete settlement of the Action, and in
4 exchange for the releases set forth below, Defendant will pay the sum of the
5 Individual Settlement Payments, the Class Representative Service Award, the Class
6 Counsel Award, PAGA Settlement, and the Settlement Administration
7 Costs, as specified in this Agreement, equal to the Total Settlement Amount of
8 Four Hundred and Sixty Seven Thousand Three Hundred and Nine Dollars and
9 sixty cents (\$467,309.60). The Parties agree that this is a non-reversionary
10 Settlement and that no portion of the Total Settlement Amount shall revert to
11 Defendant. Other than the Defendant's share of employer payroll taxes, or as
12 otherwise specified in the Agreement, Defendant shall not be required to pay more or
13 less than the Total Settlement Amount, except as provided for hereinbelow.
- 14 2. Class Size. At the time of mediation, Defendant estimated that the Settlement Class
15 was comprised of 619 individuals that collectively worked approximately
16 17,019 Workweeks ("Projected Workweeks") during the Class Period. In regard
17 hereto, Defendant will provide a declaration under penalty of perjury confirming the
18 number of Class Members and Workweeks they worked during the Class Period
19 prior to the filing of the motion for preliminary approval. If, at the time of
20 Defendant's declaration, the actual number of Workweeks is 5% higher than the
21 Projected Workweeks (i.e., greater than 11,130), the Gross Settlement Amount shall
22 increase proportionally with each added workweek at a rate of \$28.30.
- 23 3. Settlement Payment. Defendant and the Released Parties, and each of them, are
24 jointly and severally liable for payment of the Total Settlement Amount. The Total
25 Settlement Amount shall be paid in two (2) installments. Defendant shall pay, via
26 wire transfer, the first installment of the Total Settlement in the amount of Four
27 Hundred and Sixty Seven Thousand Three Hundred and Nine Dollars and sixty cents
28 (\$467,309.60).

1 On or before March 18, 2022. Defendant shall pay the second installment in the
2 amount of One Hundred Sixty-Seven Thousand Three Hundred Nine Dollars and
3 Sixty Cents (\$167,309.60) on or before February 22, 2023.

4 4. Defendant's Share of Payroll Taxes. Defendant's share of employer side
5 payroll taxes is in addition to the Total Settlement Amount and shall be paid by
6 Defendant within ten (10) calendar days of request by the Settlement
7 Administrator.

8 B. Release by Settlement Class Members. As of the Funding Date, in exchange for the
9 consideration set forth in this Agreement, Plaintiff and the Settlement Class Members
10 release the Released Parties from the Released Claims for the Class Period.

11 C. Release by the Aggrieved Employees. As of the Funding Date, in exchange for the
12 consideration set forth in this Agreement, the Plaintiff, the LWDA and the State of
13 California release the Released Parties from the PAGA Released Claims for the PAGA
14 Period.

15 D. General Release by Plaintiff. As of the Funding Date, in consideration for the
16 consideration set forth in this Agreement, Plaintiff, for himself, waives, releases,
17 acquitss and forever discharges the Released Parties from any and all claims, actions,
18 charges, complaints, grievances and causes of action, of whatever nature, whether
19 known or unknown, which exist or may exist on their behalf as of the date of this
20 Agreement, including but not limited to any and all tort claims, contract claims, wage
21 claims, wrongful termination claims, disability claims, benefit claims, public policy
22 claims, retaliation claims, statutory claims, personal injury claims, emotional distress
23 claims, invasion of privacy claims, defamation claims, fraud claims, quantum meruit
24 claims, and any and all claims arising under any federal, state or other governmental
25 statute, law, regulation or ordinance, including, but not limited to claims for violation
26 of the Fair Labor Standards Act, the California Labor Code, the Wage Orders of
27 California's Industrial Welfare Commission, other state wage and hour laws, the
28 Americans with Disabilities Act, the Age Discrimination in Employment Act (ADEA),

1 the Employee Retirement Income Security Act, Title VII of the Civil Rights Act of
2 1964, the California Fair Employment and Housing Act, the California Family Rights
3 Act, the Family Medical Leave Act, California's Whistleblower Protection Act,
4 California Business & Professions Code Section 17200 et seq., and any and all claims
5 arising under any federal, state or other governmental statute, law, regulation or
6 ordinance. Plaintiff also waives and relinquishes any and all claims, rights or benefits
7 that they may have under California Civil Code § 1542, which provides as follows:

8 ***A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE***
9 ***CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO***
10 ***EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE***
11 ***RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE***
12 ***MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR***
13 ***OR RELEASED PARTY.***

14 Plaintiff is a creditor and/or "releasing party" within the meaning of Civil Code §
15 1542. Plaintiff may discover claims or facts in addition to, or different from, those
16 which he now knows or believes to exist, but Plaintiff expressly agrees to fully, finally
17 and forever settle and release any and all claims against the Released Parties, known
18 or unknown, suspected or unsuspected, which exist or may exist on behalf of or
19 against the other at the time of execution of this Agreement, including, but not limited
20 to, any and all claims relating to or arising from Plaintiff's employment with
21 Defendant. The Parties further acknowledge, understand, and agree that this
22 representation and commitment is essential to the Agreement and that this Agreement
23 would not have been entered into were it not for this representation and commitment.

24 E. Conditions Precedent: This Settlement will become final and effective only upon the
25 occurrence of all of the following events:

- 26 1. The Court enters an order granting preliminary approval of the Settlement;
- 27 2. The Court enters an order granting final approval of the Settlement and a Final
28 Judgment;

1 3. If an objector appears at the final approval hearing, the time for appeal of the
2 Final Judgment and Order Granting Final Approval of Class Action
3 Settlement expires; or, if an appeal is timely filed, there is a final resolution of
4 any appeal from the Judgment and Order Granting Final Approval of Class
5 Action Settlement; and

6 4. Defendant fully funds the Total Settlement Amount.

7 F. Nullification of Settlement Agreement. In the event that this Settlement Agreement is
8 not preliminarily or finally approved by the Court, fails to become effective, or is
9 reversed, withdrawn or modified by the Court, or in any way prevents or prohibits
10 Defendant from obtaining a complete resolution of the Released Claims:

11 1. This Settlement Agreement shall be void *ab initio* and of no force or effect,
12 and shall not be admissible in any judicial, administrative or arbitral
13 proceeding for any purpose or with respect to any issue, substantive or
14 procedural;

15 2. The conditional class certification (obtained for any purpose) shall be void *ab*
16 *initio* and of no force or effect, and shall not be admissible in any judicial,
17 administrative or arbitral proceeding for any purpose or with respect to any
18 issue, substantive or procedural; and

19 3. None of the Parties to this Settlement will be deemed to have waived any
20 claims, objections, defenses or arguments in the Action, including with respect
21 to the issue of class certification.

22 G. Certification of the Settlement Class. The Parties stipulate to conditional class
23 certification of the Settlement Class for the Class Period for purposes of settlement
24 only. In the event that this Settlement is not approved by the Court, fails to become
25 effective, or is reversed, withdrawn or modified by the Court, or in any way prevents
26 or prohibits Defendant from obtaining a complete resolution of the Released Claims,
27 the conditional class certification (obtained for any purpose) shall be void *ab initio* and
28 of no force or effect, and shall not be admissible in any judicial, administrative or

1 arbitral proceeding for any purpose or with respect to any issue, substantive or
2 procedural.

3 H. Tax Liability. The Parties make no representations as to the tax treatment or legal
4 effect of the payments called for, and Settlement Class Members are not relying on
5 any statement or representation by the Parties in this regard. Settlement Class
6 Members understand and agree that they will be responsible for the payment of any
7 taxes and penalties assessed on the Individual Settlement Payments described and will
8 be solely responsible for any penalties or other obligations resulting from their
9 personal tax reporting of Individual Settlement Payments.

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

1 J. Preliminary Approval Motion. At the earliest practicable time, Plaintiff shall file with
2 the Court a Motion for Order Granting Preliminary Approval and supporting papers,
3 which shall include this Settlement Agreement.

4 K. Settlement Administrator. The Settlement Administrator shall be responsible for:
5 establishing and administering the QSF; calculating, processing and mailing payments
6 to the Class Representatives, Class Counsel, LWDA and Settlement Class Members;
7 printing, mailing and emailing the Notice Packets to the Settlement Class Members as
8 directed by the Court; establishing and maintaining the a landing page hosted on its
9 website to containing information about the Settlement; receiving and reporting the
10 objections and requests for exclusion; calculating, deducting and remitting all legally
11 required taxes from Individual Settlement Payments and distributing tax forms for the
12 Wage Portion and Non-Wage Portion of the Individual Settlement Payments;
13 processing and mailing tax payments to the appropriate state and federal taxing
14 authorities; providing declaration(s) as necessary in support of preliminary and/or final
15 approval of this Settlement; posting notice of entry of judgment on its website; and
16 other tasks as the Parties mutually agree or the Court orders the Settlement
17 Administrator to perform. The Settlement Administrator shall keep the Parties timely
18 apprised of the performance of all Settlement Administrator responsibilities by among
19 other things, sending a weekly status report to the Parties' counsel stating the date of
20 the mailing, the of number of Elections Not to Participate in Settlement it receives
21 (including the numbers of valid and deficient), and number of objections received.

22 L. Notice Procedure.

- 23 1. Class Data. No later than fourteen (14) calendar days after the Preliminary
24 Approval Date, Defendant shall provide the Settlement Administrator with the
25 Class Data for purposes of preparing and mailing Notice Packets to Settlement
26 Class Members. Defendant shall verify the total number of Workweeks at the
27 time Class Data is provided to the Settlement Administer.
28

1 2. Notice Packets.

2 a) The Notice Packet shall contain the Notice of Class Action Settlement
3 in a form substantially similar to the form attached as Exhibit A. The
4 Notice of Class Action Settlement shall inform Settlement Class
5 Members that they need not do anything in order to receive an
6 Individual Settlement Payment and to keep the Settlement
7 Administrator apprised of their current mailing address, to which the
8 Individual Settlement Payments will be mailed following the date
9 Defendant deposits the first installment of the Total Settlement
10 Amount into the QSF. The Notice of Class Action Settlement shall set
11 forth the release to be given by all members of the Settlement Class
12 who do not request to be excluded from the Settlement Class in
13 exchange for an Individual Settlement Payment, the number of
14 Workweeks worked by each Settlement Class Member during the
15 Class Period, and the estimated amount of their Individual Settlement
16 Payment if they do not request to be excluded from the Settlement.
17 The Settlement Administrator shall use the Class Data to determine
18 Class Members' Workweeks.

19 b) The Notice Packet's mailing envelope shall include the following
20 language: "IMPORTANT LEGAL DOCUMENT- YOU MAY BE
21 ENTITLED TO PARTICIPATE IN A CLASS ACTION
22 SETTLEMENT; A PROMPT REPLY TO CORRECT YOUR
23 ADDRESS IS REQUIRED AS EXPLAINED IN THE ENCLOSED
24 NOTICE."

25 3. Notice by First Class U.S. Mail and Email. Upon receipt of the Class Data,
26 the Settlement Administrator will perform a search based on the National
27 Change of Address Database to update and correct any known or identifiable
28 address changes. No later than fourteen (14) calendar days after receiving the

1 Class Data from Defendant, the Settlement Administrator shall mail and email
2 copies of the Notice Packet to all Settlement Class Members via regular First-
3 Class U.S. Mail and electronic mail. The Settlement Administrator shall
4 exercise its best judgment to determine the current mailing address for each
5 Settlement Class Member. The address identified by the Settlement
6 Administrator as the current mailing address shall be presumed to be the best
7 mailing address for each Settlement Class Member.

8 4. Undeliverable Notices. Any Notice Packets returned to the Settlement
9 Administrator as non-delivered on or before the Response Deadline shall be
10 re-mailed to any forwarding address provided. If no forwarding address is
11 provided, the Settlement Administrator shall promptly attempt to determine a
12 correct address by lawful use of skip-tracing, or other search using the name,
13 address and/or Social Security number of the Settlement Class Member
14 involved, and shall then perform a re-mailing, if another mailing address is
15 identified by the Settlement Administrator. In addition, if any Notice Packets,
16 which are addressed to Settlement Class Members who are currently
17 employed by Defendant, are returned to the Settlement Administrator as non-
18 delivered and no forwarding address is provided, the Settlement Administrator
19 shall notify Defendant. Defendant will request that the currently employed
20 Settlement Class Member provide a corrected address, and transmit to the
21 Administrator any corrected address provided by the Settlement Class
22 Member. Settlement Class Members who received a re-mailed Notice Packet
23 shall have their Response Deadline extended fifteen (15) days from the
24 original Response Deadline.

25 5. Disputes Regarding Individual Settlement Payments. Settlement Class
26 Members will have the opportunity, should they disagree with Defendant's
27 records regarding the start and end dates of employment while paid on a draw,
28 as stated on their Employment Information Sheet, to provide documentation

1 and/or an explanation to show contrary dates. If there is a dispute, the
2 Settlement Administrator will consult with the Parties to determine whether
3 an adjustment is warranted. The Settlement Administrator shall determine the
4 eligibility for, and the amounts of, any Individual Settlement Payments under
5 the terms of this Agreement. The Settlement Administrator's determination
6 of the eligibility for and amount of any Individual Settlement Payment shall
7 be binding upon the Settlement Class Member and the Parties.

8 6. Disputes Regarding Administration of Settlement. Any disputes not resolved
9 by the Settlement Administrator concerning the administration of the
10 Settlement will be resolved by the Court under the laws of the State of
11 California. Before any such involvement of the Court, counsel for the Parties
12 will confer in good faith to resolve the disputes without the necessity of
13 involving the Court.

14 7. Exclusions. The Notice of Class Action Settlement contained in the Notice
15 Packet shall state that Settlement Class Members who wish to exclude
16 themselves from the Settlement must submit a written request for exclusion
17 by the Response Deadline. The written request for exclusion must state that
18 the Settlement Class Member wishes to exclude himself or herself from the
19 Settlement and (1) must contain the name, address, and the last four digits of
20 the Social Security number of the person requesting exclusion; (2) must be
21 signed by the Settlement Class Member; (3) must be postmarked or fax
22 stamped by the Response Deadline and returned to the Settlement
23 Administrator at the specified address or fax telephone number; and (4)
24 contain a typewritten or handwritten notice stating in substance: "I wish to
25 opt out of the settlement of the class action lawsuit entitled *Almanza v. Xtreme*
26 *Xpress.*, currently pending in the Superior Court for the County of Los
27 Angeles, Case No. 20STCV15387. I understand that by requesting to be
28 excluded from the settlement, I will receive no money from the Settlement

described in this Notice.” The request for exclusion will not be valid if it is not timely submitted, if it is not signed by the Settlement Class Member, or if it does not contain the name and address and last four digits of the Social Security number of the Settlement Class Member. The date of the postmark on the mailing envelope or fax stamp on the request for exclusion shall be the exclusive means used to determine whether the request for exclusion was timely submitted. Any Settlement Class Member who requests to be excluded from the Settlement Class will not be entitled to an Individual Settlement Payment and will not be otherwise bound by the terms of the Settlement or have any right to object, appeal or comment thereon. However, any Settlement Class Member that submits a timely request for exclusion that is also a member of the Aggrieved Employees will still receive their pro rata share of the PAGA Settlement, as specified below, and in consideration, will be bound by the Release by the Aggrieved Employees as set forth herein. Settlement Class Members who fail to submit a valid and timely written request for exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any final judgment entered in this Action if the Settlement is approved by the Court. No later than fourteen (14) calendar days after the Response Deadline, the Settlement Administrator shall provide counsel for the Parties with a final list of the Settlement Class Members who have timely submitted written requests for exclusion. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the Settlement Class to submit requests for exclusion from the Settlement.

8. Objections. The Notice of Class Action Settlement contained in the Notice Packet shall state that Settlement Class Members who wish to object to the Settlement must mail to the Settlement Administrator a written statement of objection (“Notice of Objection”) by the Response Deadline. The postmark date of mailing shall be deemed the exclusive means for determining that a

1 Notice of Objection was served timely. The Notice of Objection must be
2 signed by the Settlement Class Member and state: (1) the case name and
3 number; (2) the name of the Settlement Class Member; (3) the address of the
4 Settlement Class Member; (4) the last four digits of the Settlement Class
5 Member's Social Security number; (4) the basis for the objection; and (5) if
6 the Settlement Class Member intends to appear at the Final
7 Approval/Settlement Fairness Hearing. Settlement Class Members who fail
8 to make objections in writing in the manner specified above may make their
9 objections orally at the Final Approval/Settlement Fairness Hearing with the
10 Court's permission. Settlement Class Members will have a right to appear at
11 the Final Approval/Settlement Fairness Hearing in order to have their
12 objections heard by the Court. At no time shall any of the Parties or their
13 counsel seek to solicit or otherwise encourage Settlement Class Members to
14 file or serve written objections to the Settlement or appeal from the Order and
15 Final Judgment. Settlement Class Members who submit a written request for
16 exclusion may not object to the Settlement.

17 M. Funding and Allocation of the Total Settlement Amount. Defendant is required to pay
18 the Total Settlement Amount on or before the Funding Date, plus any employer's share
19 of payroll taxes as mandated by law within the time specified herein.

20 1. Individual Settlement Payments. Individual Settlement Payments shall be
21 paid from the Net Settlement Amount and shall be paid after Defendant
22 deposits the first installment of the Total Settlement Amount in to the QSF
23 pursuant to the formula set forth below.

24 a) Calculation of Individual Settlement Payments. Using the Class Data,
25 the Settlement Administrator shall add up the total number of
26 Workweeks for all Settlement Class Members. The respective
27 Workweeks for each Settlement Class Member will be divided by the
28 total Workweeks for all Settlement Class Members, resulting in the

1 Payment Ratio for each Settlement Class Member. Each Settlement
2 Class Member's Payment Ratio will then be multiplied by the Net
3 Settlement Amount to calculate each Settlement Class Member's
4 estimated Individual Settlement Payments. Each Individual
5 Settlement Payment will be reduced by any legally mandated
6 employee tax withholdings (e.g., employee payroll taxes, etc.).
7 Individual Settlement Payments for Class Members who submit valid
8 and timely requests for exclusion will be redistributed to Settlement
9 Class Members who do not submit valid and timely requests for
10 exclusion on a pro rata basis based on their respective Payment Ratios.

11 b) Calculation of Individual Payments to the Aggrieved Employees.

12 Using the Class Data, the Settlement Administrator shall add up the
13 total number of Workweeks for all Aggrieved Employees during the
14 PAGA Period. The respective Workweeks for each Aggrieved
15 Employee will be divided by the total Workweeks for all Aggrieved
16 Employees, resulting in the "PAGA Payment Ratio" for each
17 Aggrieved Employee. Each Aggrieved Employee's PAGA Payment
18 Ratio will then be multiplied by the Aggrieved Employee Payment to
19 calculate each Aggrieved Employee's estimated Individual PAGA
20 Settlement.

21 c) Allocation of Individual Settlement Payments. For tax purposes,

22 Individual Settlement Payments shall be allocated and treated as
23 follows: 25% as wages ("Wage Portion"); 75% as penalties and
24 interest ("Non-Wage Portion"). The Wage Portion is subject to wage
25 withholdings and shall be reported on IRS Form W-2. The Non-Wage
26 Portion shall not be subject to wage withholdings and shall be reported
27 on IRS Form 1099.
28

1 d) Allocation of Aggrieved Employee Payments. For tax purposes,
2 Aggrieved Employee Settlement Payments shall be allocated and
3 treated as 100% penalties and shall be reported on IRS Form 1099.

4 e) Mailing. Individual Settlement Payments and Aggrieved Employee
5 Payments shall be mailed by regular First-Class U.S. Mail to
6 Settlement Class Members' last known mailing address no later than
7 fifteen (15) calendar days after the Defendant deposits the first
8 installment of the Total Settlement Amount into the QSF..

9 f) Expiration. Any checks issued to Settlement Class Members shall
10 remain valid and negotiable for one hundred and eighty (180) days
11 from the date of their issuance. If a Settlement Class Member does not
12 cash his or her settlement check within 90 days, the Settlement
13 Administrator will send a letter to such persons, advising that the
14 check will expire after the 180th day, and invite that Settlement Class
15 Member to request reissuance in the event the check was destroyed,
16 lost or misplaced. In the event an Individual Settlement Payment
17 check has not been cashed within one hundred and eighty (180) days,
18 all funds represented by such uncashed checks, plus any interest
19 accrued thereon, shall be distributed consistent with California Code
20 of Civil Procedure Section 384 as follows: to The Children's
21 Advocacy Institute (CAI), founded at the nonprofit University of San
22 Diego School of Law in 1989. Neither Class Counsel nor Defendant's
23 counsel has any interest, pecuniary or otherwise, in CAI.

24 2. Class Representative Service Award. In addition to the Individual Settlement
25 Payment to be paid to Plaintiff, Plaintiff will apply to the Court for an award
26 of not more than \$10,000 as the Class Representative Service Award.
27 Defendant does not presently intend to oppose a Class Representative Service
28 Award of no more than \$10,000 for Plaintiff. The Settlement Administrator

1 shall pay the Class Representative Service Award, either in the amount stated
2 herein if approved by the Court or some other amount as approved by the
3 Court, to Plaintiff from the Total Settlement Amount no later than ten (10)
4 calendar days after the Defendant deposits the first installment of the Total
5 Settlement Amount into the QSF. Any portion of the requested Class
6 Representative Service Award that is not awarded to the Class Representatives
7 shall be part of the Net Settlement Amount and shall be distributed to
8 Settlement Class Members as provided in this Agreement. The Settlement
9 Administrator shall issue an IRS Form 1099 — MISC to Plaintiff for her Class
10 Representative Service Award. Plaintiff shall be solely and legally
11 responsible to pay any and all applicable taxes on his Class Representative
12 Service Award and shall hold harmless the Released Parties from any claim
13 or liability for taxes, penalties, or interest arising as a result of the Class
14 Representative Service Awards. The Class Representative Service Award
15 shall be in addition to Plaintiff's Individual Settlement Payment as a
16 Settlement Class Member. Approval of this Settlement shall not be
17 conditioned on Court approval of the requested amount of the Class
18 Representative Service Award. In the event that the Court reduces or does not
19 approve the requested Class Representative Service Award, Plaintiff shall not
20 have the right to revoke the Settlement, and it will remain binding.

- 21 3. Class Counsel Award. Defendant understands a motion by Class Counsel for
22 attorneys' fees not to exceed one-third of the Total Settlement Amount
23 currently estimated to be \$155,769.86 plus costs and expenses supported by
24 declaration not to exceed Fifteen Thousand Dollars (\$15,000.00), from the
25 Total Settlement Amount will be filed. Any portion of the requested Class
26 Counsel Award that is not awarded to Class Counsel shall be part of the Net
27 Settlement Amount and shall be distributed to Settlement Class Members as
28 provided in this Agreement. The Settlement Administrator shall allocate and

1 pay the Class Counsel Award to Class Counsel from the Total Settlement
2 Amount no later than five (5) calendar days after the Defendant deposits the
3 second installment of the Total Settlement Amount into the QSF. Class
4 Counsel shall be solely and legally responsible to pay all applicable taxes on
5 the payment made pursuant to this paragraph. The Settlement Administrator
6 shall issue an IRS Form 1099 — MISC to Class Counsel for the payments
7 made pursuant to this paragraph. In the event that the Court reduces or does
8 not approve the requested Class Counsel Award, Plaintiffs and Class Counsel
9 shall not have the right to revoke the Settlement, or to appeal such order, and
10 the Settlement will remain binding.

11 4. PAGA Settlement. Fifteen Thousand Dollars (\$15,000) shall be allocated
12 from the Total Settlement Amount for settlement of claims for civil penalties
13 under the Private Attorneys General Act of 2004 (“PAGA Settlement”). The
14 Settlement Administrator shall pay seventy-five percent (75%) of the PAGA
15 Settlement (\$7,500) to the California Labor and Workforce Development
16 Agency no later than twenty-five (25) calendar days after the Defendant
17 deposits the first installment of the Total Settlement Amount into the QSF
18 (hereinafter “LWDA Payment”). Twenty-five (25%) of the PAGA Settlement
19 (\$2,500) will be distributed to the Aggrieved Employees as described in this
20 Agreement (hereinafter “Aggrieved Employee Payment”). For purposes of
21 distributing the PAGA Settlement to the Aggrieved Employees, each
22 Aggrieved Employee shall receive their pro-rata share of the Aggrieved
23 Employee Payment using the PAGA Payment Ratio as defined above.

24 5. Settlement Administration Costs. The Settlement Administrator shall be paid
25 for the costs of administration of the Settlement from the Total Settlement
26 Amount. The estimate of the Settlement Administration Costs is \$14,000.
27 The Settlement Administrator shall be paid the Settlement Administration
28

Costs no later than twenty-five (25) calendar days after the Defendant deposits the second installment of the Total Settlement Amount into the QSF.

N. Final Approval Motion. Class Counsel and Plaintiff shall use best efforts to file with the Court a Motion for Order Granting Final Approval and Entering Judgment, within twenty-eight (28) days following the expiration of the Response Deadline, which motion shall request final approval of the Settlement and a determination of the amounts payable for the Class Representative Service Award, the Class Counsel Award, the PAGA Settlement, and the Settlement Administration Costs.

1. Declaration by Settlement Administrator. No later than fourteen (14) days after the Response Deadline, the Settlement Administrator shall submit a declaration in support of Plaintiffs' motion for final approval of this Settlement detailing the number of Notice Packets mailed and re-mailed to Settlement Class Members, the number of undeliverable Notice Packets, the number of timely requests for exclusion, the number of objections received, the amount of the average Individual Settlement Payment and highest Individual Settlement Payment, the Settlement Administration Costs, and any other information as the Parties mutually agree or the Court orders the Settlement Administrator to provide.

2. Final Approval Order and Judgment. Class Counsel shall present an Order Granting Final Approval of Class Action Settlement to the Court for its approval, and Judgment thereon, at the time Class Counsel files the Motion for Final Approval.

N. Defendant's Option to Revoke Settlement. Defendant has the unilateral right to revoke the Settlement and Defendant shall have, in its sole discretion, the option to terminate this Settlement if, after the Response Deadline, the number of Settlement Class Members who submitted timely and valid written requests for exclusion from the Settlement is at least ten percent (10%) of all Settlement Class Members. If Defendant exercises the option to terminate this Settlement, Defendant shall: (a)

1 provide written notice to Class Counsel within five (5) calendar days after (i)
2 providing the Class Data to the Settlement Administrator or (ii) the Settlement
3 Administrator provides information regarding opt outs (which is to occur no later than
4 fourteen (14) calendar days after the Response Deadline, and (b) pay all Settlement
5 Administration Costs incurred up to the date or as a result of the termination; and the
6 Parties shall proceed in all respects as if this Agreement had not been executed.

7 O. Review of Motions for Preliminary and Final Approval. Class Counsel will provide
8 an opportunity for Counsel for Defendant to review the Motions for Preliminary and
9 Final Approval, including the Order Granting Final Approval of Class Action
10 Settlement, and Judgment before filing with the Court. The Parties and their counsel
11 will cooperate with each other and use their best efforts to affect the Court's approval
12 of the Motions for Preliminary and Final Approval of the Settlement, and entry of
13 Judgment.

14 P. Cooperation. The Parties and their counsel will cooperate with each other and use
15 their best efforts to implement the Settlement.

16 Q. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the Action,
17 except such proceedings necessary to implement and complete the Settlement, pending
18 the Final Approval/Settlement Fairness Hearing to be conducted by the Court

19 R. Amendment or Modification. This Agreement may be amended or modified only by
20 a written instrument signed by counsel for all Parties or their successors-in-interest.

21 S. Entire Agreement. This Agreement and any attached Exhibit constitute the entire
22 Agreement among these Parties, and no oral or written representations, warranties or
23 inducements have been made to any Party concerning this Agreement or its Exhibit
24 other than the representations, warranties and covenants contained and memorialized
25 in this Agreement and its Exhibit.

26 T. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and
27 represent they are expressly authorized by the Parties whom they represent to negotiate
28 this Agreement and to take all appropriate Action required or permitted to be taken by

1 such Parties pursuant to this Agreement to effectuate its terms, and to execute any other
2 documents required to effectuate the terms of this Agreement. The persons signing
3 this Agreement on behalf of Defendant represents and warrants that he/she is
4 authorized to sign this Agreement on behalf of Defendant. Plaintiff represents and
5 warrants that he is authorized to sign this Agreement and that he/she has not assigned
6 any claim, or part of a claim, covered by this Settlement to a third-party.

7 U. Binding on Successors and Assigns. This Agreement shall be binding upon, and inure
8 to the benefit of, the successors or assigns of the Parties, as previously defined.

9 V. California Law Governs. All terms of this Agreement and the Exhibit and any disputes
10 shall be governed by and interpreted according to the laws of the State of California.

11 W. Counterparts. This Agreement may be executed in one or more counterparts. All
12 executed counterparts and each of them shall be deemed to be one and the same
13 instrument provided that counsel for the Parties to this Agreement shall exchange
14 among themselves copies or originals of the signed counterparts.

15 X. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement
16 is a fair, adequate and reasonable settlement of this Action and have arrived at this
17 Settlement after extensive arms-length negotiations, taking into account all relevant
18 factors, present and potential.

19 Y. Jurisdiction of the Court. The Parties agree that the Court shall retain jurisdiction with
20 respect to the interpretation, implementation and enforcement of the terms of this
21 Agreement and all orders and judgments entered in connection therewith, and the
22 Parties and their counsel submit to the jurisdiction of the Court for purposes of
23 interpreting, implementing and enforcing the settlement and all orders and judgments
24 entered in connection with this Agreement.

25 Z. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid,
26 the Court shall first attempt to construe the provisions valid to the fullest extent
27 possible consistent with applicable precedents so as to define all provisions of this
28 Agreement valid and enforceable.

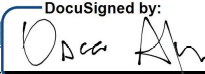
1 AA. No Unalleged Claims. Plaintiffs and Class Counsel represent that they do not currently
2 intend to pursue any claims against the Released Parties, including, but not limited to,
3 any and all claims relating to or arising from Plaintiffs' employment with Defendant,
4 regardless of whether Class Counsel is currently aware of any facts or legal theories
5 upon which any claims or causes of action could be brought against Released Parties,
6 including those facts or legal theories alleged in the operative complaint in this Action.
7 The Parties further acknowledge, understand and agree that this representation is
8 essential to the Agreement and that this Agreement would not have been entered into
9 were it not for this representation.

10 BB. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class
11 certification for purposes of this settlement only.

12 CC. No Admissions by the Parties. Plaintiff has claimed and continue to claim that the
13 Released Claims have merit and give rise to liability on the part of Defendant.
14 Defendant claims that the Released Claims have no merit and do not give rise to
15 liability. This Agreement is a compromise of disputed claims. Nothing contained in
16 this Agreement and no documents referred to and no action taken to carry out this
17 Agreement may be construed or used as an admission by or against the Defendant or
18 Plaintiffs or Class Counsel as to the merits or lack thereof of the claims asserted. Other
19 than as may be specifically set forth herein, each Party shall be responsible for and
20 shall bear its/his own attorney's fees and costs.

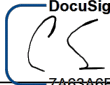
21 IT IS SO AGREED, FORM AND CONTENT, BY PLAINTIFF:

22
23
24 DATED: 11/4/2021

DocuSigned by:

48344506AAB3415...
OSCAR ALMANZA

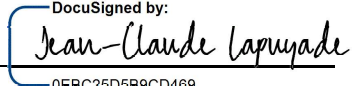
IT IS SO AGREED, FORM AND CONTENT, BY DEFENDANTS:

DATED: 11/5/2021

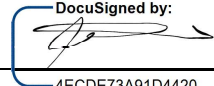
DocuSigned by:

7A63A0BE79424C3...
XTREME XPRESS, INC.
Celso Sapien
Printed Name
Owner
Title

IT IS SO AGREED AS TO FORM BY COUNSEL:

DATED: 11/4/2021

JCL LAW FIRM, A.P.C.
By: 
0EBC25D5B9CD469...
Attorneys for the Named Plaintiffs and the Plaintiff Class

DATED: 11/4/2021

ZAKAY LAW GROUP, APLC
By: 
4ECDE73A91D4420...
Attorneys for the Named Plaintiff and the Class

DATED: 11/5/2021

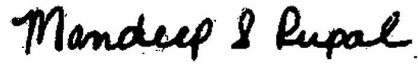
THE LAW OFFICE OF MANDEEP S. RUPAL
By: 
Attorneys for Defendants

EXHIBIT A

**NOTICE OF PENDENCY OF CLASS AND REPRESENTATIVE ACTION SETTLEMENT
AND FINAL HEARING DATE**

Almanza v. Xtreme Xpress, Inc.
Superior Court for the County of Los Angeles
Case No. 20STCV15387

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

A SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE A SETTLEMENT PAYMENT	If you receive this Notice, unless you opt-out of the Settlement, you will automatically receive a settlement payment. The estimated amount of your settlement payment is \$<<Est.SetAmt>>. In exchange, you give up any right to sue DEFENDANT separately for any claims asserted in this Lawsuit (which will be defined below).
DEADLINE TO OPT OUT <<DATE>>	You can “opt-out” from the Settlement if you do not wish to participate in the Settlement. If you opt out, you will not receive a settlement payment and you will not be bound by the release. The deadline to opt-out of the Settlement is <<DATE>>.
DEADLINE TO OBJECT <<October 18, 2021>>	Write to the Court if you think the Settlement is not fair. However, by objecting, you agree to be bound to the settlement if the Court overrules your objection(s). The Deadline to object to the Settlement is <<October 18, 2021>>
GO TO A HEARING ON <<DATE>> AT << TIME.>>	Ask to speak in Court about why you think the Settlement is not fair at the time of the final approval hearing. The final approval hearing is scheduled for <<DATE>> at <<TIME.>> a.m., in Dept., 6 of the Los Angeles Superior Court, 312 North Spring Street, Los Angeles, CA 90012

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of this lawsuit entitled *Almanza v. Xtreme Xpress, Inc.*, Case No. 20STCV15387, currently pending in the Superior Court for the County of Los Angeles (the “Court”) has been reached between OSCAR ALMANZA (“Plaintiff”) and XTREME XPRESS, INC. (“Defendant”). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Class Notice because you have been identified as a Settlement Class Member, which is defined as:

All of Defendants’ current and former non-exempt employees employed in California between April 21, 2016, and March 18, 2021.

The “Class Period” is the period of time running from April 21, 2016, and March 18, 2021.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On February 13, 2020, Plaintiff filed a Notice of Violations with the Labor and Workforce Development Agency (LWDA) and served the same on Defendant.

On April 21, 2020, Plaintiff filed a class action complaint in the San Diego Superior Court for: (1) Unfair Competition in Violation of Bus. and Prof. Code §§ 17200; (2) failure to pay minimum wages in violation of California Labor Code sections 1194, 1197 and 1197.1; (3) failure to pay overtime wages in violation of California Labor Code sections 510 *et seq.*; (4) failure to provide required meal periods in violation of California Labor Code sections 226.7 and 512; (5) failure to provide required rest periods in violation of California Labor Code sections 226.7 and 512; (6) failure to reimburse employees for required business expenses in violation of California Labor Code sections 2802; (7) failure to provide accurate itemized wage statements in violation of California Labor Code section 226; and (8) failure to provide wages when due in violation of California Labor Code sections 201, 202 and 203 and; (9) for violations of the California Labor Code Private Attorney General Act (“PAGA”). Thereafter, Defendants answered the Complaint.

On March 18, 2021, the Parties participated in mediation presided over by the Honorable Judge William Pate (Ret.), a respected jurist and mediator. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action based on a mediator’s proposal which was memorialized in the form of a Memorandum of Understanding. The Court granted preliminary approval of the Settlement on <<DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the JCL Law Firm, APC and the Zakay Law Group, APLC to serve as Class Counsel.

Defendant denies and disputes all claims asserted in the Action. Specifically, Defendant contended (and continue to contend) that the Action could not properly be maintained as a class action; that Defendant provided members of the class with all legally required meal breaks and rest breaks; that Defendant paid any members of the class all wages due them at the time of their terminations; that Defendant provided accurate, itemized wage statements to members of the class; that Defendant did not violate California Business and Professions Code section 17200 *et seq.*; and that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action.

3. What are the terms of the Settlement?

Total Settlement Amount. Defendant has agreed to pay an “all in” amount of Sixty-Seven Thousand Three Hundred and Nine Dollars and Sixty Cents (\$467,309.60) (the “Total Settlement Amount”) to fund the settlement. The Total Settlement Amount includes the payment of all Individual Settlement Payments to participating Settlement Class Members, the Class Counsel Award, Settlement Administration Costs, the PAGA Settlement, and the Class Representative Service Award to the Plaintiff.

If approved, Defendant will fund the Total Settlement Amount on or before March 18, 2022 by depositing the money into a Qualified Settlement Fund maintained by the third party Settlement Administrator.

Amounts to be Paid From the Total Settlement Amount. The Settlement provides for certain payments to be made from the Total Settlement Amount, which will be subject to final Court approval, and which will be deducted from the Total Settlement Amount before settlement payments are made to Settlement Class Members, as follows:

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$12,550, for expenses, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.
- Attorneys' Fees and Costs. Subject to Court approval, Class Counsel shall seek a Class Counsel Award in an amount equal to one-third of the Total Settlement Amount currently estimated to be One Hundred Fifty-Five Thousand Seven Hundred Sixty-Nine Dollars and Eighty-Six Cents (\$155,769.86) for reasonable attorneys' fees, plus costs and expenses supported by declaration not to exceed \$15,000.00. The Class Counsel Award is intended to compensate and reimburse Class Counsel for all of the work already performed and all of the work remaining to be performed by Class Counsel in documenting the settlement, securing Court approval of the settlement, administering the settlement, and making sure that the settlement is fairly administered and implemented.
- Class Representative Service Award. Class Representative Service Award of up to Ten Thousand Hundred Dollars (\$10,000.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook.
- PAGA Settlement. A payment of \$15,000 relating to Plaintiff's claim under the Private Attorney General's Act ("PAGA"), \$11,250 of which will be paid to the State of California's Labor and Workforce Development Agency ("LWDA") and the remaining \$3,750 will be distributed to Aggrieved Employees which are all of Defendants' current and former non-exempt employees employed in California at the between February 13, 2019 and March 18, 2021.
- Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Settlement Administration Expenses, Class Counsel Award, the Class Representative Service Award and the PAGA Settlement are deducted from the Total Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Participating Settlement Class Members"). The Individual Settlement Payment for each Participating Class Member will be calculated by (a) dividing the Net Settlement Amount by the total number of workweeks worked for all Participating Class Members that occurred during the Class Period and (b) multiplying the result by each individual Participating Class Member's workweeks worked that occurred during the Class Period.

If the Settlement is approved by the Court, you will automatically be mailed a check for your Settlement Share to the same address as this Class Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to insure you receive your payment.

Tax Matters. 25% of each Settlement Share constitutes wages in the form of back-pay (and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment) and 75% of each Settlement Share constitutes interest, penalties and other non-wage payments (and each Participating Class Member will be issued an Internal Revenue Service Form 1099 for such payment). Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. Upon the Funding Date, each of the Participating Class Members shall release all class claims alleged in the complaint which occurred during the Class Period, and expressly excluding all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers compensation, and class claims outside of the Class Period. The Class Claims asserted in the Action include violations of the following, Labor Code sections 201, 202, 203, 226, 226.7, 510, 512, 1194, 1197, 1197.1, and 2802.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released PAGA Claims. Upon the Funding Date, Plaintiff, the LWDA and the State of California shall release any and all PAGA Claims alleged in the operative complaint and in Plaintiff's notice to the LWDA which occurred during the PAGA Period including Labor Code sections 201, 201.3, 202, 203, 226, 226.3, 226.7, 510, 512, 558, 1174(d), 1174.5, 1194, 1197, 1197.1, 1198, 1199, 2802, and 2804 and the applicable IWC Wage Orders, and any resulting claim for attorneys' fees and costs under PAGA, which occurred during the PAGA Periods.

5. How much will my payment be?

Defendant's records reflect that you have <<____>> workweeks worked during the Class Period.

Based on this information, your estimated Individual Settlement Payment is <<____>>.

Defendant's records reflect that you have <<____>> workweeks worked during the PAGA Period.

Based on this information, your estimated Individual Settlement Payment is <<____>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than **DATE** [forty-five (45) days after the Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: **_____**. (800) **_____**.

The Court will hold a hearing on **DATE** to decide whether to approve the Settlement. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms.**

To opt out, you must submit to the Settlement Administrator, by First Class Mail, a written, signed and dated request for exclusion postmarked no later than **DATE**. The address for the Settlement Administrator is **_____**. The request for exclusion must state in substance: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case *Almanza v. Xtreme Xpress, Inc.*, currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV15387. The request for exclusion must

contain your name, address, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

The address for the Settlement Administrator is [REDACTED]. Written requests for exclusion that are postmarked after **DATE**, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above.

8. How do I tell the Court that I don't like the Settlement?

- Any Class Member, who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason, may object to the proposed Settlement. Objections must be in writing and state the Class Member's name, current address, telephone number, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All objections or other correspondence must also state the name and number of the case, which is *Almanza v. Xtreme Xpress, Inc.*, currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV15387.

To object to the Settlement, you must not opt out. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

The objections must be delivered or mailed to the Settlement Administrator no later than **DATE, with copies to the Parties' counsel.** The address for the Settlement Administrator is

The addresses for the Parties' counsel are as follows:

Class Counsel:

Jean-Claude Lapuyade
The JCL Law Firm, APC
3990 Old Town Ave., Suite C204
San Diego, CA 92110
Tel: 619-599-8292
Email: jlapuyade@jcl-lawfirm.com
Website: www.jcl-lawfirm.com

SHANI ZAKAY, ESQ.
ZAKAY LAW GROUP, APLC
3990 OLD TOWN AVE., SUITE C204
SAN DIEGO, CA 92110
TEL: 619-255-9047

Defense Counsel

MANDEEP RUPAL, ESQ.
LAW OFFICE OF MANDEEP RUPAL
4740 GREEN RIVER ROAD, SUITE 207
CORONA, CA 92880
TEL: 951-460-0830

The Court will hold a Final Approval Hearing at **TIME on DATE**, at the Los Angeles County Superior Court, located at 312 Spring Street, Los Angeles, California 90012 in Department 6 before Judge Elihue Berle. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to all Settlement Class Members that wish to speak at the hearing. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend the Final Approval Hearing**, although any Class Member is welcome to attend the hearing.

Members of the Settlement Class that wish to attend the hearing for final approval of this Settlement may appear virtually by contacting <https://www.lacourt.org/lacc/>. The Settlement Class member should be prepared to provide the case name and case number and date of the final approval hearing which is all set forth in this Notice.

10. How do I get more information about the Settlement?

- You may call the Settlement Administrator at _____ or write to *Almanza v. Xtreme Xpress, Inc.*, currently pending in the Superior Court for the County of Los Angeles, Case No. 20STCV15387, Settlement Administrator, c/o _____.
- Members of the Settlement Class may review the papers, pleadings and records on file with the Court by scheduling an appointment with the clerk of the Los Angeles Superior Court at (213) 830-0803 between the hours of 8:30 a.m. and 10:30 a.m., and 1:30 p.m. and 3:30 p.m., Monday through Friday.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by writing to the JCL LAW FIRM, APC, 3990 Old Town Ave., Suite C204, San Diego, CA 92110.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

ADDITIONAL IMPORTANT INFORMATION

- **DEFENDANT supports the Settlement and will not retaliate in any manner** against any Settlement Class Member who stays in the Settlement Class and receives his/her Individual Settlement Payment, opts out of the Settlement, or objects to the Settlement.
- **It is YOUR RESPONSIBILITY to keep your address current with the Settlement Administrator.** If your address or contact information changes, you must notify the Settlement Administrator of the change. Otherwise, your settlement payment will be mailed to the address where you received this Notice.
- **Individual Settlement Payment checks must be cashed soon after receipt.** Monies represented by checks that remain uncashed 180 days after the date of issuance will be voided and the monies represented by those uncashed checks will distributed consistent with California Code of Civil Procedure Section 384 as follows: to The Children's Advocacy Institute (CAI). Founded at the nonprofit University of San Diego School of Law in 1989, CAI is one of the nation's premiere academic, research, and advocacy organizations working to improve the lives of all children and youth, with special emphasis on reforming the child protection and foster care systems and improving outcomes for youth aging out of foster care. Conducted through offices in San Diego, Sacramento, and Washington, D.C., CAI's research and advocacy component seeks to leverage change for children and youth at the federal and state levels through impact litigation, regulatory and legislative advocacy, and public education. In its academic component, CAI trains law students and attorneys to be effective child advocates throughout their legal careers. CAI's Dependency and Delinquency clinics allow law students to represent parties in juvenile court proceedings, under the guidance of experienced attorneys and CAI faculty, and its Policy Clinic allows law students to engage with CAI staff on ongoing policy advocacy projects.